IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY AND GEORGINA STUART

Petitioners,

v.

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK; THE HONORABLE SUSAN JOHNSON, DISTRICT JUDGE,

Respondent.

and

STEVE EGGLESTON, an individual,

Real Party-In-Interest.

Electronically Filed
Mar 15 2024 03:38 PM
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO. 87906

DISTRICT COURT CASE NO.
A-16-748919-C

SUPPLEMENT TO APPENDIX TO EMERGENCY PETITION FOR WRIT OF MANDAMUS
VOLUME 3 OF 3

FELICIA GALATI, ESQ.
Nevada Bar No. 007341
STEPHANIE A. BARKER, ESQ.
Nevada Bar No. 003176
OLSON CANNON & GORMLEY
9950 West Cheyenne Avenue
Las Vegas, NV 89129
Attorneys for Petitioners Clark County and Georgina Stuart

SUPPLEMENT TO APPENDIX TO EMERGENCY PETITION FOR WRIT OF MANDAMUS
VOLUME 3 OF 3

Date	Title	Bates Numbers
2/9/22	Default of Brian Callahan	WRIT262-266
2/9/22	Default of Lisa Callahan	WRIT267-271
11/30/23	Docketing Statement – Civil Appeals	WRIT272-329
2/26/24	Motion for Summary Judgment Hearing Transcript from hearing on 11/7/23 – Amended/Corrected	WRIT330-347

DATED this 15th day of March, 2024.

/s/ Felicia Galati, Esq.

_____

FELICIA GALATI, ESQ.
Nevada Bar No. 007341
STEPHANIE A. BARKER, ESQ.
Nevada Bar No. 003176
OLSON CANNON & GORMLEY
9950 West Cheyenne Avenue
Las Vegas, NV 89129
fgalati@ocgas.com
sbarker@ocgas.com
Attorneys for Petitioners Clark County and Georgina Stuart

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March, 2024, I sent via e-mail a true and correct copy of the above and foregoing **SUPPLEMENT TO APPENDIX TO EMERGENCY PETITION FOR WRIT OF MANDAMUS** by electronic service through the Nevada Supreme Court's website, (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Paola M. Armeni, Esq.
parmeni@ClarkHill.com
William D. Schuller, Esq.
wschuller@ClarkHill.com
CLARK HILL, LLP
1700 S. Pavilion Center Dr.
Suite 500
Las Vegas, NV 89135
Attorneys for Plaintiff

Honorable Judge Susan H. Johnson
Eighth Judicial District Court
Department 22
200 Lewis Avenue
Las Vegas, NV 89155
U.S. Mail

/s/ Lisa Rico
An Employee of OLSON CANNON & GORMLEY

DFLT

PAOLA M. ARMENI
Nevada Bar No. 8537
Email: parmeni@clarkhill.com
CLARK HILL PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Telephone: (702) 862-8300
Facsimile: (702) 862-8400
Attorney for Plaintiff, Steve Eggleston

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON,

Plaintiff,

-vs-

GEORGINA STUART; DEPARTMENT OF FAMILY SERVICES, CHILD SUPPORT SERVICES, CLARK COUNTY, NEVADA; LISA CALLAHAN; BRIAN CALLAHAN; AND DOES 1 THROUGH 100, INCLUSIVE,

Defendants.

CASE NO. A-16-748919-C
DEPT NO. 23

DEFAULT OF BRIAN CALLAHAN

It appearing from the files and records in the above entitled action, as well as Exhibit 1, the Declaration of Paola M. Armeni, Esq. attached hereto that BRIAN CALLAHAN, a Defendant herein, being duly served with a copy of the Summons and First Amended Complaint by personal service on the 8th day of March, 2018; that more than twenty days exclusive of the day of service, having expired since service upon the Defendant; that no answer or other appearance having been filed and no further time having been granted, the default of the above-named for failing answer or otherwise plead to Plaintiff's First Amended Complaint is hereby entered.

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The undersigned hereby requests and directs the entry of default of BRIAN CALLAHAN.

CLARK HILL PLLC

/s/ Paola M. Armeni, Esq.

PAOLA M. ARMENI
Nevada Bar No. 8537
Email: parmeni@clarkhill.com
CLARK HILL PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Telephone: (702) 862-8300
Facsimile: (702) 862-8400

STEVEN D. GRIERSON
CLERK OF COURT

By: 2/11/2022
Deputy Clerk Date

A-16-748919-C
Michelle McCarthy

EXHIBIT 1

EXHIBIT 1

DFLT

PAOLA M. ARMENI
Nevada Bar No. 8537
Email: parmeni@clarkhill.com
CLARK HILL PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Telephone: (702) 862-8300
Facsimile: (702) 862-8400
Attorney for Plaintiff, Steve Eggleston

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON,

Plaintiff,

-vs-

GEORGINA STUART; DEPARTMENT OF FAMILY SERVICES, CHILD SUPPORT SERVICES, CLARK COUNTY, NEVADA; LISA CALLAHAN; BRIAN CALLAHAN; AND DOES 1 THROUGH 100, INCLUSIVE,

Defendants.

CASE NO. A-16-748919-C
DEPT NO. 23

DECLARATION OF PAOLA M. ARMENI IN SUPPORT OF DEFAULT OF BRIAN CALLAHAN

DECLARATION OF PAOLA M. ARMENI, ESQ., IN SUPPORT OF DEFAULT OF BRIAN CALLAHAN

1. I, Paola M. Armeni, Esq. declare under penalty of perjury of the laws of the State of Nevada that the following is true and correct. *See* NRS 53.045.[1]

2. I am an attorney licensed to practice law in the State of Nevada and am a member at the law firm of Clark Hill, PLLC.

3. I am the attorney of record for the Plaintiff in the above-entitled matter.

[1] NRS 53.045 provides that declarations may be used in place of affidavits. In part, NRS 53.045 provides: "Any matter whose existence or truth may be established by an affidavit or other sworn declaration may be established with the same effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury…." *See also Buckwalter M.D. v. Eighth Judicial Dist. Ct.*, 234 P.3d 920 (Nev. 2010).

4. I am competent to testify to the matters asserted herein, of which I have personal knowledge, except as to those matters stated upon information and belief. As to those matters stated upon information and belief, I believe them to be true.

5. I make this Declaration in support of the Default of Brian Callahan.

6. Plaintiff's filed the First Amended Complaint with this Court on August 10, 2017.

7. Plaintiff's Summons and First Amended Complaint was served on BRIAN CALLAHAN by personally delivering and leaving a copy with BRIAN CALLAHAN, residing at Defendant BRIAN CALLAHAN's place of residence at 300 Ashley Dr., New Lenox, IL, 60451.

8. As of the date of this filing and declaration, BRIAN CALLAHAN has not responded.

FURTHER, DECLARANT SAYETH NAUGHT.

DATED this 25th day of January 2021.

/s/ Paola M. Armeni, Esq.
PAOLA M. ARMENI, ESQ.

DFLT

PAOLA M. ARMENI
Nevada Bar No. 8537
Email: parmeni@clarkhill.com
CLARK HILL PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Telephone: (702) 862-8300
Facsimile: (702) 862-8400
Attorney for Plaintiff, Steve Eggleston

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON,

Plaintiff,

-vs-

GEORGINA STUART; DEPARTMENT OF FAMILY SERVICES, CHILD SUPPORT SERVICES, CLARK COUNTY, NEVADA; LISA CALLAHAN; BRIAN CALLAHAN; AND DOES 1 THROUGH 100, INCLUSIVE,

Defendants.

CASE NO. A-16-748919-C
DEPT NO. 23

DEFAULT OF LISA CALLAHAN

It appearing from the files and records in the above entitled action, as well as Exhibit 1, the Declaration of Paola M. Armeni, Esq. attached hereto that LISA CALLAHAN, a Defendant herein, being duly served with a copy of the Summons and First Amended Complaint by personal service, delivering and leaving a copy with Brian Callahan, Co-occupant, on the 8th day of March, 2018; that more than twenty days exclusive of the day of service, having expired since service upon the Defendant; that no answer or other appearance having been filed and no further time having been granted, the default of the above-named for failing to answer or otherwise plead to Plaintiff's First Amended Complaint is hereby entered.

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////

////

The undersigned hereby requests and directs the entry of default of LISA CALLAHAN.

CLARK HILL PLLC

/s/ Paola M. Armeni, Esq.

PAOLA M. ARMENI
Nevada Bar No. 8537
Email: parmeni@clarkhill.com
CLARK HILL PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Telephone: (702) 862-8300
Facsimile: (702) 862-8400

STEVEN D. GRIERSON
CLERK OF COURT

By: 2/11/2022
Deputy Clerk Date

A-16-748919-C
Michelle McCarthy

EXHIBIT 1

EXHIBIT 1

DFLT
PAOLA M. ARMENI
Nevada Bar No. 8537
Email: parmeni@clarkhill.com
CLARK HILL PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Telephone: (702) 862-8300
Facsimile: (702) 862-8400
Attorney for Plaintiff, Steve Eggleston

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON, Plaintiff, -vs- GEORGINA STUART; DEPARTMENT OF FAMILY SERVICES, CHILD SUPPORT SERVICES, CLARK COUNTY, NEVADA; LISA CALLAHAN; BRIAN CALLAHAN; AND DOES 1 THROUGH 100, INCLUSIVE, Defendants.	CASE NO. A-16-748919-C DEPT NO. 23 **DECLARATION OF PAOLA M. ARMENI IN SUPPORT OF DEFAULT OF LISA CALLAHAN**

DECLARATION OF PAOLA M. ARMENI, ESQ., IN SUPPORT OF DEFAULT OF LISA CALLAHAN

1. I, Paola M. Armeni, Esq. declare under penalty of perjury of the laws of the State of Nevada that the following is true and correct. *See* NRS 53.045.[1]

2. I am an attorney licensed to practice law in the State of Nevada and am a member at the law firm of Clark Hill, PLLC.

3. I am the attorney of record for the Plaintiff in the above-entitled matter.

4. I am competent to testify to the matters asserted herein, of which I have personal

[1] NRS 53.045 provides that declarations may be used in place of affidavits. In part, NRS 53.045 provides: "Any matter whose existence or truth may be established by an affidavit or other sworn declaration may be established with the same effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury…." *See also Buckwalter M.D. v. Eighth Judicial Dist. Ct.*, 234 P.3d 920 (Nev. 2010).

knowledge, except as to those matters stated upon information and belief. As to those matters stated upon information and belief, I believe them to be true.

5. I make this Declaration in support of the Default of Lisa Callahan.

6. Plaintiff's filed the First Amended Complaint with this Court on August 10, 2017.

7. Plaintiff's Summons and First Amended Complaint was served on LISA CALLAHAN by personally delivering and leaving a copy with Brian Callahan, Co-occupant residing at Defendant LISA CALLAHAN's place of residence at 300 Ashley Dr., New Lenox, IL, 60451.

8. As of the date of this filing and declaration, LISA CALLAHAN has not responded.

FURTHER, DECLARANT SAYETH NAUGHT.

DATED this 25th day of January 2021.

/s/ Paola M. Armeni, Esq.
PAOLA M. ARMENI, ESQ.

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

STEVEN EGGLESTON, individually,
Appellant,
vs.
CLARK COUNTY DEPARTMENT OF FAMILY SERVICES,
Respondent.

No. 87583

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See* KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District First Department 2

County Carson City Judge James E. Wilson, Jr.

District Ct. Case No. 20 OC 00164 1B

2. Attorney filing this docketing statement:

Attorney William D. Schuller, Esq. Telephone (702) 862-8300

Firm Clark Hill PLLC

Address 1700 S. Pavilion Center Drive, Suite 500
Las Vegas, Nevada 89135

Client(s) Appellant Steven Eggleston

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Amity C. Latham, Esq. Telephone (702) 455-5320

Firm District Attorney's Office

Address Juvenile Division
601 North Pecos Rd., #470
Las Vegas, Nevada 89101

Client(s) Respondent Clark County Department of Family Services

Attorney Felicia Quinlan, Esq. Telephone (702) 455-5320

Firm District Attorney's Office

Address Juvenile Division
601 North Pecos Rd., #470
Las Vegas, Nevada 89101

Client(s) Respondent Clark County Department of Family Services

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☐ Summary judgment
- ☐ Default judgment
- ☐ Grant/Denial of NRCP 60(b) relief
- ☐ Grant/Denial of injunction
- ☐ Grant/Denial of declaratory relief
- ☒ Review of agency determination
- ☐ Dismissal:
  - ☐ Lack of jurisdiction
  - ☐ Failure to state a claim
  - ☐ Failure to prosecute
  - ☐ Other (specify): _____
- ☐ Divorce Decree:
  - ☐ Original ☐ Modification
- ☐ Other disposition (specify): _____

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

EGGLESTON VS. STUART (Supreme Court Case No. 80838)
EGGLESTON VS. STUART (Supreme Court Case No. 77168)

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

STEVE EGGLESTON vs. GEORGINA STUART, et al.
Case No. A-16-748919-C
Clark County District Court
Jury Trial Set for January 2024

8. Nature of the action. Briefly describe the nature of the action and the result below:

This appeal concerns the First Judicial District Court Department II denying a Petition for Judicial Review and affirming a final administrative decision of Hearing Officer Michelle O. Tobler, Esq., upholding the Clark County Department of Family Services substantiating a finding of Physical Injury (Abuse) - Physical Risk against Steve Eggleston pursuant to NRS Chapter 432B and NAC Chapter 432B.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Issue #1: Was it procedurally improper for the District Court to order Hearing Officer Tobler to issue an amended decision?

Issue #2: Was the Department of Family Services' substantiation an arbitrary and capricious abuse of discretion?

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

N/A

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This matter is presumptively retained by the Supreme Court under NRAP 17(a)(10) ("Cases involving the termination of parental rights or NRS Chapter 432B").

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
N/A

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from Oct 13, 2023

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served Oct 20, 2023

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. *See* AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed _____

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g., NRAP 4(a) or other*

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- ☐ NRAP 3A(b)(1)
- ☐ NRAP 3A(b)(2)
- ☐ NRAP 3A(b)(3)
- ☐ Other (specify) _____
- ☐ NRS 38.205
- ☒ NRS 233B.150
- ☐ NRS 703.376

(b) Explain how each authority provides a basis for appeal from the judgment or order:
NRS Chapter 322B is the Nevada Administrative Procedure Act. The order appealed from concerns a Petition for Judicial Review filed pursuant to NRS 233B.130. "An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court" and such an "appeal shall be taken as in other civil cases." NRS 233B.150.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

STEVEN EGGLESTON, Petitioner
DEPARTMENT OF FAMILY SERVICES, CHILD SUPPORT SERVICES, CLARK COUNTY, NEVADA, Respondent

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Steven Eggleston - Petition for Judicial Review (October 13, 2023)

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (*e.g.*, order is independently appealable under NRAP 3A(b)):

The Amended Order Denying Petition for Judicial Review is independently appealable under NRAP 3A(b)(1).

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Steven Eggleston	William D. Schuller, Esq.
Name of appellant	Name of counsel of record
Nov 30, 2023	/s/ William D. Schuller, Esq.
Date	Signature of counsel of record

Clark County, Nevada
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 30th day of November , 2023 , I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Amity C. Latham, Esq.
Felicia Quinlan, Esq.
Juvenile Division
601 North Pecos Rd., #470
Las Vegas, Nevada 89101

Dated this 30th day of November , 2023

/s/ Tanya Bain
Signature

STEVE EGGLESTON
10a Market Place
Shepton Mallet, England, BA4 5AZ
+44 (0)7784 850 751
Appellant, Pro Se

DISTRICT COURT
CARSON CITY, NEVADA

Case No: 20 OC 00164 1B
Dept: II

STEVEN EGGLESTON

Appellant.

-vs-

CLARK COUNTY DEPARTMENT OF FAMILY SERVICES

Respondent.

CASE NO. 1362581

PETITION FOR JUDICIAL REVIEW
(NRS 233B.130)

COMES NOW APPELLANT STEVEN EGGLESTON, who petitions for judicial review and alleges as follows:

1. Appellant appealed an alleged Substantiation of child abuse/neglect.

2. Appellant Moved for Further Clarification of the allegations; moved multiple times to Dismiss the alleged Substantiation as baseless, fraudulent, etc.; moved to Continue the hearing; and moved to Disqualify certain parties, including Hearing Office Michelle O. Tobler, Esq., among other illegalities, irregularities, and corruptions.

3. On 15 September 2020, the hearing was held without Appellant's participation in what can only be described as a Star Chamber setting, an abuse of process, and a scenario of corruption and racketeering.

4. All of the relief requested by Appellant was denied or not considered.

5. On 15 October 2020, HO Michelle O. Tobler, Esq., who herself was improperly selected as HO, further denied all the requested relief and entered false, erroneous, fraudulent, defamatory, and perjurious findings, to which she was complicit, in an effort to aid Respondent in unlawfully, unconstitutionally, and perversely defeating Appellant's civil rights claims currently pending before the Nevada Supreme Court. These rulings were served by email on 20 October 2020. To Appellant's knowledge, they have never seen served by mail.

6. The Agency/HO decisions and findings entered thereby were and are erroneous; not supported by substantial evidence; in violation of state and federal constitutional, statutory, and regulatory provisions; in excess of the Agency's statutory, constitutional, and regulatory authority; made upon an unlawful and corrupt procedure and process; are affected by substantial errors of law, procedure, and evidence; are clearly erroneous in light of the whole record; and are arbitrary and capricious.

7. In addition to the foregoing, the Agency Respondent and individuals acting on its behalf, including the HO, lacked any constitutional, statutory, regulatory, or subject matter jurisdiction over the cause, were and are barred by res judicata and collateral estoppel and other judicial doctrines of estoppel and waiver from making the orders and findings, and lacked subject matter jurisdiction to act as they did.

8. Further, the entire Agency proceeding constitutes and is subject to federal claims of racketeering, abuse of process, and civil rights violations, of which the Agency, its officers and the HO have been made aware and served, thereby making the entire proceeding a travesty of justice designed to fraudulently evade accountability and responsibility, cover up crimes committed (including kidnapping, trespass, assault, obstruction of justice, and perjury), not only as to Appellant but other members of his family and other families in Nevada.

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WHEREFORE, Appellant requests that all decisions entered below be set aside/overturned/rescinded/expunged, that Appellant's name be removed from the CAPTA registry retroactively to the beginning, that the actions taken and his family be declared unlawful, corrupt and unconstitional, and for such other and further relief as shall be deemed by the Court as just, equitable and proper.

DATE: November 16, 2020

STEVE EGGLESTON

CERTIFICATE OF SERVICE

I hereby certify that PERSONAL SERVICE of the above **PETITION FOR JUDICIAL REVIEW** was made this ____ November, 2020, as follows:

HEAD OF THE CLARK COUNTY DEPARTMENT OF FAMILY SERVICES

TIM BURCH, ADMINISTRATOR, CLARK COUNTY HUMAN SERVICES

CLARK COUNTY, NEVADA

AARON DARNELL FORD

ATTORNEY GENERAL OF THE STATE OF NEVADA

OFFICE OF THE ATTORNEY GENERAL

CARSON CITY, NEVADA

COPY

STEVEN B. WOLFSON
District Attorney
State Bar No. 001565
By: **AMITY C. LATHAM**
Chief Deputy District Attorney
State Bar No. 009316
Amity.Latham@ClarkCountyDA.com
By: **FELICIA QUINLAN**
Chief Deputy District Attorney
State Bar No. 11690
Felicia.Quinlan@ClarkCountyDA.com
Juvenile Division
601 North Pecos Rd., #470
Las Vegas, Nevada 89101
(702) 455-5320
(702) 384-4859 fax
Attorneys for Clark County
Department of Family Services

FIRST JUDICIAL DISTRICT COURT
CARSON CITY, NEVADA

Steven Eggleston, Petitioner, vs. Clark County Department of Family Services, Respondent.	Case No: 20 OC 00164 1B Dept.: II

NOTICE OF ENTRY OF ORDER

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///

PLEASE TAKE NOTICE that an Amended Order Denying Petition for Judicial Review was entered by the Court in the above-captioned case on October 13, 2023 and the attached is a true copy thereof.

DATED this 16th day of October, 2023.

Submitted by:

STEVEN B. WOLFSON
District Attorney

By: Amity Latham

AMITY C LATHAM,
Nevada Bar No. 9316
Chief Deputy District Attorney
601 N. Pecos, Rm. 470
Las Vegas, NV 89101

ACL/epw

STEVEN B. WOLFSON
District Attorney
State Bar No. 001565
By: **AMITY C. LATHAM**
Chief Deputy District Attorney
State Bar No. 009316
Amity.Latham@ClarkCountyDA.com
By: **FELICIA QUINLAN**
Chief Deputy District Attorney
State Bar No. 11690
Felicia.Quinlan@ClarkCountyDA.com
Juvenile Division
601 North Pecos Rd., #470
Las Vegas, NV 89101
(702) 455-5320
(702) 384-4859 fax
Attorneys for Clark County
Department of Family Services

BY

DISTRICT COURT

CARSON CITY, NEVADA

Steven Eggleston,

Petitioner,

vs.

Clark County Department of Family Services,

Respondent.

Case No: 20 OC 00164 1B

Dept.: II

AMENDED ORDER DENYING PETITION FOR JUDICIAL REVIEW

The matter, having come before the Court on a Petition for Judicial Review, and the Court, having considered the relevant briefing and legal authorities, and good cause appearing, this Court finds as follows:

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STATEMENT OF THE CASE

This is a petition for review of a final administrative decision of hearing officer Michelle Tobler rendered on October 15, 2020, upholding a substantiation by the Clark County Department of Family Services. Steven Eggleston (hereinafter Petitioner) was substantiated on a finding of Physical Injury (Abuse) Physical Risk pursuant to NRS 432B and NAC 432B.

On December 22, 2014, the Department of Family Services (hereinafter DFS) received a report at the child abuse and neglect hotline alleging negligent treatment. Georgina Stuart investigated the allegations. On January 5, 2015, an allegation was substantiated against Petitioner. On February 2, 2015, a substantiation letter was sent to Petitioner. On February 12, 2015, Petitioner requested an agency appeal, naming Emily McFarling as his legal counsel. On August 27, 2015, DFS issued a Finding of Substantiation upholding the substantiated finding. On September 9, 2015, Petitioner requested an administrative hearing. Again, at the time, he indicated his attorney was Emily McFarling.

On October 6, 2015, Gregor Mills office contacted DFS and indicated he may represent Petitioner in the substantiation matter. It wasn't until December 30, 2015, that Mr. Mills office indicated they were not paid and therefore were not retained by Petitioner. On December 26, 2016, Petitioner filed a lawsuit against

DFS.

On March 3, 2017, a letter was mailed to Petitioner giving him two dates for an administrative hearing. Petitioner chose August 1, 2017. Due to hearing officer unavailability, the hearing had to be rescheduled. Petitioner was given a multitude of dates to choose from. On June 1, 2017, Petitioner chose September 6, 2017, as his administrative hearing date.

On August 2, 2017, Petitioner requested to cancel his hearing of September 6, 2017, despite choosing this date himself. The hearing was rescheduled to October 24, 2017. On October 4, 2017, Petitioner emailed DFS citing a multitude of excuses regarding why he could not have the hearing that date, to include his Visa.

The hearing was vacated due to his immigration issues, but he was asked to provide proof of said immigration issues and when they might resolve so a firm date could be set. Petitioner never responded to the request for proof of immigration issues nor of a date for an administrative hearing. Having heard nothing for nine months, DFS reset the hearing for September 11, 2018. Petitioner made excuses as to why he could not appear on that date, notably that he would be in Washington DC. It appears his immigration issues cleared up between October 4, 2017, and July 20, 2018, when he sent the email, but he didn't notify DFS of his immigration issues being cleared up so that the hearing could go forward.

On July 31, 2018, and August 17, 2018, DFS asked Petitioner for dates he could be present for his administrative hearing. Those requests were ignored. On January 31, 2020, DFS requested Petitioner choose between two dates for his administrative hearing. On February 10, 2020, he chose June 23, 2020, for his administrative hearing.

In anticipation of the October 24, 2017, hearing date, the administrative hearing packet was mailed to Petitioner by registered mail, article #RB 571 946 793 US, on September 14, 2017. Additionally, it was emailed to Petitioner on May 27, 2020.

On April 18, 2020, Petitioner made an Application for a More Definite Statement. On May 5, 2020, DFS presented both Petitioner and the hearing officer with a Response to Application for More Definite Statement. The response was in compliance with NRS 233B.

With the administrative hearing date set as June 23, 2020, Petitioner began a barrage of emails and/or documents. On May 22, 2020, he emailed a "motion to strike and/or motion to dismiss; alternatively, application for more definitive statement[1], request for clarification of due process standards (including burden of proof), request to order witnesses present at hearing (or for issuance of subpenas (sic)), **request to present testimony by phone**, demand that proceedings be

[1] Despite having previously received the same.

reported, demand for production of evidence of collusion and conflict; motion in limine; motion for disqualification of hearing officer." Within it he accused the hearing officer of financial benefit, bias, and prejudice, all without any proof. On June 5, 2020, Petitioner sent an email to DFS stating he was buying a plane ticket, but put the DA's Office, the Fair Hearing Office and all involved that he intends to hold everyone fully accountable for any suffering or injuries he sustains in traveling to Las Vegas in these dangerous times.[2] On June 8, 2020, DFS opposed the motion.

On June 10, 2020, Petitioner emailed a notice of witness and/or expert witnesses **demand to present witnesses remotely and/or by phone** request for judicial notice of court filings. Further, on June 10, 2020, Petitioner emailed indicating he had 750+ pages of exhibits he was federal expressing to the hearing officer and the DA. That was 13 days before his administrative hearing was set to begin. On June 12, 2020, Petitioner emailed a motion to DFS which was to disqualify the hearing officer. This was based on him finding a federal lawsuit involving a pro per father (not Petitioner) who sued 24 defendants in federal court, one of which was the hearing officer because her law firm had represented his ex-wife in a family matter. Petitioner admitted to googling and finding this. The lawsuit was filed in 2012 and was dismissed against all defendants in 2019.

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[2] In addition to that threat, within the previously mentioned motion, he states that DFS was forcing him to "travel at the age of 64 with respiratory issues through the toxic clouds of the COVID-19 pandemic."

However, the hearing officer was swiftly dismissed from the lawsuit in 2012. Further, it had absolutely nothing to do with the administrative hearing. Within the motion, he threatened to sue all parties involved in the administrative hearing, thus beginning a campaign to threaten and terrorize anyone involved with the hearing. DFS filed an opposition. On June 13, 2020, he emailed supplemental exhibits. He also added more witnesses he wanted to call remotely or by telephone.

Despite never conceding there was any basis for her to be disqualified, the original hearing officer recused herself. Having received what he perceived to be a win, Petitioner next filed a motion to disqualify a manager of DFS and the District Attorney's Office on June 18, 2020, five days before the hearing was set to begin. Within said motion, Petitioner takes the hearing officer recusing herself to mean that DFS and the DA knew of the conflict (despite the hearing officer specifically saying there wasn't one) and actively conspired against him, all without any proof. Within this document, he also includes a list of individuals and entities he threatens, once again, to sue, to include everyone involved in the administrative hearing. DFS opposed the motion. Additionally, on June 20, 2020, Petitioner emailed an objection to notice of administrative hearing, threat to make entry in the central registry without further notice unathorized (sic) participation of district attorney's office in judicial adjudication and further demand for fair trial. Within which he states, "Eggleston has researched Ms. Tobler online, and she seems like a

nice person; reminds him of my mother's sister ☹." On June 23, 2020, Petitioner further emailed a demand for litigation hold and production of records to hearing officer.

On June 26, 2020, Petitioner emailed a reply to the opposition to motion to disqualify DFS/DA's Office, along with a proposed federal complaint he threatened to file, inexplicably, in Illinois, naming again, everyone involved in the administrative hearing, this time to include the new hearing officer that had been assigned. Remarkably, the new hearing officer, despite being "named in a lawsuit" in Illinois by Petitioner, was not bullied into recusing herself. On July 1, 2020, she issued decisions on the motions to disqualify DFS and the DA's office, as well as to strike and/or motion to dismiss; alternatively, application for more definitive statement, request for clarification of due process standards (including burden of proof), request to order witnesses present at hearing (or for issuance of subpenas (sic)), request to present testimony by phone, demand that proceedings be reported, demand for production of evidence of collusion and conflict; motion in limine; motion for disqualification of hearing officer.

On June 29, 2020, Petitioner again emailed a third updated exhibit list. On September 5, 2020, he again emailed a third updated notice of witness/documents and/or expert witnesses **demand to present witnesses remotely and/or by phone** request for judicial notice of court filings. On September 14, 2020, one day before

the administrative hearing was to begin, Petitioner once again emailed an Illinois complaint, threatening to sue everyone involved in the administrative hearing. He further emailed a motion for continuance and objection to short notice of hearing, hearing by Webex to which eggleston has not consented, concealed entry in the capta central registry making hearing moot unauthorized participation of conflicted hearing officer and district attorney's office. He further filed a motion to disqualify the new hearing officer, and the manager of DFS, and the District Attorney's Office, again, despite both of those requests being ruled on. Remarkably, the second threat and complaint from Illinois also did not deter the second hearing officer, and she issued decisions, denying these motions.

On August 11, 2020, an email was sent to Petitioner, and attached were a letter setting the hearing for September 15, 2020, and Administrative Hearing Guidelines as the hearing was conducted via WebEx, a platform that allowed for virtual hearings during the global pandemic. (CC0615-0617). Counsel for DFS informed the Hearing Officer Petitioner was notified of the September 15, 2020, hearing on August 11, 2020. (CC0117). The petitioner does not deny this notice. CC0396 to CC0403 contain Petitioner's 10-page motion to continue, which he emailed the day before on September 14, 2020. This both indicates he is aware of the September 15, 2020, date, and objects to it, though his motion to continue was denied by the hearing officer at the outset of the administrative hearing. "I don't

believe that there is any reason to continue the hearing. Mr. Eggleston had sufficient notice of the hearing, over a month since the hearing was reset, to make sufficient accommodations to be at a location where he could conduct the hearing via WebEx, and he's made arguments that he can't come here. And also, that the hearings shouldn't proceed by WebEx. So, I believe that the hearings should go forward by WebEx and I don't believe that there is any reason to have another continuance since this case has been going on for several years now. (CC 0116). And also later in writing, wherein she states, "I found that the August 11, 2020, notice of the fair hearing scheduled for September 15, 2020 is sufficient notice." (CC 0443). Further stating, "In Mr. Eggleston's June 20, 2020, objection to the fair hearing being rescheduled from June 23, 2020, to June 30, 2020, he stated that he was ready to proceed with the fair hearing on June 23, 2020, which was being held via WebEx. Between receiving the August 11, 2020, notice of hearing and just prior to the hearing, Mr. Eggleston was sending emails regarding having his Exhibits bates-stamped prior to the scheduled hearing." (CC0444).

On September 14, 2020, Petitioner emailed a motion to disqualify, wherein he states he is attempting to enjoin and declare unconstitutional the Nevada CAPTA Registry hearing scheduled for September 15, 2020..." (CC 0408). On the same date, he emails a demand for a jury trial wherein he references the hearing date four times. (CC 0418, 0423, 0424, 0425). On September 1, 2020,

Petitioner sends an email to DFS, which stated "you have schedule a third hearing date this summer for 9/15/20..."(CC0685-CC0689).

On September 15, 2020, an administrative hearing was presided over by hearing officer Michelle Tobler, who is not employed by DFS and is an independent attorney contracted with the county to hear administrative hearings. Petitioner states, in his Opening Brief, page 4 of 14, lines 11-13 "Just four days later, on September 15, 2015, Tobler held a hearing in this matter via WebEx video conference...Mr. Eggleston was thus unable to call any of his witnesses." Petitioner did request an administrative hearing on September 9, 2015. However, his administrative hearing was held, not four days later, but five years and four days later, on September 15, 2020. Petitioner stated he submitted a witness list of over 30 individuals.[3] However, after five years, his witness list was 98 individuals. And the reason he couldn't present any witnesses is he chose not to participate in the administrative hearing. On October 15, 2020, hearing officer Tobler issued her written decision. The substantiation was upheld.

STATEMENT OF FACTS

On September 15, 2020, a hearing was held in which the Clark County Department of Family Services called investigators Sheri Hensel and Georgina Stewart as witnesses, and in which Petitioner refused to participate. The beginning of the hearing was argument on the emails Petitioner had sent on September 14,

[3] Petitioner's Opening Brief, page 4 of 14, line 10.

2020, "motion for continuance and objection to short notice of hearing, hearing by Webex to which eggleston has not consented, concealed entry in the capta central registry making hearing moot unauthorized participation of conflicted hearing officer and district attorney's office. In defending his "motions", Petitioner stated "we're in the process of filing and everybody will be served with a complaint for civil rights violations and racketeering. All-both of you are defendants in that lawsuit. No matter what she said, there's absolutely no way in the world that you can proceed with the hearing since you're a defendant in a federal lawsuit that I'm bringing against you." He further stated, "I've got to go pick up my daughter in 30 minutes." Clearly evidencing that, if his threat to sue did not work (it did not) he would not be participating in the administrative hearing anyway.

If the fact he had to pick up his daughter didn't work, then he attempted to set up a defense that his internet didn't work. Yet, when counsel for DFS was allowed to respond to him, his internet was strong enough that he could interrupt and yell (while also saying he didn't know what counsel just said). His behavior then devolves into accusations and cursing. Despite continuing to state that his internet did not work and he couldn't hear, he heard enough to interrupt every other person at the hearing. When the hearing officer ultimately rules against his motion, he says, very clearly, "I'm suing you." After hearing clearly, the ruling against him and further threatening to sue, he claims he can't hear anything. He

then called counsel for DFS "you're such a wise ass." The hearing officer then made a specific finding that it was clear Petitioner could hear the proceedings, because he kept interrupting them.

The remainder of his motions were denied. At that point, his 98-person witness list was discussed, at which point he participates fully in the discussion, and then stated, "I haven't heard anything she said for almost ten minutes." That was after he fully participated in a discussion about who was on his 98-person witness list. He then goes on to call counsel for DFS a liar, while also stating that he can't hear what's happening. When the hearing officer begins the hearing, after having denied his motion to continue, Petitioner sends an email stating he is rebooting (11:08 am) and then that he isn't participating. (11:14 am). It is evident Petitioner never, since 2015, had any intention of participating in the administrative hearing at any time, on any format.

At the hearing, Sheri Hensel testified she was a Senior Family Services Specialist with DFS and had been so employed for twelve years. She identified the report that was called in to the DFS hotline, prior to the report at issue. The concerns contained within the report were that the police were called out to the home because two children were unsupervised in the apartment complex for about an hour, running around the parking lot with no shoes on.

Sheri's Unity Notes were identified by her and admitted as DFS exhibit 5. Additionally, Sheri's Nevada Initial Assessment was identified and admitted as DFS exhibit 6. Sheri had a conversation with Laura Rodriguez, the mother of Hunter and Ryder (although the children involved were not Hunter and Ryder, rather half siblings), in which she told Laura younger children should be always in line of sight if they are outside. Also present for the conversation was Petitioner, who at the time, was not living in the home. The police also responded to the unsupervised children.

Georgina Stewart testified she was a Child Development Supervisor with DFS and had been so employed for fifteen years. She identified the report that was called in to the DFS hotline that was at issue for this substantiation. The concerns contained within the report were that Laura was abusing drugs and alcohol and placing the young children at risk.

Georgina's Unity Notes were identified by her and admitted as DFS exhibit 5. Additionally, Georgina's Nevada Initial Assessment was identified and admitted as DFS exhibit 13. On December 23, 2014, Georgina responded to the family home. She found Hunter and Ryder, as well as their half siblings Kendall and James home, but neither parent was home. The children were being supervised by a boyfriend of an adult sibling who was visiting for the holidays. He reported the adult daughters were at the hospital with their mother Laura.

Allegedly Petitioner was at work. Georgina was not allowed into the home or to lay eyes on any of the children.

On December 24, 2014, Georgina spoke to Laura while she was at Monte Vista. Laura reported the morning of the incident she was stressed out because there were no Christmas presents under the tree (Georgina had brought Christmas presents to the family the night before-despite them not letting her in to interview the children, they did let her in to drop off Christmas presents). She asked Petitioner for money for Christmas gifts, he said the money they had was being used for bills and there would be no Christmas. She was overwhelmed and had been drinking, she got into the bathtub and filled it with water. She was making threatening statements that she no longer wanted to live. An adult daughter called 911. Law enforcement responded and Laura was placed on a Legal 2000 hold. She was transported to St. Rose hospital then to Monte Vista.

She further reported to being released from Monte Vista on Christmas, with additional mental health medications. She indicated she would be going to Monte Vista for the partial program Monday through Friday and would follow up with her psychiatrist. She admitted to drinking regularly, being stressed out with the kids, and because her and Petitioner argued a lot because he didn't help co parent the children, which caused her stress.

Also on December 24, 2014, Georgina visited the family home again wherein she spoke to Petitioner. She advised him of the allegations contained in the report. She and Petitioner formulated a present danger plan, which was identified as exhibit 10. It required Petitioner to provide 24-hour supervision of Laura with the children. Petitioner signed the plan. Laura was released from the hospital and reported to Georgina she was abiding by the safety plan. Georgina made a referral to Boys town for in home safety services and family support services.

On December 29, 2014, another report was received by the hotline. The report contained allegations that Hunter was admitted to Sunrise Hospital because his appendix had ruptured. Neither parent had brought Hunter to the hospital, rather an adult sibling had done so. She reported she brought the child to the hospital because her mother was on another legal hold and Petitioner had left the hospital to go to work.

By this time, the adult daughters had to leave the home to return to college and were concerned about the supervision their younger siblings would have. They reported that during the short time they were there, their mother had been hospitalized three times, had been drinking, had misused Xanax, and that she would go missing for hours and they wouldn't know where she was. They also reported concern about Petitioner's limited contact with Hunter at the hospital.

On January 5, 2015, in addition to Boys Town services, Georgina also put in place Mojave Mental Health Services for the family. On January 6, 2015, she referred Hunter to SNHD for aftercare assistance after he left the hospital. On January 7, 2015, Georgina again visited the home. She expressed concerns that the adult children were leaving, and that during Laura's hospitalizations, Petitioner had failed to parent the children. As such, both parents signed a temporary guardianship to the maternal aunt and uncle.

At the close of her investigation, Georgina substantiated allegations of abuse and/or neglect against Petitioner. This was based upon Petitioner acknowledging Laura's substance use and mental health concerns posed a threat to the children, but still routinely left them unsupervised with her for long hours, in violation of the present danger plan.

On September 16, 2020, despite his internet issues, Petitioner was able to send one last document entitled "further objection to the hearing and motion to continue under neutral hearing officer in actual hearing facility." This was denied. On October 15, 2020, the hearing officer issued her findings. The hearing officer specifically found "the preponderance of the evidence indicates that Mr. Eggleston allowed the minor children to be subjected to harmful behavior by the mother that resulted in a plausible risk of physical injury/harm pursuant to NRS 432B.140. Mr. Eggleston was responsible for the welfare of the minor children and was aware

of the mother's alcohol and drug use and mental state. He could reasonably be expected to foresee that the mother's issues were adversely affecting the minor children, yet he did not intervene to protect the children from the mother. His failure to act and protect the children put them at risk of plausible harm."

STATEMENT OF THE CASE AFTER ADMINISTRATIVE HEARING

On or about November 17, 2020, Petitioner filed a Petition for Judicial Review in this Court. On or about December 17, 2020, also filed were "Motions to Seal and Remand for a Legally Compliant Fair Hearing, and Filing of Copy of Orders for Which Appellant Seeks Judicial Review." On or about December 29, 2020, Petitioner mailed to DFS (not to counsel of record) a copy of these two filings. On or about January 13, 2021, DFS filed a Motion to Dismiss Petition for Judicial Review.

On January 27, 2021, DFS filed a Statement of Intent to Participate. On January 26, 2021, DFS also filed an ERRATA to the Motion to Dismiss. On or about February 3, 2021, Petitioner filed the following documents: Opposition to Motion to Dismiss, Motion to Strike both Motions to Dismiss and to Stay Proceedings Pending Resolution of Related Nevada Supreme Court Case, and Motion to Exceed Page Limit for Motion to Strike both Motions to Dismiss and to Stay Proceedings Pending Resolution of Related Nevada Supreme Court Case. On February 9, 2021, DFS filed a Reply to Opposition to Clark County Department of

Family Services Motion to Dismiss Petition for Judicial Review. On February 11, 2021, DFS filed a seven-volume record of the administrative proceeding. On February 12, 2021, an Ex Parte Motion and Order to Seal Court Records was filed. On February 17, 2021, DFS filed an Opposition to Petitioner's Motion to Strike Both Motions to Dismiss and to Stay Proceedings Pending Resolution of the Related Nevada Supreme Court Case.

Between February 2021, and March 2022, over a year, Petitioner did not file a brief pursuant to NRS 233B. In or around February of 2022, Clark Hill filed a notice of appearance. Petitioner's counsel also filed a motion to lift stay in May of 2022. Also filed was a Motion for Access to Docket, Pleadings, Record and Transcripts. On July 8, 2022, DFS filed replies to both motions.

On or about January 30, 2023, Petitioner filed his Opening Brief. On or about March 17, 2023, Respondent filed its Response. On or about April 17, 2023, Petitioner filed his Reply. On or about May 4, 2023, Respondent filed a Request for Submission. On or about May 8, 2023, this Court sent Petitioner and Respondent an Order for Proposed Order. Each party sent their proposed order within the deadline set by the Court. On or about May 24, 2023, at 1:30 pm, both parties received an email asking to have a quick phone conference that day at 4:00 pm or on the 26th. Within the email were the following questions: "When and how the 9/15/2020 hearing was set and whether, before 9/15/2020, Mr. Eggleston

consented/objected." All parties were present at 4pm wherein this question was repeated. As such, supplemental Briefs and Exhibits were filed responsive to the questions raised sua sponte by the Court.

On May 26, 2023, this Court additionally filed an order for limited remand, allowing Petitioner to file a supplement within 40 days of service of the amended appeal hearing decision. An amended appeal hearing decision was served on or about July 17, 2023, on this Court and the Petitioner. Petitioner chose to file a Supplemental Points and Authorities and mailed the same to Respondent on August 25, 2023. The order further allowed Respondent 30 days after Petitioner served his supplement to file an answering supplement. A supplemental brief was filed responsive to the order.

ANALYSIS OF THE FACTS AND LAW

NRS 432B.317 governs fair hearings. It states:

> 1. A person to whom a written notification is sent pursuant to NRS 432B.315 may request an administrative appeal of the substantiation of the report and the agency's intention to place the person's name in the Central Registry by submitting a written request to the agency which provides child welfare services within 15 days after the date on which the agency sent the written notification as required pursuant to NRS 432B.315.
> 2. Except as otherwise provided in subsection 3, if an agency which provides child welfare services receives a request for an administrative appeal within 15 days after the agency sent the written notification pursuant to subsection 1, a hearing before a hearing officer must be held in accordance with chapter 233B of NRS.

Here, Petitioner attempted to thwart his own right to an administrative hearing for years. However, when two hearing officers required the administrative hearing proceed, he failed to participate in it. Without his participation, he leaves no arguments for this Court to review.

As a rule, issues not raised before the District Court or in the appellant's opening brief on appeal are deemed waived. *Palmieri v. Clark Cnty.*, 131 Nev. Adv. Rep. 102, 367 P.3d 442 (2015). Claims that were not raised in the lower court are waived. *Dermody v. City of Reno*, 113 Nev. 207, 210-11, 931 P.2d 1354, 1357 (1997); *Guy v. State*, 108 Nev. 770, 780 839 P.2d 578, 584 (1992), cert. denied, 507 U.S. 1009, 113 S. Ct. 1656 (1993); *Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991). Nor will an appellate court consider issues abandoned in district court. *Buck v. Greyhound Lines, Inc.*, 105 Nev. 756, 766, 783 P.2d 437, 443 (1989). Therefore, by failing to participate in his own administrative hearing, he is precluded from making arguments in this Judicial Review, and the Court denies the Petition. Further, by failing to raise lack of notice of the administrative hearing in either his opening or reply brief, the issue is waived. Additionally, he was present at the administrative hearing, so lack of notice would not have been an issue.

NRS 233B.135 states Judicial review of a final decision of an agency must be conducted by the court without a jury; and confined to the record...The final

decision of the agency shall be deemed *reasonable and lawful* until reversed or set aside in whole or in part by the court. The *burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.* The court *shall not substitute its judgment for that of the agency* as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion. (Emphasis added).

As such, it is Petitioner's burden to show that hearing officer Tobler's decision was invalid because it was in violation of constitutional or statutory provisions, or it was in excess of the statutory authority of DFS, or the decision was made upon unlawful procedure, there was an error of law, or that it was clearly erroneous or characterized by an abuse of discretion. Petitioner has not met this burden.

Here, the hearing officer found the following: "NRS 432B.020 defines abuse or neglect of a child as 'physical or mental injury of a non-accidental nature;...; or negligent treatment or maltreatment as set forth in NRS 432B.140... of a child

caused or allowed by a person responsible for the welfare of the child under circumstances which indicate that the child's health or welfare is harmed or **threatened with harm.'** (Emphasis added.) NAC 432B.020 interprets 'non accidental' for the purposes of NRS 432B.020 as arising from an event of effect that a person responsible for a child's welfare could reasonably be expected to foresee, regardless of whether that person did not intent to abuse or neglect a child or was ignorant of the possible consequences of his actions or failure to act. NRS 432B.140 states negligent treatment or maltreatment of a child occurs if a child has been subjected to harmful behavior that is terrorizing, degrading, painful or emotionally traumatic... NRS 432B.020(3) states 'allow' means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that a child is abused or neglected. (Id.) The term 'nonaccidental' is interpreted in NAC 432B.020 as meaning 'arising from an event or effect that a person responsible for a child's welfare could reasonably be expected to foresee, regardless of whether that person did not intend to abuse or neglect a child or was ignorant of the possible consequences of his actions or failure to act." The hearing officer then went on to state "the preponderance of the evidence indicates that Mr. Eggleston allowed the minor children to be subjected to harmful behavior by the mother that resulted in a plausible risk of physical injury/harm pursuant to NRS 432B.140. Mr. Eggleston was responsible

for the welfare of the minor children and was aware of the mother's alcohol and drug use and mental state. He could reasonably be expected to foresee that the mother's issues were adversely affecting the minor children, yet he did not intervene to protect the children from the mother. His failure to act and protect the children put them at risk of plausible harm."

It is clear, by the plain meaning of NRS 432B.020(1) coupled with NRS 432B.140, abuse and/or neglect can occur when a child is without proper care, control and supervision or lacks the subsistence, shelter, or other care necessary for their well-being, or is threatened with such. Here, DFS put on more than sufficient evidence to establish Petitioner failed to intervene on the children's behalf, he knew that Laura was an inappropriate care provider due to her mental health and drug use. He knew that constant supervision of the children was necessary. Yet he carried on as if DFS had never become involved, thus placing his children at risk.

The Petitioner is upset the hearing officer did not use separate headings for findings of fact and conclusions of law, but instead used one heading. However, it is not particularly difficult to discern which are the factual findings and which are the legal findings. The legal findings are discussed above, and Petitioner doesn't seem to take much issue with those, as he failed to even address the law the hearing officer cited. However, he seems to argue the factual findings were only as to Laura. The factual findings were specific as to Petitioner. Simply because

Petitioner does not like how they are set up, or how they reflect on him does not make them in violation of statutory provisions.

Petitioner also appears to take issue with his own participation in the administrative hearing. He first argues the hearing was scheduled on such short notice that he did not have a meaningful opportunity to arrange for any of his 30+ witnesses to appear. Petitioner did in fact request an administrative hearing on September 9, 2015. However, his administrative hearing was held, not four days later, but five years and four days later, on September 15, 2020. Additionally, after five years, his witness list was 98 individuals. Petitioner had five years and four days to prepare for his administrative hearing and present his 98 witnesses. Yet, he chose not to participate in the administrative hearing, and it had absolutely nothing to do with his internet.

The Hearing Officer specifically found that "Mr. Eggleston was initially present at the hearing during arguments on his motions prior to the hearing beginning, but then failed to be present for the actual hearing." Petitioner's internet was strong enough to participate in approximately one-half hour of the hearing, and to engage in inappropriate behavior while doing so. The beginning of the hearing was argument on the emails Petitioner had sent on September 14, 2020, "motion for continuance and objection to short notice of hearing, hearing by Webex to which eggleston has not consented, concealed entry in the capta central

registry making hearing moot unauthorized participation of conflicted hearing officer and district attorney's office. In defending his "motions", Petitioner stated "we're in the process of filing and everybody will be served with a complaint for civil rights violations and racketeering. All-both of you are defendants in that lawsuit. No matter what she said, there's absolutely no way in the world that you can proceed with the hearing since you're a defendant in a federal lawsuit that I'm bringing against you." Certainly, Petitioner's pattern was to threaten to sue anyone who was involved with the administrative hearing to prevent the administrative hearing from occurring. He further stated, "I've got to go pick up my daughter in 30 minutes." Clearly evidencing that, if his threat to sue did not work (it did not) he would not be participating in the administrative hearing anyway.

If the fact he had to pick up his daughter didn't work, then he attempted to set up a defense that his internet didn't work. Yet, when counsel for DFS was allowed to respond to him, his internet was strong enough that he could interrupt and yell (while also saying he didn't know what counsel just said). His behavior then devolves into accusations and cursing. Despite continuing to state his internet did not work and he couldn't hear, he heard enough to interrupt every other person at the hearing. When the hearing officer ultimately rules against his motion, he says, very clearly, "I'm suing you." After hearing clearly the ruling against him and further threatening to sue, he claims he can't hear anything. He then called

counsel for DFS "you're such a wise ass." (Id.) **The hearing officer then made a specific finding that it was clear Petitioner could hear the proceedings, because he kept interrupting them.**

Next, his 98-person witness list is discussed, at which point he participates fully in the discussion, and then stated, "I haven't heard anything she said for almost ten minutes." That was after he fully participated in a discussion about who was on his 98-person witness list. He then goes on to call counsel for DFS a liar, while also stating that he can't hear what's happening. When the hearing officer begins the hearing, after having denied his motion to continue, Petitioner sends an email stating he is rebooting (11:08 am) and then that he isn't participating. (11:14 am). It is evident Petitioner never, since 2015, had any intention of participating in the administrative hearing at any time, on any format. He was never denied the opportunity to cross examine any witnesses, he chose not to because he was not getting his way.

It is further a misstatement that Petitioner "sent Dorman an email during the hearing, indicating that he had been disconnected and 'reserving his right to conduct (the hearing) at a later date.'" Although that happened, the reason Petitioner did not participate was due to the second email he sent, the one about preferring to pick up his daughters rather than participate. This is an email Petitioner never mentions in the entirety of his Opening Brief. The hearing officer

specifically found "about one half hour into the hearing, Mr. Eggleston emailed to advise that he was leaving to pick up his daughters from school." Again, Petitioner never mentions this specific finding in the entirety of his Opening Brief. Petitioner was not denied anything, he chose not to participate when he did not get his way.

At the same time hearing officer Tobler issued her written decision, she issued written decisions on Petitioner's September 14, 2020, documents he sent the night before the hearing. Within the decision on the denial of one of the motions, she makes very specific findings as to Petitioner's internet. She states, " during arguments on the motions on September 15, 2020, Mr. Eggleston's computer 'dropped', but only when others were talking, not while he was talking. I find that the computer 'drops' were most likely intentional, and not due to any broadband issues." It was not impossible for Petitioner to utilize his internet. He had no trouble emailing thousands of pages of documents, before or after the hearing. He had no trouble participating in the hearing for approximately 30-40 minutes, but then ceasing to participate when he did not get his way. The decision was not in violation of statutory provision, nor did it exceed statutory authority.

"The standard for reviewing petitions for judicial review of administrative decisions is the same for this court as it is for the district court. Like the district court, we review an administrative appeal officer's determination of questions of law, including statutory interpretation, de novo. We review an administrative

agency's factual findings for clear error or an arbitrary abuse of discretion and will only overturn those findings if they are not supported by substantial evidence." *City of North Las Vegas v. Warburton*, 127 Nev. 682, 686, 262 P.3d 715, 718 (2011). Substantial evidence is that which a reasonable person might accept as adequate to support a conclusion. *Ayala v. Caesar's Palace*, 119 Nev. 232, 235, 71 P.3d 490, 491-492 (2014). Pursuant to *Warburton,* this Court reviews an administrative agency's factual findings for clear error or an arbitrary abuse of discretion and will only overturn those findings if they are not supported by substantial evidence. Petitioner has failed to meet this burden.

Petitioner seems to argue the truncated nature of the investigation and his own actions render the hearing officer's findings about Petitioner clearly erroneous. In support of this argument, Petitioner states he was never given a choice to leave the home with the children and that he executed a present danger plan and agreed to assistance from various community providers.

What Petitioner fails to acknowledge is that 'executing' a present danger plan is wholly different than abiding by the present danger plan. Georgina Stuart specifically testified she substantiated the allegations because Petitioner acknowledged Laura's substance use and mental health concerns posed a threat to the children, but still **routinely left them unsupervised with her for long hours,** in violation of the present danger plan. This testimony is uncontroverted. Thus,

Petitioner's argument that he was present in the family home on a daily basis throughout the entire investigation is disingenuous. Perhaps he checked in at the family home daily, but he admitted to leaving the children unsupervised with Laura for long hours, despite his admission in his Opening Brief that her mental health and substance abuse issues were a threat to the children.

Further, Petitioner states he determined he would leave Laura and leave the family home. However, the hearing officer specifically found Petitioner was being evicted from the home, not that he was leaving the situation voluntarily. She also found the attempted safety services intervention was unsuccessful. It is not enough to agree to assistance from safety services providers as asserted by Petitioner, as a parent you must participate and make them work.

Finally, and most importantly, Petitioner's assertion he was not given the opportunity to leave the home with the children is belied by the record. The hearing officer specifically found "the parents both believed that allowing the children to go live with the maternal aunt and uncle is what was needed until they could figure some things out. The mother and Mr. Eggleston signed temporary guardianship of Hunter and Ryder to the maternal aunt and uncle. Mr. Eggleston did so with the advice of his counsel, Emily McFarling, as described in her July 11, 2015 email. The Las Vegas Metropolitan Police Department did not threaten, spit or draw their weapons on Mr. Eggleston to force him to sign the temporary

guardianship." As such, it is clear Petitioner himself made the decision to forgo pursuing any further parenting of the children, and instead elected to sign a temporary guardianship. Not only did he voluntarily make this decision, but he also made this decision with the advice of competent legal counsel. He should not now be heard to complain that he was not given any other options. He made his choice with the advice of counsel.

On July 14, 2023, Hearing Officer Tobler authored an amended appeal hearing decision. Within it, she states "The substantiation of the allegation in this matter was based on the totality of the circumstances/facts over a period of time, rather than on a single incident." She specifically states on December 21, 2014, Laura Rodriguez was so out of control from mental health issues and drug and alcohol abuse that the children locked themselves in a bathroom to be safe from her until she passed out. Laura was doing drugs and drinking alcohol daily and was placing the minor children at risk of her harmful behavior that was emotionally traumatic to them. Petitioner was unwilling to intervene to protect the children from Laura's drug and alcohol abuse. She further goes on to state Laura admitted to using Xanax and alcohol as a coping mechanism. Petitioner was aware of Laura's drug and alcohol problem but failed to parent the children and failed to intervene to protect them. Kendall primarily took care of the three minor children, even when Petitioner was home. Petitioner admitted to leaving most of the

parenting to Laura, even when he was home, and despite knowing of her drug and alcohol abuse. This was an ongoing problem. Hunter had a near drowning incident in April 2014 while in the care of Laura and while Petitioner was home. She further goes on to state the preponderance of the evidence indicates Laura's mental health issues and drug and alcohol abuse subjected the children to harmful behavior that was terrorizing, painful and emotionally traumatic and left the children without proper care, control, and supervision. Petitioner allowed and did nothing to prevent or stop the negligent treatment of the children by Laura in circumstances where he knew or had reason to know that the children were being neglected because he knew of Laura's drug and alcohol abuse. Petitioner refused to provide the proper care, control, and supervision necessary for the well being of the minor children when he was able to do so because he refused to parent the children. Petitioner allowed the minor children to be subjected to harmful behavior by Laura that resulted in negligent treatment/maltreatment of the children, pursuant to NRS 432B.140, under circumstances which indicated a plausible risk that the children's health or welfare was harmed or threatened with harm.

She goes on to state that Petitioner "failed to maintain 24-hour supervision of Laura when she took Xanax and drank vodka on December 27, 2014, before again going to the hospital, and again when Laura went to the emergency room on January 2, 2015 to get a prescription for Xanax, which was filled the same day and

then empty two days later, as well as her continued drinking of vodka. Laura had also gone missing for hours with no one knowing where she was." This was after Petitioner signed a Present Danger Plan with DFS wherein he specifically agreed to maintain 24-hour supervision of Laura to protect the children from her. Finally, she states "the preponderance of the evidence indicates that Mr. Eggleson refused to provide the proper care, control, and supervision necessary for the well being of the minor children when he was able to do so because he refused to parent the children even when Laura couldn't because of her drug and alcohol abuse and related hospitalizations. Mr. Eggleston engaged in negligent treatment/maltreatment of the children, pursuant to NRS 432B.140, under circumstances which indicated a plausible risk that the children's health or welfare was harmed or threatened with harm."

The Nevada Administrative Code governs substantiations. NAC 432B.170 is clear. It states "After the investigation of a report of the abuse or neglect of a child, an agency which provides child welfare services shall determine its case findings based on whether there is **reasonable cause to believe** a child is abused or neglected, or threatened with abuse or neglect, and whether there is **credible evidence** of alleged abuse or neglect of the child. The agency shall make one of the following findings: The allegation of abuse or neglect is substantiated; or the

allegation of abuse or neglect is unsubstantiated." Here, the child welfare agency clearly made a finding of abuse or neglect, as required by NAC 432B.170.

The standard for a criminal conviction is entirely different. Obviously, a criminal conviction requires proof beyond a reasonable doubt. However, a substantiation may stand even when a criminal prosecution is dropped or never pursued. A criminal conviction is not dispositive of a substantiation decision, nor would a substantiation be dispositive of a criminal conviction. Presenting cases to this Court that analyze sufficiency of the evidence when proof beyond a reasonable doubt is required has no bearing on whether there was a preponderance of the evidence to support a substantiation. As such, it has no bearing on this Court's decision.

Petitioner states the first amended finding of the hearing officer, the night the children locked themselves in the bathroom, is objectionable because Petitioner may or may not have been present and it may or may not have contained hearsay. As a rule, issues not raised before the District Court or in the appellant's opening brief on appeal are deemed waived. *Palmieri v. Clark Cnty.*, 131 Nev. Adv. Rep. 102, 367 P.3d 442 (2015). Claims that were not raised in the lower court are waived. *Dermody v. City of Reno*, 113 Nev. 207, 210-11, 931 P.2d 1354, 1357 (1997); *Guy v. State*, 108 Nev. 770, 780 839 P.2d 578, 584 (1992), cert. denied, 507 U.S. 1009, 113 S. Ct. 1656 (1993); *Davis v. State*, 107 Nev. 600, 606, 817

P.2d 1169, 1173 (1991). Nor will an appellate court consider issues abandoned in district court. *Buck v. Greyhound Lines, Inc.,* 105 Nev. 756, 766, 783 P.2d 437, 443 (1989). Therefore, by failing to participate in his own administrative hearing, he is precluded from now arguing that any testimony taken was hearsay. Further, he cannot present evidence that he was or was not present, as his own failure to participate in the administrative hearing precludes him from doing so.

However, Petitioner fails to address the fact that the hearing officer specifically stated the substantiation was based upon the totality of the circumstances/facts over a period, rather than on a single incident. Therefore, this was simply the start of the analysis, and certainly not the conclusion of the analysis. The hearing officer then goes on to outline after that night, Petitioner signed a present danger plan, that required 24-hour supervision of Laura around the children due to her use of Xanax, alcohol abuse, and mental health issues. She found, very specifically, that on December 27, 2014, merely three days after signing this present danger plan, Petitioner failed to maintain 24-hour supervision of the children when Laura took Xanax and drank vodka and had to be hospitalized again. She further found that Petitioner violated the present danger plan again on January 2, 2015, when Laura was hospitalized again for Xanax and vodka.

Next, Petitioner states the hearing officer improperly relied on a near drowning incident in April of 2014. However, what the hearing officer stated was "Mr.

Eggleston was aware of Laura's drug and alcohol problem but failed to parent the children and failed to intervene to protect them. The 11-year-old child, Kendall Rodriguez, primarily took care of the three minor children, even when Mr. Eggleston was home. Mr. Eggleston admitted to leaving most of the parenting to Laura, even when he was home, and despite knowing of her drug and alcohol abuse. **This was an ongoing problem. Hunter Eggleston has a near-drowning incident in April 2014, while in the care of Laura and while Mr. Eggleston was home."** Again, the hearing officer made it clear the substantiation was based on the totality of the circumstances/facts over a period, rather than on a single incident. This was simply an example of poor or absent supervision, regardless of whether there was present danger, impending danger, or maltreatment. But this was merely one example of the extensive poor or absent supervision exhibited by Petitioner.

Next Petitioner seems to indicate he cannot be substantiated because the present danger plan included individuals who were NOT responsible for the welfare of the children. NRS 432B.130 states "A person is responsible for a child's welfare under the provisions of this chapter if the person is the child's parent, guardian, a stepparent with whom the child lives, an adult person continually or regularly found in the same household as the child, a public or private home, institution or facility where the child actually resides or is receiving care outside of the home for

all or a portion of the day, or a person directly responsible or serving as a volunteer for or employed by such a home, institution or facility." Here, Petitioner was the person responsible for the welfare of his own very young and very vulnerable children. Not their barely adult half-sisters who were visiting from college. They are not responsible for the children's welfare, Petitioner is. Petitioner is content to blame others for his neglect of his own children, rather than taking responsibility for his actions.

Further, his statement that he could do nothing to prevent Laura from abusing prescription medication and alcohol is further evidence of his utter failure to take responsibility for his own actions, and his own children. The entire amended appeal hearing decision focuses on Petitioner's failure to protect Hunter and Ryder, not on his failure to fix Laura.

Finally, Petitioner takes issue with the fact the hearing officer found on December 28, 2014, he went to the hospital to sign consent for Hunter's surgery, but then left and had limited contact with Hunter at the hospital. He takes issue with that because there is no evidence Georgina Stuart reviewed Hunter's hospital records and that the hearing officer does not specify what limited contact means, for example did he visit once, twice, five times? How long did each visit last for? The appropriate time to determine those answers would have been at the administrative hearing. But again, because Petitioner utterly failed to participate,

he gave up the opportunity to question the witnesses who testified. Because he did so, he cannot now be heard to complain.

Further, the hearing officer specifically states the adult sister informs the hospital she was concerned about his utter failure to intervene to protect the children. Clearly, this was the issue regarding the hospital visit. But again, this isn't an isolated incident. This was another event, in the chain of events, that led to the totality of the circumstances.

It is clear, by the plain meaning of NRS 432B.020(1) coupled with NRS 432B.140, abuse and/or neglect can occur when a child is without proper care, control and supervision or lacks the subsistence, shelter, or other care necessary for their well-being, or is threatened with such. Here, DFS put on more than sufficient evidence to establish Petitioner failed to intervene on the children's behalf, he knew that Laura was an inappropriate care provider due to her mental health and drug use. He knew that constant supervision of the children was necessary. Yet he carried on as if DFS had never become involved, thus placing his children at risk.

CONCLUSION

The burden of proof is on the party attacking or resisting the decision to show the final decision is invalid. NRS 233B.135. Here, Petitioner has failed to show either the final decision of the agency is in violation of constitutional or

statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion. Because Petitioner has the burden and has failed at proving his burden, this Court upholds the hearing officer's substantiation of the Petitioner.

ORDER

The Court, having considered the briefing on the Petition, being fully advised in the premises and good cause appearing therefor, hereby finds and orders on the pleadings (no hearing having taken place) as follows:

IT IS HEREBY ORDERED that the Petition is DENIED.

IT IS HEREBY FURTHER ORDERED that the Decision's finding – i.e, that the substantiation of the allegation of Physical Injury (Abuse) - Physical Risk as to Kendall Rodriguez, James Rodriguez, Ryder Eggleston, and Hunter Eggleston against Mr. Eggleston was proven by a preponderance of the evidence and upheld – is AFFIRMED.

IT IS HEREBY FURTHER ORDERED that Amity C. Latham, Esq. and Felicia Quinlan, Esq. will serve a notice of entry of this Order on all other parties and file proof of such service within seven days after the date the Court sent this Order to the attorneys.

Dated this 13 day of October 2023.

DISTRICT COURT JUDGE

Respectfully submitted by:

STEVEN B. WOLFSON
DISTRICT ATTORNEY

Amity Latham

By_____
Amity C. Latham
Chief Deputy District Attorney
Nevada State Bar No. 9316

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Clark County District Attorney's Office, and that on the ____ day of October 2023, I caused to be served a true and correct copy of the foregoing **AMENDED ORDER DENYING PETITION FOR JUDICIAL REVIEW** in the following manner:

(Electronic Service)

Billie Shadron (bshadron@carson.org)

(Mailing)

Paola M. Armeni, Esq.
William Schuller, Esq.
Clark Hill PLLC
1700 S. Pavilion Center Drive, Ste. 500
Las Vegas, NV 89135

James E. Wilson, Jr.
District Judge
First Judicial District Court
885 East Musser Street
Room 3057
Carson City, Nevada 89701

_____

Employee of Clark County District Attorney's Office, Juvenile Division

CERTIFICATE OF MAILING

I hereby certify that I am an employee of Clark County District Attorney's Office, and that on the 16th day of October 2023, I caused to be served a true and correct copy of the attached **AMENDED ORDER DENYING PETITION FOR JUDICIAL REVIEW** in the following manner:

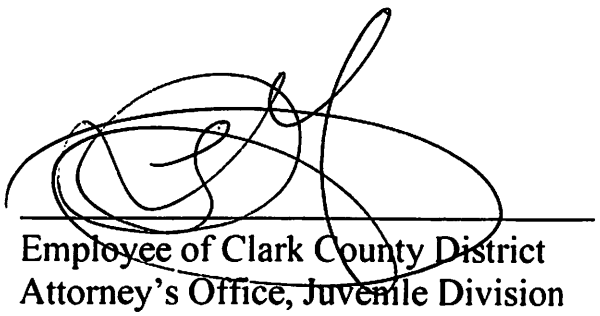
(Electronic Service)

Billie Shadron (bshadron@carson.org)

(Mailing)

Paola M. Armeni, Esq.
William Schuller, Esq.
Clark Hill PLLC
1700 S. Pavilion Center Drive, Ste. 500
Las Vegas, NV 89135

James E. Wilson, Jr.
District Judge
First Judicial District Court
885 East Musser Street
Room 3057
Carson City, Nevada 89701



Employee of Clark County District Attorney's Office, Juvenile Division

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Steven D. Grierson
CLERK OF THE COURT

TRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON, Plaintiff, vs. GEORGINA STUART, Defendant.	CASE NO. A-16-748919-C DEPT. XXII *** AMENDED/CORRECTED ***

BEFORE THE HONORABLE SUSAN JOHNSON, DISTRICT COURT JUDGE

NOVEMBER 7, 2023

RECORDER'S TRANSCRIPT OF HEARING RE

DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S MOTION FOR SUMMARY JUDGMENT

APPEARANCES:

For the Plaintiff: PAOLA M. ARMENI, ESQ.
WILLIAM D. SCHULLER, ESQ.

For the Defendant: FELICIA GALATI, ESQ.
STEPHANIE BARKER, ESQ.

:

RECORDED BY: NORMA RAMIREZ, COURT RECORDER

Case Number: A-16-748919-C

TUESDAY, NOVEMBER 7, 2023 AT 9:25 A.M.

THE COURT: Eggleston versus Stuart, case number A16-748919-C. Okay. Would you announce your appearances for the record? Let's start with Plaintiff's counsel.

MS. ARMENI: Good morning, Your Honor. Paola Armeni on behalf of Plaintiff Eggleston.

MR. SCHULLER: William Schuller also on behalf of Plaintiff:

MS. GALATI: Good morning, Your Honor. Felicia Galati appearing for Clark County and Georgina Stuart.

MS. BARKER: Good morning, Your Honor. Stephanie Barker for Clark County and Georgina Stuart.

THE COURT: Okay. And this is Clark County and Ms. Stuart's Motion for Summary Judgment and I have read your papers. I did not get through all of the decision on the petition for judicial review though. It's quite long.

MS. GALATI: It is, 38 pages.

THE COURT: Okay.

MS. GALATI: All right. May I proceed?

THE COURT: You may.

MS. GALATI: Thank you, Your Honor. Defendants are entitled to summary judgment on all claims. The undisputed case facts here are that on January 7, 2015 Georgina Stuart attended at the Eggleston home, there were multiple people present, the Plaintiff, Laura Rodriguez, [indecipherable], the mother, Lisa Callahan, the aunt, Alexis Rodriguez, the sister, and other people. Stuart took police with her because that was protocol in case there were going to be safety issues because she

had to remove four children if that was the option that was going to be chosen. Also, there were issues regarding the mother's untreated mental health and drug and alcohol abuse issues and father's lack of protecting Cassidy that caused concerns about what was going to happen at the home. Stuart advised everyone that management determined the family had two options because the Illinois family that had been provided support for the family was leaving town. The two options were removal or temporary guardianships to the Callahan's. Plaintiff has the right to make a choice between the two options as to what he wanted to do. If they chose removal the children would have been taken into protective capacity and then he would have had a hearing after that, if they chose the temporary guardianships then DFS would be out of the case. Plaintiff on the advice of his attorney decided to sign the temporary guardianship. Those are the facts.

There is no case establishing that if DFS, if management determines a decision has to be made and that options have to be presented like the options that were presented here that that choice is unconstitutional. Not a single case have been -- has been cited by the Plaintiff establishing that. The Plaintiff has litigated the constitutional and statutory issues a number of times, he's had two administrative appeals, he filed a petition for judicial review before the First Judicial District Court and that court denied his petition. I'm gonna focus on the 1983 claim only and leave the state law claims to Your Honor based on the papers. The parents' rights are not absolute and DFS has an interest in the welfare of children and can limit parental authority where children's competing rights are impacted, they can even totally deprive a parent of rights under certain circumstances. There are three bases to which we are entitled to summary judgment on the 1983 claim. The first is res judicata, the second is Plaintiff could not establish his claims to the

standard of deliberate indifference, and the third is qualified immunity. Res judicata relies of course on the decision made by the First Judicial District Court. In essence the Court has already decided the claims that this Court would decide and considered -- and considered the evidence and documents that this Court would consider.

The First Judicial District Court determined, and I'm at page 37 if that helps you, Your Honor. We go to -- from page 37 to 38. The --

THE COURT: I'm there.

MS. GALATI: -- First District determined that DFS -- DFS's substan -- substantiation decision was, one, not in violation of a constitutional right under a statutory provision, two, not in excess of statutory authority, three, not based on unlawful procedure, four, not affected by other error of law, five, not clearly erroneous in view of the reliable probative and substantial evidence on the whole of the record and not arbitrary or capricious and upheld the findings. So, when you turn to res judicata there's three elements. Are the issues decided in -- in the judicial review case the issues that would be -- that are to be decided here? Yes. They're exactly the same. Second, is it a final decision on the merits? Yes. Third, is the party in the judicial review case the same party here? Yes. So, the answer is the 1983 claim is barred by res judicata.

THE COURT: You say res judicata but are you referring to both issue and claim preclusion which is discussed like by Five Star and its progeny?

MS. GALATI: Both because, Your Honor, if you look at the -- I know you haven't read the decision but if --

THE COURT: And I --

MS. GALATI -- you --

THE COURT: -- apologize for that.

MS. GALATI: -- no, no, no. We've given you a lot of material. If you actually look at the decision, the decision was based on the CPS reports -- and all of this is what is going to before the Court. The decision was on all of CPS reports, the UNITY notes, Ms. Stuart testified in the underlying administrative hearings, based on the Nevada initial assessment, based on the Present Danger Plan, based on what happened on January 7, 2015 with the guardianship, finding the signing of the guardianship was voluntary, finding that the police did not coerce, etcetera, the Plaintiff to sign, finding that the Plaintiff signed based on his attorney's advice. And so everything that would be considered here has been considered multiple times and most importantly by the First Judicial District Court and that's why the order is so long because it goes through everything that happened and the whole -- all the issues regarding the father's protective capacity, etcetera, what happened, what didn't happen. During the pendency of the Present Danger Plan, Your Honor, that Plaintiff was supposed to be supervising the mother as well as the two sisters were other supervisors. The mother was consuming Vodka, Xanax and Codeine, okay? So, even with the Present Danger Plan in place the -- the children were not protected because the mother was still abusing drugs and alcohol during the -- during the plan and that's in the order as well. So, everything that has to be considered has been considered. He's made the same claims there as he's made here. He's raised the same issues there as he's raised here therefore we're entitled to summary judgment on res judicata.

The next argument is that Plaintiff cannot meet the deliberate indifference standard. I'm sure Your Honor knows it's a very stringent standard, we cited a number of cases establishing that including the *Mo-Mox Caselis* case from

the 9th -- from the 9th Circuit. The bottom line is all of the cases established that substantial due process rights are implicated where a child is removed or a parent's parental rights are terminated. That didn't happen here. There's no dispute about that. That's the end of the inquiry on the standard of due process. Plaintiff hasn't cited any case that even approaches the facts here to say, oh, this case establishes my constitutional right has been violated. None. The procedural due process claim Plaintiff was advised of the report allegation, he responded thereto, he had two appeals of the substantiation and he had a judicial review. He's had all of the process he's entitled to. Second, again, res judicata applies here as to the constitutional decision and the statutory decisions made by the First Judicial District Court.

Under the standard of deliberate indifference which is a stringent standard the Court has to consider whether DFS -- DFS's offer of a temporary guardianship option which Plaintiff accepted on the advice of counsel was unconstitutional. It wasn't. There was no objectively substantial risk of harm being posed by giving the family an option as to what to choose. DFS was not aware of facts from which an inference could be drawn, there was a substantial risk of serious harm, and three, DFS did not draw that inference in a reasonable officer would not draw that inference because there's no case law establishing that so there is nothing to look to come to that conclusion. This case is unlike -- this case is unlike the cases we've cited to you where the Court has found deliberate indifference. The parents have the right to choose a temporary guardianship and determine what would happen and end the DFS/CPS case. The decisions that the temporary guardian -- guardian made, Lisa Callahan, after the fact the guardian that Plaintiff accepted for his children are not the responsibility of the county Defendants.

Plaintiff argues DFS has an obligation to pursue reunification; it did not have an obligation to pursue reunification. Reunification is the goal when a child is removed from a home and then DFS works with the family eventually to reunite them if possible. It does not apply in a case where there's been no removal.

The third argument is that Defendants are entitled to qualified immunity. The United States Supreme Court has expressed frustration with lower courts for their failure to heed its decisions on qualified immunity. It has consistently told lower courts to construe claims of qualified immunity not to define clearly established law at a high level of generality because it avoids the crucial question of whether the official acted reasonably in the particular circumstances. In the *SB* case we cited for you the court indicated that qualified immunity to soc -- is important to society as a whole and because immunity from [indecipherable] is effectively lost if the case is erroneously permitted to go to trial. There's two elements to that test, anyone of them would require summary judgment. The first is whether the evidence shows the Defendant's conduct violated a constitutional right. The answer is no. We didn't take the children; we didn't terminate Plaintiff's parental rights. Also, there's the res judicata effect of the First Judicial District Court's decision. The federal case law that's binding here is undisputed. Also, DFS has broad discretion in various things in where the state has a -- a decision maker has discretion there's no constitutionally protected interest. That's under the *Morimoto* case. And there is plenty of case law that we cited that DFS has discretion on removal, investigation of abuse and neglect, placement of children, and various other things. It's a broad discretion. So, that -- so, we satisfied the first element.

Second, whether the Defendant's conduct violated clearly established law. Again, the writing has to be sufficiently clear that every reasonable official

would have understood that what they were doing violated a right. That's not the case here, Your Honor. We don't have any case saying that, we don't have any case even approaching that. All the cases say removal, termination of parental rights. Plaintiff has to identify a case -- this is under the *SB* case. Plaintiff has to identify a case where a CPS investigator acting under similar circumstances as Ms. Stuart was held to have violated a liberty interest at issue. There aren't any such cases. There are no cases saying that Plaintiff was entitled to a warning or a forewarning before a child is removed, before they're told that they have options or anything like that. No case law establishing that. Bottom line the Plaintiff could not establish that Defendant's conduct evidenced as deliberate indifference in this case and we are entitled to summary judgment on any one of those three grounds.

THE COURT: Thank you.

MS. ARMENI: Thank you, Your Honor. When you view the facts in light of the non-moving party which is Mr. Eggleston the Motion for Summary Judgment should be denied. Let me start with the Defendant's claim that our -- our claims are barred by res judicata. The Supreme Court while reviewing this case on the Motion to Dismiss I think described it best when they said we're seeking different remedies for different wrongs.

THE COURT: I have the decision right in front of me. Do you have a page?

MS. ARMENI: The Nevada Supreme Court decision, Your Honor --

THE COURT: Yeah.

MS. ARMENI: -- or the First Judicial?

THE COURT: The Supreme Court -- Nevada Supreme Court you said.

MS. ARMENI: I don't but I can --

THE COURT: Oh, well --

MS. ARMENI: -- we can try to find it.

THE COURT: -- were you referring to the First Judicial District or --

MS. ARMENI: No, Your Honor --

THE COURT: -- the --

MS. ARMENI: -- I'm -- I apologize. No, I'm referring to the Nevada Supreme Court --

THE COURT: Right.

MS. ARMENI: -- when they heard the motion -- the appeal on the Motion to Dismiss.

THE COURT: Right. And I have that in front of me.

MS. ARMENI: And I don't have the date -- I'm sorry, I don't have the page in front of me but I --

THE COURT: Okay.

MS. ARMENI: -- I can work on getting that for you.

THE COURT: Okay. I just wanted to follow along.

MS. ARMENI: Certainly. But in looking at that and that argument was slightly different because in that issue they were discussing exhaustion --

THE COURT: Right.

MS. ARMENI: -- but the point was the Court recognized that the DFS finding or substantiation in the appeal of that was very different than the underlying facts of the 1983 claims because the 1983 claims are based on what happened before the substantiation. The substantiation happened on February 2nd of 2015; at that point there was an appeal of the substantiation alone. However, the 1983 violations of procedural due process claim which is based on the removal of the children without due process or the -- and I'm gonna get to that in a minute, and then the substantive

due process argument which is the interference with the parent/child relationship, but the 1983 claims are specifically from before what happened, what led up to the DFS making the decision to remove the children. They are not identical, these decisions are not identical. And concerning is although you have that 38 page order in front of you that was a rubberstamp of what the DA provided to Judge Wilson and unfortunately sought with grammatical errors and many other errors it was signed off on and we are appealing that. We set -- we've already filed our notice of appeal with the Nevada Supreme Court on that -- on that order and I will tell you why, Your Honor, because the order itself is concerning. Because unlike the administrative hearing before the First Judicial District Court that record was very limited. There was no cross examination, there was no confrontation; nobody was challenging the evidence that was put before the fair hearing. There were two witnesses, neither of them cross-examined. And it's interesting that the Defense got up here and pointed to a specific fact in the order where they say the Plaintiff failed to maintain 24 hour supervision resulting in Laura Rodriguez's abuse, placing the children at risk. When Georgina, the Defendant, Georgina Stuart was asked in her deposition in this case if Mr. Eggleston had done anything wrong when he was on the Present Danger Plan her answer was no and that's found on page 176 and 177 of her deposition, lines 24 through one. So, you got this first judicial order pointing blame at Mr. Eggleston basically for some sort of disruption or not following the present danger plan, but what Ms. Stuart was asked during her deposition, that question, she had no concerns of his behavior during the Present Danger Plan. So, for your -- those reasons, Your Honor, this is not identical and res judicata would not be appropriate in this -- in this matter.

The -- the Defense would like you -- to suggest that because there was

no removal or termination of parental right that we're done. There's no case law, there's nothing and this case should be finished. If it was that easy and if it was that black and white I submit to the Court that when this case was before the Nevada Supreme Court they would have upheld the grant of Motion to Dismiss and they didn't do that because they found areas where they said that this definitely could have been -- there was enough evidence at that time, and I submit to the Court that there's much more evidence to support these due process violations. The facts, Your Honor, we have to remember are really important. Did an actual removal take place? No. However, when they showed up at Mr. Eggleston's home on January 7th of 2015 the intent to was to remove the children. So, the question is you -- you're showing up to remove, do you have a basis to remove? And if you don't have a basis to remove why are we even talking about a temporary guardianship? That wouldn't have been proper. And those are the facts that we are challenging.

A threat of removal is nonetheless coercive when the social worker left objectively reasonable grounds believe that the child had been abused or was eminent danger of abuse. That's from *Morales versus City* [sic] of Men -- *Mendocino*. That is -- our -- our position is that they did not have, number one, our position -- and the facts are disputed here that Mr. Eggleston was coerced, he was forced, he was given this horrible option of, do I -- do you take my kids now or do I sign over the temporary guardianship? There were representations about the temporary guardianship such as the Callahan's were not gonna leave the state and other facts that came out that Ms. McFarland will testify to at trial that were told to her. And those were part of the reasons that the guardianship was signed but the testimony is going to be that Mr. Eggleston was under duress and was coerced and felt like if he didn't sign that he would never see his kids again. So, when you've got

a coercion there -- you have an issue of fact of whether this was voluntary or not.

The state may not remove children from the parent's custody without a court order unless there is specific articulable evidence that provides reasonable cause to believe that a child is in eminent danger of abuse. That is the whole issue here of whether the case worker, DFS did their job and had a reasonable -- a reasonable -- something reasonable to believe that these children should have been removed. Whether reasonable cause to believe in indigent circumstances existed is a question of fact for the jury. We're in debate here, we've got the Defendant saying we had -- absolutely that this was reasonable, we have all these factors, we had every right to remove these children, but you have our facts that suggest that's not true. There was no investigation; they relied on Lisa Callahan's statement of apparently Mr. Eggleston's failure to protect these children which by the way the failure to protect wasn't even substantiated. That wasn't even an allegation that was substantiated. Those are the things that we're in debate on and those are facts for the jury to determine. The jury should determine the sufficiency of the investigation, the scope of the intrusion on this family. Those are questions for fact. Absent reasonable suspicion, the court's removal of children from their parents is an arbitrary abuse of power that violates substantive due process so whether it's clearly established.

The case of *Garver versus Washoe County* which relies on *Mabe*, I don't know if I'm saying right, M-a-b-e, *Wallis* and *Rogers* which are all cases that are cited in our briefing. *Garver versus Washoe County* which is a 2011 case out of District of Nevada states: "The law was clearly established in the 9th Circuit that officials including social workers violate these rights if they remove a child without a warrant absent information at the time of the seizure that establishes reasonable

cause to believe the child is in eminent danger of seriously -- serious bodily injury and the scope of the intrusion is reasonably necessary to avert the specific injury." Then again in *Romero versus Washoe County* the court again said in the District of Nevada: "The 9th Circuit has repeatedly articulated the legal standard to be applied in these circumstances. The 9th Circuit had stated exclusively that a reasonable social worker would need nothing more to understand that she may not remove a child from its home absent reasonable cause to believe that the child is in eminent danger of experiencing serious bodily injury." In this case we had a decision that was made on January, I think 6th, the morning of January 6th. They didn't come to the house until the next day so I would submit to this Court there was no eminent injury there and that there was time to get a court order or a proper court authorization to remove these children if that's -- that's what DFS thought was the appropriate. Further, in the case of *Costanich versus Department of Social and Health Services* which is a 9th Circuit case the court quoted and I believe in a footnote: "Our sister circuits have denied qualified immunity to social workers who removed children from their families based on unreliable evidence in violation of the due process rights and integrity." So, while the 9th Circuit had said you need -- the idea of qualified immunity is putting somebody on notice. It's something clearly established should somebody be put on notice because if they're not put on notice it's not fair to suggest that they're violating their constitutional right, but the 9th Circuit doesn't require it, the case law doesn't require that there's a specific case on point just that their placed on notice and it's beyond debate.

In *Rogers* which I have cited to this Court the court reversed a finding of qualified immunity because a reasonable social worker who would have understood that the children faced no eminent risk of serious bodily harm as required by clearly

established law. In that case the court found no exigency despite the evident malnourishment and disorderly conditions in the home because the social worker conceded she could have obtained a warrant within hours and there was no risk of worsening of physical condition in that short time. Similarly in the case of *Anderson*-versus [sic] *Francois versus City of Sonoma* another 9th Circuit case out of 2011. The court affirmed the denial of qualified immunity where an officer could have obtained a warrant within a few hours and did not have reasonable cause to believe the children were in eminent danger. So, the law is clear. It is clear we established what a case worker can and cannot do, and the biggest argument here frankly is for the trier of fact which is whether it was reasonable to make the decision to remove these children because even though the children weren't removed DFS made a decision to remove the children and it was only when they showed up the house that these two options occurred; the removal or you can sign this voluntary guardianship or never see the kids again but they made a decision to remove those kids and we are -- should be allowed in front a jury to challenge the reasonableness of that jur -- that -- that decision. So, Your Honor, for those reasons we would ask the Motion for Summary Judgment be denied.

THE COURT: With respect to the state claims --

MS. ARMENI: Yes, Your Honor.

THE COURT: -- like intentional infliction of emotional distress. What injury did your client suffer as a result? You gotta have a physical injury to go with that.

MS. ARMENI: I think we cited the case -- and I can pull my brief. I don't believe that a physical injury is needed. I mean, we commented on the depression and the stress that was also found by Dr. Paglini in his report. Your Honor, on page 21 of our opposition --

THE COURT: I'm at --

MS. ARMENI: -- line 18.

THE COURT: -- page 22. Yeah. Okay.

MS.ARMENI: The elements does not require a physical injury, such injury is not a prerequisite to establish an emotional distress, *Sadler versus PacifiCare of Nevada*.

THE COURT: And that gets into the sliding scale, right?

MS. ARMENI: Yes, Your Honor.

THE COURT: Okay. All right. Okay. All right.

MS. GALATI: Ready?

THE COURT: Yes.

MS. GALATI: All right. Thank you, Your Honor. The Plaintiff makes much ado about irrelevant facts in this case. The argument on the 1983 claim is simple. What constitutes the violation of parental rights, the liberty interest or familial association? Removal or termination of parental rights. Period. Plaintiff wants to make this argument that Stuart went to the house and he was gonna removal [sic] or something else and she didn't have a basis to do that, etcetera, etcetera, etcetera. She didn't remove the kids so there can't be any analysis as to whether it was appropriate or not appropriate. If he decided she should remove the kids then she would have taken the kids, there would have been a protective capacity hearing and there would have been a determination and then Plaintiff would have an argument because Plaintiff could say she removed the kids. She didn't have a basis to remove the kids. She didn't do this, she didn't do that. The removal never happened. It was one option that was rejected by the Plaintiff. That does not trigger a constitutional right, it just does not. She -- Plaintiff talks about how the First

Judicial District Court rubberstamped the decision. Well, my understanding is that competing orders were submitted and the First Judicial District Court chose the order that it signed.

The other aspect about -- she goes on about Plaintiff being forced to sign. Well, not only did he have legal advice and took his lawyer's advice to sign he left the premises, he went to the UPS and he signed the temporary guardianship in front of a notary and then came back to the house. He had time to consider, he had legal advice, he wasn't forced, but at the end of the day you don't even have to get there, Your Honor, because we didn't take the kids and we didn't terminate his rights. He decided to give a temporary guardianship which was his right. Now, things didn't turn out the way he wanted them to, that is not the responsibility of the county. That's either his responsibility, his lawyer's responsibility or Lisa Callahan's responsibility if something happened after the fact not the county's responsibility.

There were a number of arguments that Ms. Armeni made that are not in the opposition so I would ask Your Honor to -- to reject them. And to say that -- I mean, she -- she's still persisting in making arguments that I had pointed out in the reply are misrepresentations of the Nevada Supreme Court's decisions. The Nevada Supreme Court was reviewing a 12(b) dismissal as such all facts, all allegations were soon to be true. It didn't know anything about what happened, it didn't know management made a decision that the family could have options; the two options were the removal or guardianship. It didn't know that Plaintiff spoke to his lawyer, it didn't know that he took her advice; it didn't know that he signed based on that advice. I mean, it didn't know anything, it made no substantive decision. It was assuming everything was alleged in the complaint so it doesn't have any persuasive value here because here this Court must determine questions of law

based on well-established decades long 1983 law. Every one of those cases that she mentioned from the 9th Circuit there was removal. She didn't tell you there's a case that -- that said that DFS or CPS went to the house and they said removal or guardianship. No, there was no removal. So, if there's a removal then you can examine if it's proper under 1983. There was no removal so you can't examine that.

Plaintiff wants to -- argues that they should be able to -- to present to a jury the case and have the jury decide if, you know, Ms. Stuart's conduct was reasonable. Let's be clear, the 1983 standard not reasonable. Deliberate indifference. Let's also be clear about the facts. Georgina worked for a long period of time to get in home services. She had her meeting with management on January 6th late in the afternoon; management said no in-home services, two choices; removal or temporary guardianship. She had an obligation to deliver that message to the family and she did and the family chose. Those are the facts. On those facts and all federal law for the three reasons we've stated Defendants are entitled to summary judgment on the 1983 claim.

THE COURT: Thank you. All right. I want to take this one under advisement. I read your briefs, I did not get a chance to read through that 38, 39 paged order and I didn't get a chance to look at -- read all of your case law and I'd to do that before I make a decision, okay? I'll try and get it out right away because I know you guys are preparing for trial.

MS. ARMENI: Thank you.

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MS. GALATI: We appreciate it, Your Honor. Thank you

[Proceedings concluded at 9:59 a.m.]

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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video recording in the above-entitled case to the best of my ability.

NORMA RAMIREZ
Court Recorder
District Court Dept. XXII
702 671-0572