

REDIRECT EXAMINATION

BY MS. ELCANO:

Q I think you've kind of gone over this, Ms. Buttacavoli, but your evaluation is based on the information you have at the time --

A True.

Q -- is that correct?

A Yes.

Q And is it reasonable to believe that an individual might be experiencing some things at one point and some things at a later point?

A Yes.

Q And is it also reasonable to conclude that if a patient does engage in therapy over a period of time, you may identify other diagnoses or certain things that a patient is struggling with?

A Absolutely.

MR. ELKINS: Objection. Leading, Judge.

THE COURT: Well, she's answered it. I've heard the answer, so --

MR. ELKINS: I'll try to get up quicker next time.

THE COURT: You may need more exercise.

MR. ELKINS: I need a stronger floor.

1 BY MS. ELCANO:

2 Q Could your diagnosis change as you engage in
3 therapy?

4 A Absolutely.

5 Q Is there any difference or what is the
6 difference that a licensed psychologist can provide as a
7 diagnosis versus a licensed clinical social worker?

8 MR. ELKINS: Objection, Judge. She hasn't
9 been qualified to answer this question.

10 THE COURT: Well, she's -- objection is
11 overruled.

12 Go ahead and answer the question. Do you
13 understand the question?

14 THE WITNESS: You're asking what a licensed
15 neuropsychologist can do as different from a licensed
16 clinical social worker?

17 BY MS. ELCANO:

18 Q Correct. Do you know? If you don't, that's
19 okay.

20 A Neuropsychologists perform a battery of
21 different testing tools over a long course of time. I
22 meet the patient for an hour. Neuropsychologists have
23 multiple hours that they perform a variety of different
24 tests that pop out results based on what the research

1 suggests people with those symptoms have.

2 Q Fair enough. And then you indicated that you
3 did not diagnose Ms. Guerrero with anxiety disorder?

4 A No.

5 Q And why not?

6 A Because the symptoms she reported to me did
7 not meet the criteria for an anxiety disorder.

8 Q And you indicated that you did diagnose
9 Ms. Buttacavoli -- I'm sorry -- Ms. Guerrero with
10 borderline personality disorder; however, not with a
11 dependency personality disorder. Is that correct?

12 A Yes.

13 Q And why not?

14 A Because the -- the symptoms that she
15 presented with and the symptoms that she was describing
16 were more indicative of meeting criteria for borderline
17 personality disorder.

18 Q And what were those symptoms?

19 A She described a fear of abandonment as well
20 as difficult interpersonal relationships. She also
21 reported a lack of or transient disconnectedness as well
22 as feelings of emptiness. Patients that --

23 Q And -- I'm sorry. I didn't mean to cut you
24 off. Please continue.

1 A Often patients with borderline personality
2 disorder have experienced trauma. So certainly her
3 trauma history was not overlooked and helped me to
4 formulate the diagnosis of borderline personality
5 disorder.

6 Q And in what capacity do you consider a
7 previous assessment done by a person with a Ph.D. or
8 another counselor when you're evaluating an individual?

9 A I don't understand.

10 Q What weight or how do you incorporate a
11 previous evaluation done by another counselor, therapist,
12 doctor when you're evaluating an individual who is in
13 front of you today?

14 A Typically patients who present for an initial
15 evaluation, if they have had previous especially psych
16 testing or neuropsychological testing, they would need to
17 sign a release for information so that I could get access
18 to that information, even previous therapists, if I want
19 to have a conversation with them. I would have to meet
20 with the person initially and then would have the
21 opportunity, once releases were signed, to review any
22 records.

23 It certainly is helpful if assessments have
24 been done and I have access to those, and typically what

1 I would do is review them on my own and then discuss them
2 with the client in real time.

3 Q So it's fair to say you would take it into
4 consideration; correct?

5 A Yes.

6 Q But it's not indicative of what your
7 assessment would be?

8 A True.

9 MR. ELKINS: Objection. It's a leading
10 question.

11 THE COURT: We already have that answer.

12 MR. ELKINS: I'm just going to have to get up
13 quicker.

14 THE COURT: Some of this stuff is intuitive
15 almost.

16 BY MS. ELCANO:

17 Q Did you ask Ms. Guerrero if she had had any
18 prior assessments when you met with her?

19 A She was asked what type of therapy or
20 treatment she had had in the past.

21 Q And was she asked specifically about whether
22 any assessments had been done?

23 A She was asked if she has any history of
24 having any mental health treatment, inpatient,

1 outpatient, and who provided that treatment.

2 Q And she indicated who had provided that
3 treatment in the past?

4 A She told me that she had seen Dori Orlich,
5 who's a licensed clinical social worker.

6 Q And, generally, if you do have a prior
7 assessment done by a therapist, or diagnoses previously,
8 how do those impact the treatment recommendations that
9 you make?

10 A The treatment recommendations come from how
11 the patient is presenting at the time. Assessments from
12 the past are helpful because clients either often don't
13 recall specific severity of symptoms or duration of
14 symptoms. And if there is information of a person having
15 multiple treatment attempts over time, then it's helpful
16 for me because that's indicative of a failure at a
17 specific level of care, that perhaps that person might
18 need a higher level of care.

19 Q I see. And if you had known or if
20 Ms. Guerrero had previously been diagnosed with an
21 anxiety disorder, would it have impacted your treatment
22 recommendations?

23 A No.

24 MS. ELCANO: I have no further questions,

1 Your Honor.

2 THE COURT: Recross?

3

4 RECROSS-EXAMINATION

5 BY MR. ELKINS:

6 Q Ms. Buttacavoli, on June 10th, when
7 Ms. Guerrero came to you, she stated that she was
8 struggling with anxiety and panic symptoms; correct?

9 A And I believe I go on, yes, to describe her
10 description of those symptoms.

11 Q Well, I can show you the document if you'd
12 like, but --

13 A No, that's not necessary.

14 Q Doesn't it say starting when her children
15 were initially removed from her care?

16 A Yes.

17 Q So is that the reason that you didn't
18 diagnose her with having an anxiety disorder, because of
19 the duration?

20 A No. I didn't diagnose her -- if you would go
21 on to read the full note, I describe what she states as
22 the symptoms. So if a patient comes to me and says, "I
23 have anxiety," I ask them to describe what that's like
24 for them. When a person says, "I yell and scream and

1 pull my hair," that's not what people typically associate
2 with anxiety.

3 Q I see. Well, if you were to learn, for
4 example, that when her -- let me give you a hypothetical.

5 Ms. Guerrero is visiting her children in the
6 community, and the agency decides to have her visits
7 begin and end at the agency instead.

8 Now, you've worked with CPS; correct?

9 A No, I've never worked with CPS.

10 Q Not at CPS, but you do evaluations for
11 Children's Services?

12 A No.

13 Q Didn't you do this one at the request of
14 Children's Services?

15 A No.

16 Q This wasn't sent to you by Washoe County
17 Department of Social Services?

18 A She stated that Dori Orlich had referred her
19 for DBT. She stated that Dori Orlich did an evaluation
20 for Washoe County Social Services and recommended that
21 she receive DBT treatment.

22 Q Okay. In the course of treating or
23 evaluating Ms. Guerrero, did you have any discussions
24 with a caseworker?

1 A I did not because Ms. Guerrero refused to
2 sign a release of information so I could do that.

3 Q But in any event, let me go back to my
4 hypothetical.

5 So she's visiting in the community, she's
6 told her visits will begin and end at the agency, and she
7 gets so upset that she's overwhelmed with crying and
8 cannot catch her breath and cannot speak, for example.

9 Would that be consistent with an anxiety
10 disorder?

11 MS. ELCANO: Objection, Your Honor. This is
12 way out of the scope of redirect. This is also
13 speculative.

14 MR. ELKINS: Judge, subject to connection.
15 It's a hypothetical. She's an expert.

16 MS. ELCANO: She's not been qualified as an
17 expert.

18 MR. ELKINS: She's testifying, Judge, to a
19 diagnosis, and that's what I'm directing the question to.

20 THE COURT: The objection is overruled. Go
21 ahead.

22 THE WITNESS: Can you repeat your question?

23 BY MR. ELKINS:

24 Q I'm sorry. I believe it was a little

1 convoluted.

2 She has visits with her children in the
3 community. She's told that her visits will be beginning
4 and ending at the agency instead of out in the community
5 with the foster parent, and she becomes so distraught
6 that she's crying, she can't speak, she can't catch her
7 breath.

8 Would that be consistent with an anxiety
9 disorder?

10 MS. ELCANO: I object again, Your Honor. I
11 think we can ask what conditions or characteristics arise
12 to anxiety, but this is a hypothetical, it's speculative,
13 and, again, I think it's outside the scope.

14 THE COURT: If she's diagnosing or she's
15 given a diagnosis, so objection is overruled.

16 Go ahead and answer the question. Do you
17 understand the question?

18 THE WITNESS: Yes, I understand the question.

19 So you're asking if -- if Ms. Guerrero had
20 told me that she was having visits at the agency and was
21 observed to be out of breath --

22 BY MR. ELKINS:

23 Q No, no, no.

24 A -- and upset --

1 Q No, that's not --

2 A -- as to when her children were removed, if I
3 would diagnose her then with an anxiety disorder?

4 Q No, that's not the question.

5 A Okay.

6 Q The question is, would a reaction of that
7 kind upon being told that your visits would be at the
8 agency instead of in the community, crying hysterically,
9 not being able to catch your breath, not being able to
10 speak, that reaction to that situation, would you say
11 that's consistent with an anxiety disorder?

12 A I would like to ask a person more questions
13 than just that because it could be an inability to
14 tolerate distress, it could be difficulty regulating
15 emotion, it could be -- certainly could be panic, but I
16 would need more information.

17 Q Let me give you another hypothetical.

18 Suppose you were told that the patient is
19 working as a hotel desk clerk and her register comes up
20 short because she believes that she's given the wrong
21 change to someone and that she panics and is unable -- to
22 to the point that she's so afraid, that she's unable to
23 return to work.

24 Would that be consistent with panic disorder?

1 MS. ELCANO: Objection, Judge. Opposing
2 counsel is trying to use situations that have allegedly
3 occurred in Ms. Guerrero's life -- these are not
4 hypotheticals, these are facts that have allegedly
5 occurred -- and trying to use them in a way to somehow
6 impact or affect the original diagnoses that was given by
7 Ms. Buttacavoli.

8 I think that he -- we can certainly ask what
9 other symptoms are indicative of anxiety, but to somehow
10 put on testimony in these, quote/unquote, alleged
11 hypotheticals when they specifically relate to facts and
12 incidents which have already been discussed and testified
13 to to somehow change or impact a diagnosis is not
14 appropriate.

15 THE COURT: I'm going to allow the question.
16 Answer it, but we're starting to get a little
17 afield. This witness --

18 MR. ELKINS: I'm going to move on.

19 THE COURT: -- is restricted.

20 MR. ELKINS: Thank you, Judge.

21 THE COURT: Let's move on.

22 BY MR. ELKINS:

23 Q So do you understand the question? Do you
24 want me to repeat it?

1 A If --
2 THE COURT: She was at a motel --
3 THE WITNESS: Register is short, can't go
4 back to work because she's scared.
5 THE COURT: Yes.
6 THE WITNESS: Yeah. And you're wanting to
7 know what about that situation?
8 BY MR. ELKINS:
9 Q Would that be consistent with a panic -- an
10 anxiety disorder?
11 A A panic attack, perhaps. Could be.
12 MR. ELKINS: Thank you, Judge. I have
13 nothing else.
14 THE COURT: We're getting an awful lot of
15 could be's.
16 You're done, ma'am. Does anyone want to
17 re-call this witness?
18 MS. ELCANO: Not at this time, Your Honor.
19 Thank you.
20 MR. ELKINS: No, Judge.
21 THE COURT: You're excused permanently.
22 Do you have a short witness because -- I
23 don't mean in stature. Do we have a brief witness or do
24 we want to take lunch now and come back?

1 MS. ELCANO: I don't have a brief witness,
2 Your Honor, but I don't know what you'd like me to do
3 with Exhibit HH. May I bring it up to the clerk?

4 THE COURT: Yes. So we'll take our lunch
5 break now and we'll come back at 1:20.

6 MR. ELKINS: Thank you.

7 (The midday recess was taken.)

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RENO, NEVADA; TUESDAY, SEPTEMBER 1, 2015; 1:15 P.M.

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RENO, NEVADA; TUESDAY, SEPTEMBER 1, 2015; 1:36 P.M.

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THE COURT: This is Case No. FV14-03897 in the matter of the parental rights of the Taylor children. There's four of them as alleged in the petition. The parties are present with their counsel.

Ms. Elcano.

MS. ELCANO: Your Honor, I'd call Rocio Lopez.

THE COURT: So the record should reflect, as per the ruling earlier, that --

Is it Ms. Seronio?

MS. ELCANO: Seronio.

THE COURT: -- Ms. Seronio is not present pursuant to the exercise or invocation of the rule of exclusion by Mr. Elkins.

Go ahead and swear the witness.

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ROCIO LOPEZ,
having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ELCANO:

Q Can you please state and spell your name for
the Court.

A Rocio, R-o-c-i-o, Lopez, L-o-p-e-z.

Q Who is your present employer?

A Washoe County Department of Social Services.

Q In what capacity are you presently employed
there?

A I am a permanency social worker.

Q Approximately how long have you been employed
at Washoe County Department of Social Services?

A About eight years and eight months.

Q Have you ever been employed as an assessment
worker?

A No.

Q Where were you employed prior to Washoe
County Department of Social Services?

A Washoe County Department of Juvenile
Services.

1 Q What were your responsibilities while there?

2 A I was -- my official title was an outreach
3 specialist. I basically did case management and provided
4 services to children who were status offenders.

5 Q Can you please provide your educational
6 background for the Court?

7 A I have a bachelor and master's in social work
8 from the University of Nevada, Reno.

9 Q Are you a licensed social worker?

10 A Yes, I am.

11 Q And did you receive any training in order to
12 become a permanency worker with Washoe County Department
13 of Social Services?

14 A Yes, I did.

15 Q And can you please describe that training?

16 A I was in the training unit for six months.
17 That consists of attending trainings on how to work our
18 UNITY system, how to fill out paperwork correctly, how to
19 do court reports, shadowing a senior social worker for
20 the first six months.

21 Q And any additional training?

22 A Yes. I'm required, as a licensed social
23 worker, to do 30 credits, 30 hours of training every two
24 years. Three of those hours have to consist of ethical

1 training.

2 Q And have you done any specific training to
3 domestic violence or --

4 A I've done many trainings over the
5 last -- counting when I was at Juvenile Services, I was
6 required to do training. Domestic violence, child abuse,
7 substance abuse, mental health, trainings in regard to
8 the SAFE program, trainings in regards to interviewing
9 the parents, interviewing the children, identifying child
10 abuse marks, excessive physical discipline marks.
11 Really, it's been really, really broad, like lots and
12 lots of training.

13 Q Can you please briefly describe your job
14 duties as a permanency worker with Social Services?

15 A My job is to provide services in order to
16 find permanency for the children, so whether that's with
17 their parents, providing case management services,
18 speaking to the parents, finding resources in the
19 community.

20 If the permanency plan is something else,
21 then obviously reaching that goal. So if the permanency
22 plan is guardianship, adoption, or the children are going
23 to stay in foster care until they're 18, then I am
24 required to work on that permanency goal, providing an

1 adoptive home, providing a 16-year-old services in order
2 to age out. It just depends on the actual permanency
3 plan.

4 Q And you keep using the term "permanency" or
5 "permanency plan."

6 Can you explain to the Court what that is?

7 A A permanency plan is the plan that is
8 identified by the agency and the courts to be what is in
9 the best interests of the child. So what is it that we
10 think is in the best interests? It could be returning to
11 a parent's home. That would be a permanency plan. It
12 could be termination followed by adoption. That would be
13 a permanency plan.

14 THE COURT: Guardianship?

15 THE WITNESS: Guardianship.

16 BY MS. ELCANO:

17 Q Are you familiar with Roberto, Kayleigh, and
18 Nathan?

19 A Yes, I am.

20 Q How do you know these children?

21 A It's a case that's been assigned to me.

22 Q And are you familiar with Ethan Hunt-Taylor?

23 A I am, yes.

24 Q Are you the social worker assigned to Ethan

1 Hunt-Taylor's case?

2 A No, I'm not.

3 Q And who is?

4 A Ms. Malia Seronio.

5 Q Who is the mother of Roberto, Kayleigh, and

6 Nathan?

7 A Ms. Jacqueline Guerrero.

8 Q And who is their father?

9 A Mr. Hunt-Taylor.

10 Q How is paternity established?

11 A Through an affidavit and birth certificate.

12 Q When were you assigned as a social worker to

13 this case?

14 A I was assigned approximately on April 30th of

15 2013.

16 Q And in what capacity were you assigned to

17 this case?

18 A I was assigned as the permanency social

19 worker.

20 Q Who was the case transferred from?

21 A Andrea Menesini.

22 Q Why was the case transferred from an

23 assessment worker, Andrea Menesini, to a permanency

24 worker such as yourself?

1 A Because the children were in Washoe County
2 custody, and permanent -- the permanency plan was
3 reunification, returning them to their parents' care, and
4 they needed further services.

5 Q Is this a SAFE-FC case?

6 A Yes, it is.

7 Q Can you tell the Court what SAFE-FC is?

8 A Yes. The SAFE-FC program is a program --

9 THE COURT: Is that S-A-F-E?

10 THE WITNESS: Yes. S-A-F-E and then --

11 THE COURT: F-C?

12 THE WITNESS: -- F-C.

13 The program is a program that the agency
14 started about three years ago. It's part of a research
15 project to determine if more intensive services, more
16 collaboration, providing more services, meeting with the
17 parents more, changing the way that we meet with the
18 parents, the way we talk to the parents, if any of those
19 things would reunify the children with their parents a
20 lot faster.

21 BY MS. ELCANO:

22 Q And how is a case assigned to the SAFE-FC
23 group?

24 A It is randomly assigned by a computer system.

1 Q So not all of the Washoe County Department of
2 Social Services cases are SAFE-FC cases; is that
3 accurate?

4 A That's accurate, yes.

5 Q So what's the difference between a SAFE-FC
6 case and a regular case or not being assigned to the
7 SAFE-FC program?

8 A So the differences are, SAFE-FC works in
9 collaboration with the Children's Cabinet. The thought
10 behind that is that social workers, because of the high
11 caseloads, don't have time to provide the services and
12 the one-on-one services that the parents need. And so in
13 collaboration with the Children's Cabinet, it pairs up
14 with the case manager there, and whatever services the
15 parent needs, then I would tell that Cabinet worker,
16 "This is what she needs. Go provide her with this,"
17 whether it be a bus pass, transportation. So that's one
18 aspect. We work very closely with them.

19 Also, there is a safety plan aspect, if we
20 are able to return the children with a safety plan,
21 putting in place certain people to check on them, other
22 resources that we could put in place, and they would
23 monitor that. Regular cases don't get that. That's only
24 SAFE-FC.

1 Also, SAFE-FC requires weekly face-to-face
2 contact with the parent. Regular cases don't require
3 that weekly face-to-face. They do phone calls. They can
4 do a face-to-face once a month. It doesn't require that.

5 Also, it requires checking on -- reviewing
6 the case plan every three months. There's documentation
7 attached to that that the regular cases don't have, and
8 they're not required to review every three months the way
9 that the SAFE-FC is required.

10 SAFE-FC is also required to staff the case
11 on -- initially on a weekly basis, and then it can move
12 to a monthly basis as time goes on with your supervisor
13 with the intent that you're constantly reviewing the case
14 plan goals, what do the parents need, what more can you
15 do to move quicker and get the children home. Regular
16 cases, yes, there is staffing but not on a weekly basis.

17 There's also -- it also required what we
18 called CASIs. They're assessments that parents fill out
19 on a computer. It also had an aspect of -- it evaluated
20 our relationship, whether our relationship needed to be
21 worked on. Again, that's not something that regular
22 cases have.

23 And so it required a lot of training, and
24 there was motivational interviewing, paperwork learning,

1 learning the program itself, how to change your mindset
2 from this program to this program, so there is -- there
3 is a difference. Basically the goal is still
4 reunification but just a different way.

5 THE COURT: Sounds like it's more intensive?

6 THE WITNESS: It's definitely very, very
7 intensive.

8 BY MS. ELCANO:

9 Q Are more services available to a family
10 because a case is a SAFE-FC case?

11 A Yes. There are services through us and
12 through the Children's Cabinet. There was a grant that
13 was mentioned earlier in this courtroom.

14 Q Is more funding available to a family if it's
15 a SAFE-FC case?

16 A It could be. It's based on the family
17 situation, so we don't guarantee that they're going to
18 get financial assistance. It just is case by case.

19 Q As a social worker with a SAFE-FC case, is it
20 fair to say that you have much more contact with the
21 family and review the case plan and go over things more
22 often because it's a SAFE-FC case?

23 A Yes.

24 Q I may have asked that, but this case

1 regarding the Guerrero-Hunt-Taylor children is a SAFE-FC
2 case; correct?

3 A That's correct.

4 Q I did want to go into a little bit.
5 You do collaborate with Children's Cabinet;
6 correct?

7 A Correct.

8 Q How does that work? Are they working
9 independent or --

10 A No. No. It's part of the SAFE-FC program.
11 It's a collaboration. The social worker still has the
12 lead in the case, so we are the ones who lead the case.
13 We know -- we're the ones meeting with the parents. We
14 know the services they need or what they're requesting.

15 It's more like they are -- and I don't want
16 to say assistance, but it's more of a collaboration, but,
17 really, if I needed something, I would contact the
18 Children's Cabinet and say, "Please provide this service
19 to the parent."

20 Also, they require our approval for services,
21 so they would contact us, Say, "The parent is requesting
22 a bus pass. Do you approve?"

23 So it is a collaboration. The grant money
24 was assigned to the Children's Cabinet, but it is part of

1 this SAFE-FC project.

2 Q And is the Children's Cabinet worker present
3 during meetings and case plan reviews and whatnot?

4 A Yes.

5 Q Were Roberto, Kayleigh, and Nathan in the
6 care of Washoe County Department of Social Services at
7 the time the case was assigned to you?

8 A Yes.

9 Q And where were the children placed?

10 A They were at Kids Cottage.

11 Q And did that placement change throughout the
12 life of this case?

13 A Yes.

14 Q And where were the children placed from
15 Kids Cottage?

16 A In Ms. Sandra Matute's home.

17 Q Approximately when did that occur?

18 A In May of 2013.

19 Q Where are the children placed right now?

20 A In Ms. Matute's home.

21 Q Has that placement ever changed throughout
22 the life of this case?

23 A No.

24 Q What did you do first after this matter was

1 assigned to you?

2 A I reviewed the past history, I read the case
3 notes, prior case notes in our system, and I read
4 Ms. Andrea Menesini's initial assessment.

5 Q Who, if anyone, did you staff this case with?

6 A I staffed the case with my supervisor,
7 Ms. Amy Reynolds.

8 Q And did you discuss the case with anyone else
9 at the time it was transferred to you?

10 A Yes. Once I staff the case with
11 Ms. Reynolds, the next step is to set up a transfer
12 meeting. During the transfer meeting, the assessment
13 worker is present, which was Ms. Menesini; her
14 supervisor, Ms. Krystal Zboinski; the Cabinet supervisor,
15 Matt -- I think the last name is Mowbray; the Children's
16 Cabinet case manager at the time was Cassie Pasley;
17 and then my supervisor -- I can't remember -- and myself.

18 Q What's discussed at the transfer meeting?

19 A Basically the reasons the child was removed,
20 what -- if any services have already started. Sometimes
21 the assessment workers get started on services, and so
22 they just kind of give us an update. We talk about the
23 needs of the children, so far what the needs of the
24 parents are based on what they know.

1 We talk about things that I need to do in
2 order to move forward from there and pretty much just get
3 familiar with the case and talk to the people who are
4 present.

5 Q After the case was transferred to you, how
6 often did you staff this case with your supervisor?

7 A Initially within the first two weeks -- and
8 this is a SAFE-FC-only routine -- we have what is called
9 a PCFA -- please don't ask me what that stands for, an
10 acronym -- but basically what it is is it's a discovery.

11 You need to meet with the parents at least
12 four to five times before you do a case plan. You can
13 meet less, you can meet more, but, really, they like at
14 least three times. The purpose of that is to get to know
15 the parents, what their issues are, so that when you do a
16 case plan, it's just not based on what the agency feels
17 are the needs but also what the parent feels the needs
18 are. That is only a SAFE-FC routine.

19 So initially I met with her several times a
20 week because I did what we call an introduction. You
21 meet with the parents, introduce yourself --

22 Q I'm sorry. You said you met with her. Can
23 you clarify who "her" is?

24 A I'm sorry. Ms. Amy Reynolds, my supervisor.

1 Before I meet with the parent, I have to meet
2 with my supervisor, and I have to discuss what I plan to
3 discuss with the parent. And then after I discuss it
4 with the parents, I have to meet with her again to get
5 ready for the next meeting.

6 So the answer to your question is, several
7 times for several weeks, several times a week for several
8 weeks.

9 Q And then after that how often did you staff
10 this case with your supervisor?

11 A Initially, I would say the first maybe six
12 months, it was once a week, and then after that we
13 probably went to every other week or once a month.

14 Q And approximately how many times did you meet
15 with Ms. Guerrero?

16 A Like I said, the SAFE-FC project requires
17 once a week, and so I would always schedule my
18 appointments with her once a week, whether she showed up
19 or not.

20 Q After reviewing this case file and staffing
21 the case, what were the outstanding safety concerns which
22 prevented Roberto, Kayleigh, and Nathan from being placed
23 home with Ms. Guerrero?

24 A It was lack of basic needs and ability to

1 provide needs and lack of motivation.

2 Q Can you expand on lack of basic needs a
3 little bit?

4 A Yes. I think the major problem at that time
5 was housing and income and ability to pay your bills to
6 keep a safe home, and the other part of it was lack of
7 motivation.

8 Mainly, when I first got the case, it was in
9 regards to Roberto's school. Now, as a social worker, I
10 do have the ability to continually assess the situation
11 and add more impending dangers or adjust based on what I
12 assess.

13 Q And whose lack of motivation specifically?

14 A Ms. Guerrero.

15 Q And her lack of motivation to do what?

16 A To do the things a parent needs to do to keep
17 her home clean. And, of course, like I said, that
18 changed. Initially that wasn't a concern. That changed
19 as I had the case. So initially it was just the concern
20 about Roberto getting to school, but as the case
21 continued, there was further lack of motivation.

22 Q Okay. And generally -- excuse me.

23 What was the permanency plan for this case
24 when it was first assigned to you?

1 A Reunification.

2 Q And did that permanency plan change?

3 A Yes.

4 Q And what did it change to?

5 A It changed to termination of parental rights
6 followed by adoption.

7 Q When, approximately, did that occur?

8 A About April of 2014.

9 Q Why did that permanency plan change?

10 A Because at the 12-month mark we have to make
11 a decision based on what we think is in the best
12 interests of the children and present it to the Court
13 based on the law, and at that point we felt that there
14 had not been sufficient progress or behavior change and
15 decided that it was in the best interests of the children
16 to allow them to be adopted and move on with their life.

17 Q And you mentioned sufficient progress or
18 behavior change. By whom?

19 A By Ms. Guerrero.

20 Q Thank you.

21 What is the Adoption Safe Family Act or the
22 ASFA?

23 A The ASFA is a law that we need to follow in
24 regards to permanency for the children. Basically the

1 law states that --

2 MR. ELKINS: Objection, Judge. She's not a
3 lawyer, she's not an expert witness, and the law isn't
4 factual, it's legal.

5 If she wants to testify what her obligations
6 are or the agency's obligations are, I have no problem
7 with that, but she can't testify as to what the statute
8 says.

9 THE COURT: She can testify about what they
10 follow, and it's based -- so I'll let her testify to
11 that.

12 BY MS. ELCANO:

13 Q You can continue.

14 A So ASFA is a law that we follow. It
15 basically states a parent has 12 months to reunify with
16 the children, to have sufficient behavioral changes in
17 order to provide the child with a safe home.

18 If in 12 months they're not able to
19 demonstrate that necessary change, the agency has the
20 obligation to present a different plan to the Court for
21 permanency for the children. Basically, that could be
22 adoption, guardianship, staying in foster care until
23 they're 18.

24 Q What is a case plan and service agreement?

1 A A case plan and service agreement is a
2 document that we created along with the parents and their
3 lawyers to determine what goals they need to achieve in
4 order to get their children back. We also identify tasks
5 and things that can help them, things that they think
6 would help them, and that's basically what guides the
7 parents in the process of reunifications.

8 Q When is a case plan and service agreement
9 created for a family?

10 A It has to be created within 45 days of the
11 removal of the child.

12 Q And what's the purpose of creating this case
13 plan and service agreement?

14 A The purpose is so that the parents know what
15 they need to do to reunify.

16 Q Thank you.

17 And how is a case plan and service agreement
18 developed?

19 A It is developed with -- again, can I bring it
20 back to SAFE-FC?

21 Q Please.

22 A Business as usual, a lot of the times you
23 would go into a case plan and ask the parent for
24 information, but, really, the case plan is drafted based

1 on what the agency wants them to do.

2 A SAFE-FC plan is different. Because you've
3 met with the parents several times before this meeting,
4 you get to know them and know what they feel are the
5 issues. So the case plan is drafted based on what the
6 parent feels the issues are in the home and also in
7 combination with what the agency feels the issues are.

8 Q And you indicated there were goals and
9 objectives. What are the goals and objectives and how
10 are they identified?

11 A So a goal is basically what issues are going
12 on in the home. That is really what they need to achieve
13 in order to reunify. I'm sorry. I kind of lost track of
14 your question.

15 Q What was the goal/objective? How is it
16 identified?

17 A Okay. It's identified through the initial
18 assessment completed, which was in this case
19 Ms. Menesini, also through the conversations with the
20 parents, and also through my assessment during these
21 conversations.

22 Q Can you give an example of a goal or
23 objective?

24 A Sure. It might be, you know, a parent

1 has -- they could say, "I really, really struggle with
2 depression, and I feel that getting up in the morning is
3 really difficult." And so we might do something that
4 states, "Ms. So-and-so will have enough energy -- has
5 enough energy to get up in the morning, is meeting her
6 emotional needs in a legal manner and not using illegal
7 drugs." And so that might be a goal.

8 Q What are tasks?

9 A Tasks are things stated in the case plan that
10 help a parent meet that goal. It might be something --
11 like in this case, if this person is using drugs to
12 manage their depression, the task might be get a
13 substance abuse evaluation, it might be to attend
14 substance abuse treatment. That is a task to reach a
15 goal.

16 Q And how do you track if
17 goals/objectives/tasks are completed or met in a
18 particular case?

19 A Through conversations with the parents,
20 reports from counselors who are involved, observations,
21 through drug tests if there's a drug problem. Basically
22 that's what we do.

23 Q What is the difference between completing a
24 task and observing behavioral change?

1 A So completing a task -- and I'll use my
2 sample again. If you have somebody who's using meth, is
3 using a drug, the goal is for them to be able to address
4 their drug issue in a healthy manner, getting treatment
5 in a legal manner. They can go to 30 sessions of
6 counseling. That is a task. Just because they complete
7 the task doesn't mean they change the behavior, so that's
8 the difference. We're looking for the behavior change,
9 not just completing the task.

10 Q You may have answered this question, but just
11 so we're all on the same page, how often is a case plan
12 and service agreement reviewed in a SAFE-FC case?

13 A In a SAFE-FC case it's every three months.

14 Q And because you're reviewing the case plan
15 and service agreement, does that always necessitate or
16 require updating the case plan and service agreement?

17 A No, not all the time. If the case plan goals
18 are still relevant, then there's no point in us changing
19 them. If the parents feel like that's not the goal
20 anymore or if we feel that's not the goal or we need to
21 add more goals or tasks, then at that point we would do
22 that.

23 Q Was there a case plan and service agreement
24 in place at the time that this case was transferred to

1 you?

2 A No.

3 Q When did you develop a case plan and service
4 agreement for Ms. Guerrero?

5 A May of 2013.

6 Q Was Ms. Guerrero included in this process?

7 A Yes.

8 Q Was her attorney?

9 A Yes.

10 Q What goals or objectives were identified in
11 Ms. Guerrero's case plan and service agreement?

12 A She had two case plan -- what we call SMART
13 goals. She had one that would address the lack of basic
14 needs, so she would need to get housing, a stable income
15 through either welfare or employment, paying her bills on
16 time, just overall meeting those basic needs.

17 The second one was in regards to motivation.
18 That was in regards to keeping your home clean, getting
19 your children to appointments on time, attending the
20 appointments, getting your children to school on time,
21 and also it was tied into her emotional well-being, so
22 having the energy to do it and being emotionally well.

23 Q So I'd like to turn first to the basic needs
24 and housing specifically.

1 Why was the provision or the goal/objective
2 of basic needs identified for Ms. Guerrero?

3 A At the time that I received the case or
4 the -- the reason the children were removed, first of
5 all, was due to lack of housing. At the time I received
6 the case, they also did not have housing.

7 Q And who is "they"?

8 A I'm sorry. I should say Ms. Guerrero. We're
9 talking about Ms. Guerrero.

10 Q Thank you.

11 What tasks were identified to enable
12 Ms. Guerrero to address the provision of stable housing
13 for herself as well as her family?

14 A So by the time we drafted the case plan, she
15 had already obtained an apartment, so it was more about
16 maintaining it.

17 We provided the task of applying for Reno
18 Housing because we know that Reno Housing goes based on a
19 sliding scale, and it would be just -- it would be more
20 beneficial for them to be in Reno Housing instead of
21 paying full rent. So that was one of the tasks.

22 Sorry. I lost my train of thought.

23 MS. ELCANO: Maybe if we could just ask that
24 cell phones are turned off.

1 THE COURT: What?

2 MS. ELCANO: If we could just ask that cell
3 phones are turned off.

4 THE COURT: Was there a telephone somewhere?

5 THE WITNESS: So what tasks?

6 BY MS. ELCANO:

7 Q Yes.

8 A I'm sorry.

9 THE COURT: Did a cell phone go off? I
10 didn't hear it.

11 MR. ELKINS: It was vibrating, Judge. It
12 didn't really ring.

13 THE COURT: I didn't know I was that
14 oblivious.

15 BY MS. ELCANO:

16 Q You were discussing maintaining housing.

17 A Yes. So the task was applying for Reno
18 Housing and maintaining that housing.

19 Q And I'm sorry. You were kind of saying
20 that -- if you could just clarify, you also talked about
21 Reno Housing. Why did you think that applying for Reno
22 Housing was necessary if they already had an apartment,
23 if Ms. Guerrero already had an apartment?

24 A Right. So because of their history of not

1 being able to keep their apartment on their own, Reno
2 Housing is a program that goes based off a person's
3 income. And there's Section 8, there's -- well, there's
4 different programs. There's some where you have to pay
5 based on how much you make, some where you don't have to
6 pay anything, but you still have to, you know, work -- do
7 community service.

8 I mean, there's different programs, and I
9 felt that that would be better because then they wouldn't
10 have to pay the full rent.

11 Q I see. Was Ms. Guerrero having to pay full
12 rent in her current apartment --

13 A Yes.

14 Q -- to your knowledge?

15 And did there come a point in this case where
16 Ms. Guerrero lost that apartment?

17 A Yes.

18 Q And did the tasks at all change given that
19 she no longer had the apartment?

20 A We didn't change the tasks on the case plan,
21 but they were still -- the goal, again, going back to the
22 goal, is to have housing, and so that didn't change.

23 Q Okay. Did Ms. Guerrero effectively complete
24 any of the tasks associated with housing?

1 A Yes, she did. She complied with applying for
2 housing. I wouldn't say she followed through all the
3 way, but she did apply for it.

4 Q And what services were offered to
5 Ms. Guerrero to address the lack of stable housing and
6 obtaining and maintaining housing throughout this case?

7 A So she had went to Reno Housing. We provided
8 referrals to Reno Housing because they require letters
9 from us, also from the Cabinet. So we provided that.

10 In regards to paying her rent, we tried to
11 help her with budgeting. We -- because they had an
12 income, we can't provide financial assistance when
13 there's income already, and so it was more about helping
14 her manage her money already.

15 Q Did Ms. Guerrero participate in these
16 services?

17 MR. ELKINS: I'm sorry, Judge. I'm not sure
18 what services counsel is referring to.

19 MS. ELCANO: The ones she just identified as
20 the services offered.

21 THE COURT: I'm not sure either which
22 services.

23 THE WITNESS: So it was applying for Reno
24 Housing. Yeah, she did. She did go apply for Reno

1 Housing.

2 Did she work on a budget? She filled out
3 forms, but she didn't follow the budget.

4 BY MS. ELCANO:

5 Q And you referenced, I think, a couple times
6 that Ms. Guerrero did apply for Section 8 housing or
7 Reno Housing.

8 Did she follow through with obtaining that
9 housing?

10 A No.

11 Q What did Ms. Guerrero fail to do?

12 A She was provided with a voucher for an
13 apartment, and I believe that was a year after I got the
14 case, possibly about July of 2014. She was provided with
15 a voucher, and she did not follow through on that voucher
16 for Reno Housing.

17 Q What specifically did Ms. Guerrero fail to
18 do?

19 MR. ELKINS: Judge, I believe this is
20 hearsay, and I'm going to object.

21 BY MS. ELCANO:

22 Q Based on your conversations with
23 Ms. Guerrero, what did she fail to do?

24 A She told me she was going to let go of the

1 voucher because she couldn't find an apartment.

2 Q Do you know why Ms. Guerrero allegedly
3 couldn't find an apartment?

4 MR. ELKINS: Again, Judge, same objection,
5 limited to, of course --

6 MS. ELCANO: I'm asking if she even knew why.

7 THE COURT: The answer is yes or no.

8 THE WITNESS: I know what she told me.

9 THE COURT: Okay.

10 BY MS. ELCANO:

11 Q Can you please tell the Court what she told
12 you?

13 A She told me she couldn't get an apartment
14 because she had bad credit.

15 Q In your experience is that a barrier to
16 finding an apartment?

17 A Yes and no.

18 Q Can you go ahead and explain that answer?

19 A There's apartments that will take you even if
20 you have bad credit.

21 Q In Reno, Nevada?

22 A Yes.

23 Q So it sounds as if Ms. Guerrero did obtain
24 houses or residences throughout the life of this case.

1 Can you walk me through the residences that
2 Ms. Guerrero had while you were the assigned social
3 worker for this case?

4 A Sure. When I first met her, she didn't have
5 a residence. Then by May they had obtained an apartment
6 over by Linden Street. They were in that apartment from
7 May 2013 to December 2013. They were evicted toward the
8 end of December. I believe it was actually the day that
9 Ethan was born, which was January 1st.

10 Then from there she went to her father's
11 home. She was there from January 2014 to March 2014. In
12 April she had obtained a mobile home on the same parking
13 lot where her father lived over on Fourth Street. She
14 was there from April 2014 to July 2014.

15 And then from there she reported to me that
16 she was renting a room from somebody who lived off of
17 Fourth Street but did not provide me an address. Then
18 she told me that she was staying at a motel, and then
19 about September 2014 she again told me she was staying at
20 that same room she was renting off of Fourth Street. And
21 then right after Ethan was removed she told me she was
22 staying with friends. I don't remember what friends.

23 Then since then she's told me motels,
24 friends, and then CAAW, which is the Center for

1 Abused -- Aid for Abused Women, Committee for Aid for
2 Abused Women, and I didn't know where she was staying
3 until earlier when she said she was at the shelter.

4 Q You mentioned a Linden Street apartment from
5 May to December of 2013.

6 Why was Ms. Guerrero no longer living in that
7 at apartment, to your knowledge, based on conversations
8 with Ms. Guerrero?

9 A Ms. Guerrero had told me -- we had several,
10 many, many discussions about this. She was behind on
11 rent. She was behind on rent. We talked about getting
12 her caught up, but it was -- they were constantly late on
13 rent starting from, I want to say it was about August.

14 MR. ELKINS: Excuse me, Judge. I have to
15 object unless the witness is testifying based upon a
16 conversation with my client.

17 MS. ELCANO: That was the question I asked.

18 THE COURT: That was the question, yeah.

19 THE WITNESS: Yes, it was a conversation with
20 Ms. Guerrero.

21 MR. ELKINS: Thank you, Judge.

22 THE WITNESS: So that was the reason she got
23 evicted. It was due to lack of payments.

24 /////

1 BY MS. ELCANO:

2 Q Why was Ms. Guerrero homeless at the time you
3 got this case, to your knowledge and based on your
4 conversations with Ms. Guerrero?

5 A Ms. Guerrero had told me about losing her
6 apartment that they had obtained earlier that year. She
7 wasn't able to really explain why they lost it. They
8 said that it had -- the manager -- it was the manager's
9 fault, and I never really got a very clear story as to
10 why.

11 Then she told me that they were staying in a
12 motel when Social Services removed the children because
13 of what you heard earlier, which was that she owed -- the
14 motel manager was charging them \$200, and she didn't
15 realize, and then she didn't have the money for the
16 additional rent to stay anymore.

17 Q And then from the Linden apartments,
18 Ms. Guerrero moved in with her father.

19 Why did she leave -- to your knowledge and
20 based on your conversations with Ms. Guerrero, why did
21 she leave the father's home?

22 A So Ms. Guerrero and I had a conversation when
23 she first moved in there. She told me that her father
24 had put conditions on her to allow her to be in his home.

1 I asked her what those conditions were.

2 She said one of them was to pay \$200 a month
3 to go towards the rent. She needed to help around the
4 house with chores. She needed to work towards her case
5 plan and save money for her own place.

6 Later she -- she told me that she was moving
7 out because her -- she wasn't getting along with her dad
8 based on that he felt that she wasn't following through
9 with their conditions, and she told me she needed her own
10 space and wasn't getting along with her stepmother
11 either.

12 Q And then Ms. Guerrero moved to the mobile
13 home next to her father's mobile home, and why did
14 Ms. Guerrero leave there in July of 2014 based upon your
15 conversations with Ms. Guerrero?

16 A So Ms. Guerrero had basically told me it was
17 due to the manager of the parking lot harassing her and
18 that she did not think it was safe for her to be there.

19 Q And then from the mobile home, Ms. Guerrero
20 was renting a room, I think you said off of Fourth Street
21 or on Fourth Street and you were unaware of the address.

22 Based on your information or -- pardon
23 me -- the conversations you had with Ms. Guerrero, why
24 did she stop renting that room?

1 A I didn't have a conversation with her about
2 that.

3 Q Okay. Do you know why she went back there in
4 September or what happened?

5 A She -- we had a conversation about where she
6 was staying, and she said she was on and off staying in
7 that room. Sometimes they would stay in a motel;
8 sometimes they would stay in that room.

9 Q And so did Ms. Guerrero meet the goal of
10 demonstrating an ability to maintain or obtain stable
11 housing throughout this case?

12 A No.

13 Q So did she address this goal or objective?

14 A No.

15 Q And is Ms. Guerrero addressing this goal or
16 objective today?

17 A No.

18 Q And aside from the information you've already
19 provided, if there's anything additional, what is the
20 basis for that answer?

21 MR. ELKINS: Objection. Calls for hearsay.

22 MS. ELCANO: It's a conclusion that she's
23 drawing. If she's relying on hearsay --

24 MR. ELKINS: The question is, what is the

1 basis, and she's not been qualified as an expert witness.
2 It's calling for hearsay.

3 THE COURT: She's saying she doesn't think
4 she's met the goal.

5 You don't think she's met the goal. Why
6 don't you think she's met the goal?

7 THE WITNESS: Because she doesn't have that
8 stable housing. She hasn't been in a safe home for a
9 period of time.

10 BY MS. ELCANO:

11 Q I'd next like to turn to, in terms of basic
12 needs, the income aspect.

13 So what tasks were identified from
14 Ms. Guerrero to address her lack of employment, stable
15 income, and government benefits at the time you drafted
16 the case plan and service agreement?

17 A She was asked to continue to meet and work in
18 collaboration with her Nevada State Welfare case manager
19 in regards to the money that was provided to her by the
20 welfare office. She was also asked to meet with
21 Ms. Pasley on further services that she would need in
22 order to find employment.

23 Q And do you know what additional services in
24 regards to Ms. Pasley could be provided?

1 A Yes. They provide help with résumés, they
2 provide help with seeking employment, they provide
3 referrals such as -- they get a lot of information about
4 job fairs, jobs that are available, so they have a lot of
5 that information. She could have provided services like
6 how to complete an interview, how to dress. So these are
7 really all services that Ms. Pasley could have provided.

8 Q To your knowledge and based on your
9 conversations in these meetings that you had with
10 Ms. Guerrero, were those services offered?

11 A Yes.

12 Q And did Ms. Guerrero effectively complete any
13 of the tasks identified on meeting with Ms. Pasley and
14 meeting with the welfare agent?

15 MR. ELKINS: Objection. In terms of her
16 basis of knowledge in meeting with Ms. Pasley, who, as I
17 understand, will be a witness.

18 THE COURT: Well, again, if she's talking to
19 Ms. Guerrero, Ms. Guerrero is telling her she hasn't been
20 making meetings.

21 MR. ELKINS: I don't know if that's the case,
22 Judge, but if that's the basis, I'd like to hear that.

23 THE COURT: Do you understand, if you have
24 personal knowledge of something, you can testify about

1 it, or if the mother in this case, Ms. Guerrero, has told
2 you that, even though it's hearsay, it's an exception to
3 the hearsay rule. So you can testify from either one of
4 those bases of knowledge. Otherwise, if you receive
5 information, say, from another welfare worker, that's
6 hearsay. Okay?

7 So if you received information from
8 Ms. Guerrero or you have personal knowledge about her
9 accomplishing the goal about income, you can testify
10 about that. So go ahead. Answer that question based on
11 that.

12 THE WITNESS: Ms. Guerrero and I did have
13 numerous conversations about the income aspect. She told
14 me she did complete her résumé. I actually did see the
15 résumé. She told me that she had applied for jobs,
16 though I never saw the application. She told me that she
17 was meeting with her welfare worker and she was working
18 on the tasks that had been assigned to her.

19 BY MS. ELCANO:

20 Q Did you believe Ms. Guerrero effectively
21 completed these tasks?

22 A The résumé, yes. Finding a job, no. While
23 meeting with the welfare worker, if I can't talk about
24 hearsay, I can't answer that question.

1 MS. ELCANO: I think it's a basis of her
2 conclusion as to whether or not these tasks were met,
3 Your Honor.

4 MR. ELKINS: Objection.

5 THE COURT: What did you say?

6 MR. ELKINS: I'm objecting to it on the basis
7 of hearsay, Judge.

8 THE COURT: It would be hearsay. It's
9 hearsay, so objection sustained.

10 BY MS. ELCANO:

11 Q Did Ms. Guerrero have welfare throughout the
12 life of this case, welfare benefits?

13 A Yeah. Yes. And I can't talk about hearsay,
14 so I can't really answer that question.

15 THE COURT: You know, I have a question.

16 So you're Washoe County Department of Social
17 Services. When you say "welfare worker," you're a social
18 worker. A welfare worker is what, someone who --

19 THE WITNESS: They're a case manager. I
20 don't know what kind of titles they hold. They could
21 hold a different title, but they're State of Nevada.

22 THE COURT: Oh, they're State of Nevada?

23 THE WITNESS: Yeah.

24 THE COURT: And that's where she'd get the

1 financial?

2 THE WITNESS: The welfare services, yes.

3 THE COURT: Okay. I was getting a little
4 confused.

5 BY MS. ELCANO:

6 Q Did Ms. Guerrero receive welfare benefits
7 consistently throughout the life of this case?

8 A No.

9 Q What services did you offer to Ms. Guerrero,
10 aside from the tasks that you've already talked about, to
11 address her lack of employment, her lack of income, and
12 her lack of government benefits?

13 A I had offered to stay in communication with
14 her welfare worker to make sure she was meeting the
15 requirements, to provide reminders to her, since I was
16 going to be meeting with her weekly, to make sure that
17 she maintained that income.

18 I also had conversations with her about
19 getting employed, what do employers look for, such as --
20 there's a couple times where she would show up and her
21 hygiene wasn't the best. I said, "If you show up to an
22 interview like this, they're not going to hire you." So
23 we talked about just what is the employer looking for
24 overall: Being on time, dressing clean, looking

1 presentable. And so we talked about different techniques
2 to get a job.

3 We talked about, this is where she could go
4 look for a job. So she would say -- I would say, you
5 know, maybe trying somewhere where it's close by.

6 She would say, "Okay. Well, there's a
7 McDonald's close by, there's a Marshall's close by."

8 So we did talk about places and ideas of
9 where she could look for work.

10 Q And was Ms. Guerrero employed throughout the
11 life of this case?

12 A No.

13 Q She never was employed anywhere?

14 A Oh, she was. Not throughout the whole case.

15 Q Where was she employed?

16 A She told me she had worked at Motel 6. That
17 was about four weeks. She worked at SK Foods through a
18 temp agency. And she had reported getting hired at other
19 locations but then told me those jobs didn't work out,
20 such as like working as a maid at Grand Sierra.

21 Q Did she indicate to you why those job did not
22 work out?

23 MR. ELKINS: Judge, I'm sorry, but the
24 witness's testimony was so vague, I'm not -- I don't

1 understand specifically what she's talking about. If she
2 could be asked to answer the question with specificity so
3 that I know exactly what it is she's saying.

4 MS. ELCANO: I don't think you can object to
5 the vagueness of testimony. She can testify as to her
6 knowledge.

7 THE COURT: Well --

8 MR. ELKINS: I'll object to the form of the
9 question, Judge.

10 THE COURT: Start the question over.

11 BY MS. ELCANO:

12 Q Did Ms. Guerrero indicate to you why the
13 several jobs that she got and did not take did not work
14 out?

15 A Yeah. She would tell me -- I know the Grand
16 Sierra, she had to do a drug test, and she didn't follow
17 through with it. I believe there was transportation
18 problems.

19 There was -- she -- I can't remember all the
20 jobs she told me that she had obtained and then didn't
21 follow through. I just remember there were things such
22 as transportation, not being able to find the location
23 for the interview, just -- I can't really recall them.

24 Q Did Ms. Guerrero ever provide proof of

1 obtaining these jobs to you?

2 A For SK Foods, yes. I did get paycheck stubs.

3 Q And anywhere else?

4 A I don't recall if I got anything on Motel 6.

5 Q And do you know approximately when

6 Ms. Guerrero was employed at Motel 6?

7 A I want to say -- honestly, I don't remember.

8 I just know it wasn't within the first year.

9 Q And SK Foods?

10 A It was about -- I want to say it was about
11 January, February of 2014.

12 Q Did Ms. Guerrero -- pardon me.

13 And then in regards to governmental benefits,
14 when was Ms. Guerrero receiving welfare during this case?

15 A She was receiving welfare when I first got
16 the case.

17 Q And how long did she receive welfare for?

18 A I believe she had her sit-out for TANF
19 in -- I want to say it was about September of 2014 was
20 her sit-out, and then she has a year sit-out, so
21 typically she would qualify again next month.

22 And then she was not allowed to receive food
23 stamps due to the fraud. And she had Medicaid, but it's
24 been a long time since her and I talked about whether

1 she's still on Medicaid, so I don't know whether she's on
2 it right now.

3 Q Okay. Did Ms. Guerrero demonstrate an
4 ability to maintain stable employment throughout this
5 case and effectively address this goal and objective?

6 A No.

7 Q What's the basis for your answer?

8 A She hasn't provided sufficient paycheck stubs
9 to prove she was employed, based on our conversation of
10 consistently looking for employment. Also, the income,
11 obviously that stopped in September of 2014, and so, no,
12 she did not reach that goal.

13 Q To your knowledge, who did Ms. Guerrero work
14 with at Nevada Welfare?

15 A Ms. Sara Lowrey.

16 Q Anyone else?

17 A Not that I know of.

18 Q And I want to turn next to, in regards to
19 basic needs, you identified paying bills.

20 What tasks were identified for Ms. Guerrero
21 to address her failure to pay her bills consistently and
22 timely?

23 A We offered to help her with budgeting so that
24 she'd learn how to pay for basic needs first.

1 Q And were any other tasks identified?

2 A I don't recall.

3 Q If you could turn to Exhibit T, as in Tom.

4 I believe this is already entered into
5 evidence.

6 MR. ELKINS: Yes, Judge, the case plans are
7 in evidence by stipulation.

8 BY MS. ELCANO:

9 Q Could you just review that and determine if
10 any other tasks were assigned to Ms. Guerrero regarding
11 paying bills?

12 A Yes. We did have a task of applying for
13 low-income energy assistance, which would help her pay
14 for her power bill.

15 Q Were there any other tasks?

16 A No.

17 Q What services, aside from what you have
18 identified, were offered to Ms. Guerrero to assist with
19 budgeting and paying bills and organization?

20 A I know that Ms. Pasley worked with her on
21 this task because I asked her to. I know I worked with
22 her on budgeting as well. We sat down and drafted a
23 budget form and talked about how to pay for bills first
24 and then use the money for other things.

1 We -- she was provided with the low-income
2 energy assistance application, and I stayed in contact
3 with Ms. Lowrey on that even though that's not really her
4 task, but she was really helpful.

5 Q Did Ms. Guerrero effectively address this
6 case plan goal and objective to timely pay her bills and
7 organize and budget appropriately?

8 A No.

9 Q And what is the basis for your answer?

10 A Well, her power was turned off in August of
11 2013. It was turned off in the apartment on Linden
12 Street, and it was off for several months until the
13 apartment complex decided to turn it on because it was
14 about November, and they can't have an apartment without
15 heat. And so then it was added on top of the rent at
16 that point.

17 Q And why was her power turned off,
18 Ms. Guerrero's power turned off?

19 A For nonpayment.

20 Q Thank you.

21 I'd next like to turn to motivation?

22 Why was Ms. Guerrero's lack of motivation
23 identified as a goal or objective in her case plan
24 and service agreement?

1 A Initially it was due to Roberto not getting
2 to school on time. As time -- it was on the case plan.
3 As time went on, I realized their lack of motivation was
4 more -- more -- there was more going on there than just
5 getting Roberto to school on time.

6 Q Can you explain to the Court what you mean by
7 there was more? What was that?

8 A Sure. It was in regards to -- when we mark
9 lack of motivation in parenting skills, actually, there's
10 two aspects to that impending danger. Lack of parenting
11 skills is, we think, a parent can't -- needs more skills,
12 needs to go to parenting classes, there's issues with
13 supervision. That was not the case here.

14 The reason we marked lack of motivation was
15 because the lack of motivation -- as parents, we have to
16 do many little things in order to make sure our children
17 are provided for and cared for, and we have to have the
18 motivation to do those things.

19 And so as I got to know her more, that lack
20 of motivation wasn't just about Roberto getting to
21 school. It was about doing all the other little things
22 we need to do as parents, like getting to work, paying
23 your bills, cleaning your home, getting to appointments
24 on time, because that would demonstrate to me that she

1 would get Roberto to school on time. So it was just a
2 lot of -- really, just lack of follow-through.

3 Q What tasks were identified to Ms. Guerrero to
4 address her lack of motivation?

5 A She needed to meet with me once a week to
6 discuss her case plan goals and services that she may
7 need, and that's usually -- just because it's not in the
8 case plan doesn't mean she doesn't get the service. So
9 if she said she needed some kind of service during our
10 meetings possibly, we would work on providing those. She
11 also was required to meet with Ms. Pasley, whose job is
12 also to help her with that motivation.

13 She worked on time management. I worked with
14 her on time management. She was provided with a calendar
15 to help her keep organized, and what I mean by "calendar"
16 is our pocket -- our pocket books with the calendar in
17 it.

18 She was provided with appointments for her
19 children so she could get their addresses so she knew
20 where they were. She was provided with appointments for
21 the school. Whenever there was a school meeting, she was
22 provided with that information.

23 Q Were any additional services offered to
24 Ms. Guerrero to address this motivation?

1 A Yes. We had requested she complete a
2 psychosocial. A psychosocial would identify if she
3 needed further services such as therapy to address an
4 underlying issue, or medication or any other service,
5 parenting. Really, they can recommend anything they feel
6 would be helpful based on that psychosocial evaluation.

7 Q Did Ms. Guerrero effectively complete the
8 tasks associated with addressing this lack of motivation?

9 A She completed the psychosocial. She didn't
10 follow through on the recommendations.

11 Q And did Ms. Guerrero effectively engage in
12 services offered to address the motivation?

13 A Initially, I would say the first four months,
14 she met with me on a weekly basis. She would attend our
15 appointments. Although she was late often, she would be
16 there. After four months, I would say about the fifth
17 month she started attending, on average, twice a month.

18 I know that she was meeting with Ms. Pasley
19 as well, and so she was attending those meetings.
20 They're also required to meet with her once a week, so I
21 know that she was meeting with them as well because they
22 have to report back to me.

23 Q Did you ever go to Ms. Guerrero's -- any of
24 the residences that she had?

1 A Yes. And that was also meeting -- having the
2 motivation --

3 MR. ELKINS: Judge, objection.
4 Nonresponsive. She answered the question "Yes."

5 MS. ELCANO: It's fine.

6 BY MS. ELCANO:

7 Q Did you go to any of Ms. Guerrero's numerous
8 residences throughout the life of this case?

9 A Yes.

10 Q And were there any issues associated with
11 going to those residences?

12 A Yes.

13 Q Could you please identify those issues?

14 A The cleanliness of the home. Several times
15 the home was pretty filthy. It was worse than you had
16 seen in those pictures.

17 MR. ELKINS: Objection, Judge. Move to
18 strike the opinion.

19 THE COURT: Well, that's her opinion, so I
20 don't know that's an expert opinion. I think a layperson
21 can describe what they think the cleanliness of a place
22 is, and that's all she did. So objection is overruled.

23 THE WITNESS: On several occasions --
24 initially the home was fine. I didn't have a problem

1 with it. I just reminded her she needed to clean.

2 There was several times where I'd just show
3 up in the home, and there was lots of clutter, dirty
4 dishes, garbage on the floor. The smell in the home was
5 pretty horrific. I know there was cats in the home. The
6 smell was really bad. So we talked about chores, skills,
7 how to keep your house clean, things she needed to do.

8 I requested that Ms. Pasley buy her cleaning
9 supplies. We did offer the vacuum, as had been mentioned
10 earlier, before her power was turned off. We didn't
11 actually purchase the vacuum until after the power was
12 turned on. There was no point in having one at that
13 point.

14 There was some progress later on, about
15 November -- I would say November, December of 2013 she
16 made some progress in keeping the home clean at that
17 point.

18 And then when she moved in the Fourth Street
19 home, mobile home, in April -- no, sorry -- yeah, it was
20 April 2014 -- I had went to the home, and the first visit
21 I had some concerns not about the cleaning, but more
22 about the home was not up to code. It was an old mobile
23 home, not up to code. There was problems with the
24 plumbing.

1 Later I had made another appointment --
2 actually, I showed up unannounced the second visit there.
3 The home was starting to get a little dirty, garbage on
4 the floor again, clutter, dirty dishes.

5 Ethan was born at that time, and so we had
6 talked about keeping the home organized, what did she
7 need to do. She told me she was already cleaning, they
8 had just gotten stuff out of the storage, and she was in
9 the process of organizing. And that was the last time I
10 was in one of her homes.

11 BY MS. ELCANO:

12 Q When you talk about the residence with the
13 odor and being unclean, which residence in particular are
14 you referencing?

15 A The Linden apartment.

16 Q The Linden apartment?

17 A Yes.

18 Q Thank you.

19 Did Ms. Guerrero effectively address her
20 motivation or her lack of motivation as a goal or
21 objective of her case plan?

22 A No.

23 Q What's the basis for your answer?

24 A She's still not able to do the things a

1 parent needs to do, provide for basic needs. In certain
2 aspects she did. She'd been better about attending the
3 appointments for the children. In that regards the
4 motivation did improve, attending any kind of
5 appointments for the children, but in regards to the
6 other things, you know, that we need to do as parents,
7 provide for our children, get work, all that is with
8 regards to motivation, paying your bills, all those
9 things she has not demonstrated she can do.

10 Q Why was emotional stability identified as a
11 goal or objective in Ms. Guerrero's case plan and service
12 agreement?

13 A Due to a conversation we had on the first day
14 we met, she told me she suffered from depression. She
15 told me that other social workers prior to myself had
16 asked her and that she had not been fully honest with
17 them and she was more depressed than she had initially
18 reported to them.

19 At that point that's why I requested the
20 psychosocial and put that in her case plan.

21 Q Are you trained in diagnosing depression?

22 A No.

23 Q And what is the general practice of Social
24 Services in the event that a parent indicates that they

1 might be suffering from depression?

2 A We discuss referring them for either a
3 psychosocial evaluation or to a psychiatrist for
4 medication and evaluation if they're just in therapy.

5 Q And what did you do in this particular case
6 given Ms. Guerrero's statement that she was suffering
7 from depression?

8 A We initially talked about whether she felt
9 her depression impacted her motivation. She told me she
10 didn't think it did. She said that she -- that her
11 depression did not impact her ability to get to work on
12 time, to get the kids to school on time, to bathe them,
13 clean them, clean the house, do all the little things,
14 right.

15 I requested she do the psychosocial anyways
16 just to make sure we were going to address any needs that
17 she had. She did complete the psychosocial. She was
18 recommended to do therapy. She was -- several vouchers
19 were submitted for therapy that she did not follow
20 through on.

21 Q You said several vouchers were submitted.
22 Specifically, who did you submit these vouchers to?

23 A The first one was to Brianna Carter. That's
24 who completed her initial psychosocial evaluation. She

1 was an MFT intern with the Children's Cabinet. She
2 recommended individual therapy and --

3 MR. ELKINS: Objection. Beyond the scope of
4 the question.

5 BY MS. ELCANO:

6 Q So, Ms. Lopez, if we can just -- if you can
7 make sure you're answering the question. I think you're
8 anticipating what I'm going to ask, but let's just stick
9 to the question for now.

10 So what additional vouchers?

11 A The other voucher was to Mr. Deken Gossett
12 through Clover Community and then another voucher again
13 to Ms. Brianna Carter.

14 Q Okay. And to your knowledge and based on
15 your conversations with Ms. Guerrero, did Ms. Guerrero
16 engage in counseling with Ms. Carter?

17 A She went several times, twice maybe, and that
18 was it.

19 Q And to your knowledge did Ms, Guerrero, based
20 on your conversations with her, engage in counseling with
21 Deken Gossett?

22 A She went maybe four out of eight times.

23 Q To your knowledge did Ms. Guerrero, based on
24 your conversations with her, attempt to engage in therapy

1 with anyone else throughout the life of this case?

2 A Throughout the life, yes. We talked about --
3 she told me she was seeing Dori at one point.

4 Q Dori who?

5 A I'm sorry. Ms. Orlich.

6 At one point she told me she was going to go
7 see Ms. Amanda Buttacavoli. She told me that she was
8 seeking psychiatric assistance through HOPES. That's a
9 program that performs psychiatric services and therapy as
10 well.

11 Q Did you make any referrals to HOPES for her?

12 A No.

13 Q Were any additional tasks identified to
14 address Ms. Guerrero's lack of addressing her emotional
15 stability?

16 A No.

17 MR. ELKINS: Judge, I'm going to object to
18 the form of the question. I don't think that's what the
19 witness said. I think she was talking about motivation.

20 MS. ELCANO: We were talking about emotional
21 stability.

22 THE COURT: Well, the answer is "No," so
23 let's move on.

24 MR. ELKINS: Thank you.

1 BY MS. ELCANO:

2 Q Were any additional services offered by
3 Social Services to Ms. Guerrero to address her lack of
4 emotional stability and mental health issues?

5 A Yes. We did offer the mental health program
6 to her.

7 Q What is the mental health program?

8 A Mental health court is a program -- it's a
9 15-month program, 12 months of the program and then 3
10 months aftercare. You go in front of a judge every other
11 week. You're involved in treatment through Northern
12 Nevada Mental Health Services. You are required
13 to -- I'm sorry, I kind of lost my train of thought.

14 Basically that's what the program is. It's
15 supposed to help you with your mental health stability.
16 They could offer you -- they could offer you medication
17 and deal with it that way; therapy, so we did offer that
18 to her. In order to get into that program, you need to
19 do certain tasks, so that was offered to her.

20 Q To your knowledge did Ms. Guerrero enter into
21 the mental health program?

22 A No, she didn't.

23 Q And based on your conversations with
24 Ms. Guerrero, why didn't she enter into the program?

1 A Well, again, we had several conversations.
2 She would go back and forth between saying she wanted
3 treatment, "No, I don't want treatment. I don't think I
4 need this. I'm not crazy. I don't want to be on
5 medication." And then she would say, "Okay. I'll do
6 it," but then, again, would go back to "I don't want to
7 do it."

8 She -- she just -- she didn't follow through
9 with the tasks as well, and so she can't be admitted into
10 the program unless she follows through with the tasks.

11 Q Did Ms. Guerrero effectively address her
12 emotional stability and meet this goal and objective?

13 A I would say no, I don't think she has met
14 this goal.

15 Q What is the basis for your answer?

16 A She's stating her anxiety is causing her not
17 to be able to do all these things, and she is not in any
18 kind of treatment right now.

19 Q Was Ms. Guerrero engaged in a romantic
20 relationship throughout the life -- sorry. Let me back
21 up a moment.

22 So you talked about offering these services
23 and identifying these tasks to Ms. Guerrero.

24 How were they identified?

1 A The tasks?

2 Q I'm sorry. How were they conveyed to
3 Ms. Guerrero?

4 A I'm not sure what you're asking me.

5 Q Okay. When you would identify these tasks
6 and offer these services to Ms. Guerrero, how did you
7 make Ms. Guerrero aware of these things?

8 A Through conversations, writing things down
9 for her, providing her with just information about the
10 tasks and things she needed to do.

11 Q Were any other techniques used to convey
12 these tasks or services to Ms. Guerrero?

13 A Yes. I was -- she always carries around a
14 calendar book because I told her to write things down and
15 I would see her writing it down, such as if there was an
16 appointment coming up, when is your appointment, and then
17 she'd write it down.

18 Q Did you ever ask Ms. Guerrero if she
19 understood what you were saying to her?

20 A Yes.

21 Q Were you ever concerned that Ms. Guerrero was
22 not understanding the tasks?

23 A Sometimes she would -- when I'd ask her to
24 repeat things back, she would get it wrong, and I would

1 explain it to her and say, "Okay. Do you understand now?
2 What did I just say?" If you would repeat it a couple
3 times, she would get it.

4 Q So who did Ms. Guerrero identify to you as an
5 individual she was in a romantic relationship with
6 throughout this case?

7 A Throughout most of the case it was
8 Mr. Hunt-Taylor.

9 Q Was there anybody else she identified?

10 A Yes. Mr. Alberto Vazquez.

11 Q Did you have any concerns with Ms. Guerrero's
12 relationship with Mr. Hunt-Taylor?

13 A Initially, no.

14 Q Did that change?

15 A Yes.

16 Q And what were those concerns?

17 A In July of 2014 there was the domestic
18 violence arrest in regards to Mr. Robert Hunt-Taylor. At
19 that point Ms. Guerrero and I met, and she disclosed to
20 me that there was domestic violence history that had been
21 occurring for a long time.

22 Q And why was that concerning to you?

23 A It's concerning to me because of the
24 children. I mean, growing up in a domestic violence

1 environment is not the best -- the healthiest thing for a
2 child.

3 Q And did you offer any services or what
4 services did you offer to Ms. Guerrero to address this
5 domestic violence incident and the domestic violence
6 disclosed in her relationship with Mr. Hunt-Taylor?

7 A I did not offer services because at that
8 point I was relieved of reasonable efforts.

9 Q And why were you relieved of efforts?

10 A Because the permanency plan was changed in
11 April of 2014 and the arrest was made in July of 2014.

12 Q So what does it mean to be relieved of
13 reasonable efforts in the case?

14 A So usually when a plan is changed to anything
15 but reunification, the Court determines that the agency
16 is no longer -- it's conflicting to provide services to
17 the parent but at the same time have a different plan,
18 and so they relieve us of efforts so we don't have to
19 provide services, we don't have to pay for anything, we
20 don't need to do anything for the parents. They can do
21 it on their own.

22 And so at that point I was relieved of
23 efforts, and so that is why I did not provide services to
24 her.

1 Q What steps did Ms. Guerrero indicate to you
2 she took to address this domestic violence incident?

3 A At a later date we had talked and she told me
4 that she was going to seek treatment from the Committee
5 to Aid Abused Women.

6 Q To your knowledge did Ms. Guerrero obtain a
7 temporary protection order?

8 A Yes, she did.

9 Q And was this extended?

10 A Yes, it was.

11 Q And do you know approximately when it was
12 extended to?

13 A Initially she got September -- it got
14 extended -- it's good for 30 days. It got extended to, I
15 believe, December of 2014.

16 Q And based on your conversations with
17 Ms. Guerrero, did she engage in a relationship with
18 Mr. Hunt-Taylor during that time period of the temporary
19 protection order being placed?

20 A Yes, but I don't know if it was a romantic
21 relationship. There was a relationship.

22 Q Can you describe what was occurring with the
23 children at this time?

24 A Yes. Once Mr. Hunt-Taylor was released from

1 jail, we provided him visits, but they were separate from
2 Ms. Guerrero's visits. Because we can't violate a
3 protection order, the agency separates the visits.

4 There came a point where Ms. Guerrero and
5 Mr. Hunt-Taylor requested that we allow them to visit
6 together again. Again, we told them, "We can't do that
7 until this protection order either expires or you request
8 for it to be terminated."

9 Once Ms. Guerrero called me and told me that
10 it had expired and she provided a copy to Ms. Seronio,
11 which I don't have a copy of, but she provided it to her,
12 then we allowed them to visit together again.

13 Q And you mentioned Alberto Vazquez. What
14 concerns, if any, did you have regarding Ms. Guerrero's
15 engagement in a romantic relationship with Mr. Vazquez?

16 A So Mr. Vazquez. She entered into a
17 relationship with Mr. Vazquez shortly after
18 Mr. Hunt-Taylor was arrested. She came in and told me
19 that she had -- was dating somebody new.

20 My concern was it was so soon and she had so
21 many other things she needed to focus on, which was
22 reunification with her children. We had a conversation
23 about whether she felt that was the best thing at this
24 time.

1 She told me she thought it was, and so I
2 said, "Okay. I can't -- I can't decide for you what kind
3 of relationships you're going to have."

4 Later we had another conversation where she
5 told me that Mr. Vazquez had been in a juvenile detention
6 center from the age of 14 to the age of 21. I pointed
7 out to her that when a person is in juvenile detention
8 for that long, until the age of 21, they must have done
9 something pretty bad, and she said she didn't know what
10 that was.

11 I told her, "Don't you think that's
12 concerning?"

13 She said, "No."

14 I told her I thought it was concerning.

15 Usually when there's a new boyfriend involved
16 that's not the father of the children, we do background
17 checks in order to let the father be around the children.
18 So I requested to do a background check, and so she
19 introduced us, and he -- she introduced him as Alberto
20 Ramirez, I believe it was. It wasn't Vazquez. He
21 refused to do a background check, and so I told her he
22 cannot be around the children during your visits.

23 Q Did Mr. Vazquez ever come to visits?

24 MR. ELKINS: Objection. Personal knowledge,

1 Judge.

2 BY MS. ELCANO:

3 Q Did you ever observe Mr. Vazquez at the
4 visits?

5 A Yes, I did.

6 MR. ELKINS: Thank you.

7 BY MS. ELCANO:

8 Q And was he allowed to visit with the
9 children?

10 A No, he wasn't.

11 Q And did you discuss this with Ms. Guerrero?

12 A Several times.

13 Q And what were your discussions with
14 Ms. Guerrero?

15 A So one of the times was I heard somebody --
16 we were on the phone. She was at the visit. I heard a
17 male in the background. I asked her who that was. She
18 told me it was Mr. Vazquez. I told her that he was not
19 allowed to be around the kids since I was not able to do
20 a background check on him and I hadn't met him at that
21 time.

22 Then later she invited him to a meeting that
23 we had in regard -- to review her case plan, and I told
24 her again he is not to be around the children. I don't

1 have any way of doing a background check until I get an
2 ID from him.

3 She said she understood, and about -- her
4 visits at the time were off site, so she would -- she
5 would meet the foster parent at the building and then
6 leave and then come back about -- either 5:30 or 6:00. I
7 don't recall what time the visits ended, but it was about
8 5:20, I was leaving the building, and I saw them across
9 the street together with the children.

10 Q I'm sorry. Who is "them"?

11 A Ms. Guerrero and Mr. Vazquez and the
12 children.

13 I walked over. I told her, you know, "I told
14 you he cannot be here," and I requested that he leave the
15 visit site. I told her if she did it again, I would have
16 to bring them back to the office because he is a person
17 that I was very concerned about.

18 Later we -- we had another conversation
19 because she -- he had been at one of the visits again.

20 Q When you say, "We had a conversation" --

21 A Sorry. Ms. Guerrero and I.

22 So that's when I brought the visits back to
23 the office on site.

24 Q So the visits were back on the Washoe County

1 Department of Social Services property?

2 A Yes.

3 Q And why?

4 A I had concerns about who she was bringing
5 around the visits, which was Mr. Vazquez.

6 Q Were any other efforts or services offered to
7 Ms. Guerrero throughout the life of this case that we
8 haven't touched on or discussed, by you?

9 A Even once I was relieved of efforts, I
10 provided her assistance. One day she came to me and told
11 me that emotionally she wasn't feeling well and she
12 asked -- she said, "I think it's time for me to see a
13 therapist." I gave her a list of therapists that take
14 her Medicaid, and I told her to contact them for
15 treatment.

16 She's requested letters to housing again.
17 Just recently she asked me for one and I provided it to
18 her. There was a time where -- it was about September
19 2014, during --

20 MR. ELKINS: I'm sorry?

21 THE WITNESS: About September 2014.

22 MR. ELKINS: Thank you.

23 THE WITNESS: She was needing to get a lease
24 copied to a domestic violence advocate. She came to

1 me -- she had given me a copy when she came to me the
2 following week and said that she hadn't turned it in. I
3 asked her why, and she said she didn't have a copy and
4 she didn't have a way to get there.

5 I provided her -- actually, let me backtrack.
6 I'm getting my story wrong.

7 She said she didn't have a way to get the
8 lease signed. So I gave her a two-ride bus pass to get
9 to the location, get the lease, sign it, and she provided
10 me a copy of it.

11 A week later, when she said, "I still haven't
12 turned it in," and she said, "I don't have a copy of it,"
13 I gave her a copy of my copy so that she could go down to
14 the advocate office, which was within walking distance.

15 BY MS. ELCANO:

16 Q Were there any other that you can recall?

17 A I can't recall right now, no.

18 Q Any other safety concerns or barriers to
19 reunification not already identified that exist in this
20 case?

21 A No.

22 Q Just for education and the record, Exhibit T,
23 can you please just identify that for the Court, T as in
24 Tom?

1 A Yes. This is the case plan that I drafted
2 with Ms. Guerrero on May 24th.

3 Q Is this the first case plan that you drafted
4 in this case?

5 A Yes.

6 Q And was it signed by Ms. Guerrero?

7 A Yes.

8 Q And can you please turn to Exhibit U, and,
9 again, can you please identify this document?

10 A This is a case plan. Nothing's been changed
11 besides the date. I never change anything unless a
12 parent or lawyer are present, so the only difference are
13 going to be the details on here. We always extend dates
14 when a case plan hasn't been achieved.

15 Q Is this the last case plan that you developed
16 for Ms. Guerrero?

17 A Yes.

18 Q And how often did you review her case plan
19 throughout the life of this case?

20 A Every three months or so, three or four.

21 Q And when you were relieved of reasonable
22 efforts because the plan was changed from reunification
23 to termination, did you continue to review Ms. Guerrero's
24 case plan with her?

1 A I reviewed it once, yes.

2 Q And were the goals or objectives ever changed
3 in this case plan throughout the life of the case?

4 A No.

5 Q Were the tasks ever changed?

6 A No.

7 Q Did Ms. Guerrero effectively complete any of
8 the -- pardon me -- effectively accomplish any of the
9 goals identified in her case plan and service agreement?

10 A I would say she accomplished a
11 partial -- partially on her lack-of-motivation goal.
12 Part of it was to attend all of her kids' appointments,
13 and that she's been doing.

14 Q And the rest of the goals?

15 A The rest -- the rest of the goals, no. The
16 lack of motivation is still lacking and an ability to
17 provide needs.

18 Q What behavioral changes has Ms. Guerrero
19 demonstrated in regards to accomplishing the goals --
20 pardon me -- in regards to the goals and objectives
21 identified in her case plan?

22 A I would say, really, the only behavioral
23 change that I've seen in regards to the goals is more
24 involvement with her children, attending their

1 appointments. Again, that's big. We really do require
2 that because the more you attend the appointments, the
3 more you know about your children and the better you can
4 parent. So I think that's basically the only behavioral
5 change I've seen.

6 Q You testified this was a SAFE-FC case.

7 Can you please explain what a Protective
8 Capacity Progress Assessment is?

9 A Yes. So that's what we call a PCPA. It's
10 shorter. We -- every three to four months we fill out a
11 document that guides us in assessing where they
12 are -- where a parent is in their -- on their case plan
13 goals. So we have different levels. We have no
14 progress, we have minimal progress, general progress,
15 sufficient progress, and goal achieved.

16 Under each one there's a list of questions,
17 and you go through the questions. One question might be
18 "Are the parents meeting with you?" You check the box,
19 and then you go back -- once you've checked all the ones
20 that pertain, you go back and you count them, and
21 whichever category had the most, that's where the parent
22 is. And so if they have the most in no progress, then it
23 would be they've made no progress.

24 Part of that PCPA is also evaluating whether

1 the goals are still effective or if there's other safety
2 concerns. We might have a parent who we didn't know was
3 using drugs and then we find out later. Then at that
4 point we could say, "Okay. Now we need to add another
5 goal to this case plan."

6 We also discuss the conditions for return.
7 We discuss if the current safety plan is effective, so if
8 the children are in a foster home, is that still being
9 effective, are they meeting their needs.

10 Q And did you complete your Protective Capacity
11 Progress Assessments throughout the life of this case?

12 A Just for the first year.

13 Q And how often did you do those?

14 A About every three to four months.

15 Q And what were the SMART goals identified in
16 Ms. Guerrero's PCPA?

17 A The same ones identified in the case plan:
18 The lack of motivation, the basic needs.

19 Q Can you please turn to Exhibit R, as in
20 Rachel.

21 Can you please describe to the Court what
22 that document is?

23 A This is what we call a Protective Capacity
24 Progress Assessment, our PCPA.

1 Q And did you author this document?

2 A Yes.

3 Q Can you please review the document and
4 indicate to the Court whether or not this is a true and
5 accurate copy?

6 THE COURT: What exhibit is it again?

7 MS. ELCANO: R, as in Rachel, Your Honor.

8 MR. ELKINS: It's not yet in evidence, Judge.

9 THE WITNESS: Yes, it is.

10 BY MS. ELCANO:

11 Q And when, approximately, was this created or
12 authored?

13 A This document was created in February of
14 2014.

15 Q Is this a document that you create with the
16 parent?

17 A No.

18 Q And can you please indicate to the Court
19 whether there was minimal progress, no progress, general
20 progress?

21 MR. ELKINS: Objection. She's asking for her
22 to read from the document, Judge.

23 MS. ELCANO: I'm not asking her to read from
24 the document.

1 BY MS. ELCANO:

2 Q In this particular progress PCPA which was
3 done, what was the category of progress made by
4 Ms. Guerrero?

5 MR. ELKINS: Objection. I'd like to voir
6 dire the witness, too. She's being asked an expert
7 opinion, Judge.

8 THE COURT: Again, she's just reading the
9 progress, so objection is overruled.

10 Let's pick a convenient time. He's going to
11 cross-examine, so this witness is going to go on for a
12 while. We've got an hour and a half, so it's about time
13 to take the afternoon break. We're only going to go to
14 4:30.

15 MS. ELCANO: If I could get through this
16 document, Your Honor, I'm happy to take a break at that
17 juncture.

18 THE COURT: Okay. Let's carry on.

19 BY MS. ELCANO:

20 Q So what category of progress was made in
21 regards to Ms. Guerrero and the SMART goals?

22 MR. ELKINS: Judge, I'm going to object to
23 the following reason: In effect she's being asked to
24 read from a document that's not in evidence. Because the

1 questions are being asked are referring to this
2 computer-generated document --

3 THE COURT: Well, I'm not sure why she asked
4 her to refer to the document.

5 Do you remember how you graded her?

6 THE WITNESS: I remember.

7 THE COURT: Without referring to the
8 document?

9 THE WITNESS: Yes.

10 MR. ELKINS: If she wants to close the
11 document, I suppose we could do that.

12 THE COURT: Okay. Close the document.

13 I agree, you can't refer to a document that
14 hasn't been admitted.

15 THE WITNESS: I remember the last PCPA I did
16 was February 2014, and I assessed that she was at minimal
17 progress in regards to her achieving her goals.

18 BY MS. ELCANO:

19 Q And what was the basis for that assessment?

20 A At the time that I drafted that, she was
21 living with her dad, but it was a temporary basis.

22 Q Who is "she"?

23 A I'm sorry. Ms. Guerrero.

24 Ms. Guerrero was living temporarily with her

1 father and was still seeking stable housing. She was
2 employed at SK Foods but was only providing me paychecks
3 for maybe two days a week that she was working, so there
4 wasn't sufficient income coming into the home.

5 She was not attending meetings with me on a
6 consistent basis, which, to me, that shows lack of
7 motivation. She was not attending treatment meeting her
8 emotional needs in order to identify the underlying
9 reasons why she was not able to do all these things and
10 provide basic needs for her children, so I felt that she
11 was at minimal.

12 MS. ELCANO: Your Honor, I would request that
13 Exhibit R is admitted into evidence.

14 THE COURT: Any objection?

15 MR. ELKINS: Yes, Judge, I do object, and I
16 have voir dire, but I guess I'd like --

17 THE COURT: Are you done with her, then,
18 after this getting admitted?

19 MS. ELCANO: No, I'm not, Your Honor.

20 THE COURT: Okay. Let's take a break. Let's
21 take a 15-minute break.

22 MR. ELKINS: Thank you.

23 (A recess was taken.)

24 THE COURT: This is Case No. FV14-03897 in

1 the matter of the parental rights as to the Taylor
2 children. There's four of them as named in the petition.
3 The parties are present with their counsel with the
4 exception of Serriano --

5 MS. ELCANO: Seronio.

6 THE COURT: Seronio is not present based on
7 the rule of exclusion.

8 Go ahead, Ms. Elcano.

9 MS. ELCANO: Your Honor, I had requested that
10 Exhibit R, as in Rachel, was entered into evidence.

11 MR. ELKINS: Voir dire, Judge? I object.
12 I'd like to voir dire the witness.

13

14 VOIR DIRE EXAMINATION

15 BY MR. ELKINS:

16 Q Ms. Lopez, this document is a
17 computer-generated document; is that correct?

18 A No.

19 Q It is not? Does it have check marks? You
20 check those on the computer screen?

21 A I check them.

22 Q So you check off boxes on a computer screen?

23 A Yes.

24 Q And it's in a format where the statements

1 exist and you choose the one that you think is most
2 compatible with your opinion?

3 A Yes.

4 Q Do you know how this computer program was
5 generated? Do you know who generated it?

6 A I don't.

7 Q Do you know what the SAFE-FC program is?

8 A Yes, I do.

9 Q And isn't it a fact that it was an
10 experimental program?

11 A Yes.

12 Q And it was designed, I think you testified,
13 for Washoe County to determine whether it would improve
14 certain outcomes with the agency; is that right?

15 MS. ELCANO: Objection, Your Honor. This
16 isn't cross-examination. It's voir dire on the document.

17 MR. ELKINS: Yes, it is voir dire on the
18 document, Judge.

19 THE COURT: Well, if this form is a SAFE-FC
20 form, it is an appropriate question, so the objection is
21 overruled.

22 Go ahead.

23 MR. ELKINS: Thank you, Judge.

24 /////

1 BY MR. ELKINS:

2 Q Is that correct, that's what you testified
3 to, that this was a program created to improve certain
4 outcomes for Washoe County?

5 A The SAFE-FC?

6 Q Yes.

7 A Yes.

8 Q Do you know who created the program?

9 A I don't.

10 Q Okay. Do you know whether this experimental
11 program was peer-reviewed, or do you know what
12 "peer-reviewed" means?

13 MS. ELCANO: Objection, Your Honor. Again,
14 we need to focus on the document. I don't understand the
15 history of SAFE-FC being created relevant to voir dire of
16 a document.

17 THE COURT: Except she's not the one that
18 created the document is the problem.

19 MS. ELCANO: She did create --

20 THE COURT: She checked --

21 MS. ELCANO: But she also typed in
22 information related to the document and gave her account
23 of things.

24 THE COURT: So as long as we're talking about

1 what she's put on the document and why, that's fine, but
2 I agree, I'm not going to admit this document if you
3 don't know --

4 Is there somebody else that developed this
5 form that you're answering questions on?

6 THE WITNESS: Well, I didn't develop it, if
7 that's what you're asking me.

8 THE COURT: Somebody else?

9 THE WITNESS: Yes.

10 THE COURT: And you don't know -- were you
11 involved in the development of the form at all?

12 THE WITNESS: No.

13 THE COURT: So my inclination is to --

14 MS. ELCANO: Your Honor, if there's a
15 question of authenticity, that objection should have been
16 made pursuant to the time the document was given and at
17 the time of discovery, I think pursuant to NRCP 16.1.
18 There's never been a question of authenticity or that the
19 information completed in here --

20 THE COURT: She can tell us what answers she
21 made to whatever questions were asked, but the form
22 itself, if it was developed by somebody else that we
23 don't -- aren't going to have here, then it's not
24 admissible.

1 MR. ELKINS: Thank you, Judge. That would be
2 my objection to each one of these SAFE-FC forms.

3 THE COURT: And you can read what the
4 question is and she can tell you what her answer to that
5 question is. The results of it is another thing.

6 It's sort of like NHTSA's Field Sobriety
7 Test. It got standardized enough and is accepted by
8 enough courts and argued over nationally that I think our
9 Supreme Court finally said all of that is admissible in
10 court, but something like this that has just been
11 developed locally -- but, again, you can ask her, "What's
12 the question? What's your answer?"

13 MS. ELCANO: Your Honor, if I may clarify,
14 this is a form whereby Social Services inputs
15 information. It's a created form; however, the
16 information included in here is developed by Social
17 Services. The names are provided; SMART goals are
18 identified and created by Social Services. They check
19 off whether there's been progress, minimal progress,
20 general progress, significant progress, or the SMART goal
21 has been achieved. However, the information that's
22 related to these and the information of why or why not
23 these have been achieved or haven't been achieved is all
24 entered in by Social Services.

1 So it's not just a form where one check is
2 made. There are some form-entered things on this.
3 However, the SMART goals are created and identified by
4 Social Services, and the information relating to whether
5 or not they were achieved is entered in by Social
6 Services.

7 THE COURT: Let me see if -- if I understand
8 your testimony correctly, depending on how many you check
9 one way or the other determines what the conclusion of
10 the form ends up being? So if you check more minimally
11 satisfactory than you have satisfactory, ultimately you
12 determine that their accomplishment is minimally
13 satisfactory?

14 THE WITNESS: Correct. But the computer
15 doesn't determine that. I do. So the computer doesn't
16 count anything, doesn't spew out a count or a
17 recommendation, now, this would be no progress. I'm the
18 one assessing that.

19 THE COURT: I need to look at the form to
20 determine whether or not I'm going to admit it or not.
21 This is --

22 MR. ELKINS: Judge, I thought we had a
23 ruling, so if you'd let me continue with voir dire, I'm
24 happy to do it.

1 THE COURT: Well, go ahead and finish your
2 voir dire.
3 MR. ELKINS: Thank you.
4 THE COURT: Which exhibit was this?
5 MR. ELKINS: This is No. R, Judge.
6 THE COURT: Go ahead.
7 BY MR. ELKINS:
8 Q So you go to a computer screen, correct, and
9 this form comes up?
10 A Uh-huh.
11 Q "Yes"?
12 A Yes.
13 Q And the form under each category, such as
14 "Caregiver Progress Assessment," gives you a list of
15 boxes that you can check; is that correct?
16 A Correct.
17 Q And then you decide, based upon these
18 preexisting statements, whether to check the box or leave
19 it unchecked; is that correct?
20 A Well, not preexisting. I have to type them
21 in there.
22 Q You typed the --
23 A Sorry. Not those.
24 Q No. The statements next to these boxes exist

1 in the computer, do they not?

2 A Mr. Elkins, I can't see that far.

3 MS. ELCANO: She has it in front of her.

4 MR. ELKINS: Just go to T. R. I'm sorry.

5 THE WITNESS: R.

6 BY MR. ELKINS:

7 Q So as I understand it -- and correct me if
8 I'm wrong -- what first comes up on the form is this
9 grid, and then you fill in the names?

10 A That's right. That's right.

11 Q The dates?

12 A Yes.

13 Q And then comes up this Caregiver Progress
14 Assessment, for example; right?

15 A Yeah.

16 Q And under that are a series of boxes;
17 correct?

18 A Correct.

19 Q With statements next to them; is that right?

20 A Correct.

21 Q And obviously these statements are not
22 statements that you made; they were statements that were
23 created by the computer program; correct?

24 A Well, not by the computer program. By

1 somebody.

2 Q Yes. Somebody who put it in the computer;
3 correct?

4 A Right.

5 Q And then among those preexisting statements,
6 you check the boxes that you feel most approximate your
7 opinion; is that right?

8 A Right.

9 Q Okay. Based upon the boxes that you check,
10 then the computer generates a finding of either no
11 progress, normal progress, general progress?

12 A No, the computer doesn't generate that. I
13 do.

14 Q So you check that box?

15 A I check the box.

16 Q But the boxes that you check -- withdraw.

17 The statements next to the boxes that you
18 check are not your own? This is something that you read,
19 and then you either decide to agree or disagree with the
20 statement; is that right?

21 A Correct.

22 Q Who developed those statements; do you know?

23 A I don't.

24 Q So do you know what their credentials were,

1 how they were developed, what they're intended to
2 represent, the statements?

3 A I don't.

4 Q So this is an instrument that was given to
5 you as part of this experimental program that was being
6 implemented in Washoe County in order to improve outcomes
7 for the department; correct?

8 A Corrected.

9 MR. ELKINS: Judge, unless they bring in
10 somebody who can validate this instrument as being
11 related to actual scientifically recognized,
12 peer-reviewed social work --

13 THE COURT: You can argue --

14 MS. ELCANO: Your Honor, first of all, as I
15 indicated, authenticity has never been argued at the time
16 this document was provided to me or provided to opposing
17 counsel. Additionally, I don't think we're required to
18 show that there is any sort of a scientific connection
19 with the statements being made and the effect of the
20 SAFE-FC program.

21 This is not just a computer-created document.
22 Under "Caregiver Name," Ms. Lopez enters into a goal, she
23 checks boxes that are applicable, she provides an
24 explanation for checking any of those boxes, and makes

1 conclusions based upon that explanation.

2 Ms. Lopez obviously is not checking boxes
3 that don't apply and can qualify any of the boxes that
4 have been checked. Regardless of whether the statements
5 are formulated by someone else isn't really relevant.

6 THE COURT: Well, it is because there's a
7 reason why they're limiting her responses to questions --

8 MS. ELCANO: However, Ms. Guerrero can
9 explain that further and is given the opportunity to do
10 so.

11 THE COURT: See, you know, first of all, I
12 think -- I'm trying to think of something similar to
13 this. We had the one lady with the real hard name to
14 pronounce.

15 MS. ELCANO: Buttacavoli?

16 THE COURT: What?

17 MS. ELCANO: Ms. Buttacavoli?

18 THE COURT: Buttacavoli, yeah. She's only a
19 master's degree, I think, in social work is what she
20 testified, and when you started questioning her about
21 some of the tests that were given by Aberasturi, who is a
22 Ph.D. psychologist, I took from her answers that she
23 can't give those tests because she's not qualified to
24 give them and I suppose, to a limited degree, interpret

1 the results.

2 That's the same thing with this here.
3 Someone developed these questions -- when I say
4 "questions," someone developed the box -- the statements
5 that are alongside boxes that she has to check. Now, if
6 she were making up those statements, but here it only
7 gives you, what, the caregiver seems to be vacillating
8 between resisting and contemplating the need to change,
9 is moving between precontemplation and contemplation.

10 You didn't make that statement up even though
11 you checked it; right?

12 THE WITNESS: Right.

13 THE COURT: So were you left to your own
14 devices? You might not have said that, but that's a
15 choice you're given to check by somebody else, and you
16 don't know who made those --

17 THE WITNESS: I don't know who created this
18 document.

19 THE COURT: Okay. So given that, I won't
20 admit this document. And the minute I say that, I think
21 98 percent of what this document ends up concluding I've
22 already gotten from you anyway, from your own personal
23 observations.

24 MR. ELKINS: Judge, let me just be clear.

1 To the extent that, you know, there are
2 statements included in here by the caseworker, she can
3 testify to them. It's the instrument I object to. We
4 have no idea that it has any scientific validity.

5 THE COURT: I'll sustain the objection. This
6 exhibit won't be admitted.

7 Conclusions you drew from your own personal
8 observation you can testify to. This I don't -- unless I
9 get more testimony on this form, I won't admit it, but,
10 again, I think what you're trying to prove with this
11 document has already been testified to by this witness.

12

13 DIRECT EXAMINATION

14 (Cont'd)

15 BY MS. ELCANO:

16 Q Ms. Lopez, you testified that when you
17 completed the Protective Capacity Progress Assessment,
18 that the progress that Ms. Guerrero had made was minimal
19 progress; is that correct?

20 A That's correct.

21 Q Additionally, you indicated that the SMART
22 goals identified within the Protective Capacity Progress
23 Assessment were the same as identified in the case plan
24 and service agreement; is that correct?

1 A Yes.

2 Q And why did you conclude that Ms. Guerrero
3 had made minimal progress in regards to the Protective
4 Capacity Progress Assessment?

5 MR. ELKINS: I'm sorry, Judge. If I could
6 get a date.

7 MS. ELCANO: A date on what?

8 MR. ELKINS: When she made this
9 determination.

10 MS. ELCANO: I think she's already testified
11 that this was developed on 2/27/2014.

12 MR. ELKINS: Thank you.

13 BY MS. ELCANO:

14 Q What was the basis of that minimal progress?

15 A So the basis -- the reason I assessed that
16 she was at minimal progress was because she was still
17 mismanaging her money, she was not providing -- she was
18 not able to provide basic needs, didn't have stable
19 housing. Again, she was not providing me with a steady
20 income. She would provide me with a check that had maybe
21 two days of work on it. She was not in treatment at the
22 moment. She was not -- she was not providing me with
23 proof of being on any kind of medication, which led me to
24 believe she wasn't on medication.

1 So based on all of this information that I
2 had and throughout the course of my case -- I mean, we're
3 at February, so I have to look at everything that's been
4 done or not done up until February 2014, so April 2013 to
5 February 2014 -- I had to assess where she was on the
6 goals, and I decided that she was at minimal progress.

7 Q And today how -- let me back up.

8 In regards to the goals and objectives
9 identified in the case plan and service agreement for
10 Ms. Guerrero, today has Ms. Guerrero made any progress on
11 those?

12 A I don't believe she has.

13 Q And what is the basis for your answer?

14 A Well, she doesn't have stable housing,
15 consistent housing. She's been very transient. She
16 doesn't have a steady income coming into her home. She
17 is not engaged in treatment to help her through whatever
18 issues she may have that are not allowing her to meet
19 those needs, which leads me to believe there's still lack
20 of motivation. She is not -- she's not setting aside her
21 own needs to meet that of her children.

22 Q What services, additional services, could
23 have been offered to this family, Ms. Guerrero
24 specifically, which haven't been to date to further

1 facilitate reunification?

2 A I really can't think of any. I know in
3 working with -- Ms. Seronio and I are in the same
4 department. We've worked very closely on this case.
5 Therefore, I know all the services that are offered. I
6 just don't think our department could offer anything more
7 than has been offered. There's a point where a parent
8 needs to use those services to take action and make
9 changes on their own.

10 Q And has that happened here?

11 A I don't think she has.

12 Q At any point in the case did Ms. Guerrero ask
13 for additional services that weren't being offered to
14 her?

15 A At the time that Ethan hadn't been removed
16 and I was no longer providing services, as I said before,
17 she did approach me for therapy. She wasn't in therapy.
18 There was no active voucher at the time, so she was given
19 those services.

20 She had asked for a bus pass. When we're
21 relieved of efforts, we usually don't provide them, but
22 there were occasions when I did. Not very often, but I
23 did.

24 Q And when Ms. Guerrero asked for those

1 additional services, were those provided by the agency?

2 A Sometimes, yes. Like I said, we can't -- we
3 only have a limited amount of bus passes, for example, so
4 if I had some and it was something that was important,
5 such as getting a lease, then, yes, because that would
6 mean she could get a home, and so I did provide it even
7 though at that time I wasn't required to provide any.

8 Q To your knowledge, in the underlying
9 dependency case did Ms. Guerrero's attorney ever approach
10 you and ask for additional services?

11 MR. ELKINS: Objection, Judge. My objection
12 is that it's irrelevant, essentially.

13 THE COURT: What's the relevance of the
14 attorney asking?

15 MS. ELCANO: Your Honor, I'm just trying to
16 establish that all the services -- Ms. Guerrero or her
17 representative never asked for additional services that
18 we did not provide.

19 THE COURT: I think she's already testified
20 to that, didn't she?

21 MS. ELCANO: She did as to Ms. Guerrero,
22 that's correct. I can move on, Your Honor.

23 THE COURT: Has any service been
24 requested -- has anybody asked you to provide a service

1 that you haven't?

2 THE WITNESS: Ms. Guerrero did ask for
3 financial assistance, but we can't provide financial
4 assistance on an ongoing basis, and she had already been
5 provided financial assistance by the agency when she got
6 into her apartment in December of '13. So she did ask
7 for financial assistance, but I refused because we're not
8 in a position to provide money all the time.

9 THE COURT: And as long as I'm asking, you
10 talked about a voucher. What --

11 THE WITNESS: A voucher is our way of paying
12 for therapy or an evaluation. So we submit a voucher to
13 an agency. It's kind of like a promise, we're going to
14 pay you if you provide this service.

15 THE COURT: So if she came in and you wanted
16 her to get therapy, you give her a piece of paper that
17 she could take to the person who is giving the therapy?

18 THE WITNESS: We don't give it to the parent.
19 We send it directly to the agency.

20 THE COURT: You mentioned you had given her a
21 voucher for something. Do you notify them that she's got
22 it or --

23 THE WITNESS: Yes. So, for example, in her
24 case she -- I sent her to get a psychosocial evaluation,

1 so the voucher gets sent to Children's Cabinet, which was
2 where Ms. Brianna Carter was working at the time. Then
3 they provide the service and they bill us, and she's
4 informed when she can go make that appointment and the
5 voucher has been submitted.

6 THE COURT: Okay. That was an aside, but I'm
7 trying to clear that up.

8 MS. ELCANO: Fair enough. I apologize I
9 hadn't cleared that up, Your Honor.

10 BY MS. ELCANO:

11 Q Ms. Lopez, to your knowledge is Ms. Guerrero
12 presently employed?

13 A Not that I know of.

14 Q And were the children ever -- by "the
15 children," I mean Roberto, Kayleigh, and Nathan -- ever
16 returned to Ms. Guerrero's care while you've been
17 assigned to this case?

18 A No.

19 Q And why not?

20 A Because they -- she has not been able to
21 provide, on a consistent basis, a safe home.

22 Q Can you please describe Ms. Guerrero's
23 contact with the children while you've been assigned to
24 this case?

1 A She's had consistent contact. That's never
2 been an issue. Initially she started with -- I believe
3 we had two out-in-the-community visits. She would meet
4 with the foster parent somewhere and have a lengthy
5 visit, from six to eight hours, usually on a weekend.
6 Eventually that did change. The pick-up and drop-off
7 time -- place, sorry, location -- became our office, and
8 then there was three visits a week, and then a change to
9 two visits a week off site, and then a change to two
10 visits a week on site.

11 Q Why did it shift from three visits a week to
12 two visits a week?

13 MR. ELKINS: I'm sorry, Judge. I'm going to
14 object because I don't know that the witness was the
15 worker at the time that occurred, so I'm objecting based
16 on whether she has personal knowledge.

17 BY MS. ELCANO:

18 Q When did the visits change from three times a
19 week to two times a week?

20 THE COURT: Based on your personal knowledge.
21 Do you have personal knowledge of why?

22 THE WITNESS: Yes. I was the one who changed
23 them.

24 MR. ELKINS: Thank you Judge.

1 THE WITNESS: I don't recall when, though,
2 but I was the one who made that decision.

3 BY MS. ELCANO:

4 Q And why did you change them from three times
5 a week to two times a week?

6 A Because Ms. Guerrero requested me to do so.
7 She told me she wanted to -- she was at the time -- and I
8 want to say it was about January, maybe February of
9 2014 -- she had gotten an SK job. She said she
10 needed -- they used to be Monday, Wednesday, and Friday.
11 So because of work, she couldn't attend the Monday, I
12 think it was, and so she asked if we could reduce it to
13 twice so she could go to work. And so I did, I reduced
14 it to twice.

15 Q After that point did Ms. Guerrero ever
16 request that the visits be increased back to three times
17 a week?

18 A Yes.

19 Q And did you do so?

20 A No.

21 Q Why not?

22 A We were way past the point of -- the
23 permanency plan had been changed. We were way past the
24 point of -- the plan was no longer reunification, so I

1 felt that two visits were appropriate.

2 Q And how many visits a week currently is
3 Ms. Guerrero having with the children?

4 A Two.

5 Q And where do those occur?

6 A At Washoe County Department of Social
7 Services building.

8 Q And I believe you provided information
9 previously regarding why they changed to on site.

10 Is there any additional information why the
11 visits are remaining on site today?

12 A No.

13 Q Has Ms. Guerrero been able to visit all three
14 children at one time?

15 A Yes.

16 Q So the visits aren't with each child
17 individually; correct?

18 A No. They're -- all of them are together.

19 Q Are they supervised visits currently?

20 A On-site, unsupervised.

21 Q Thank you. Based on your personal
22 knowledge -- so if you don't have knowledge of
23 this -- once Ethan was taken into care, did he also visit
24 with the older three children?

1 A Yes. All four visit with Mom at the same
2 time.

3 Q What concerns, if any, have you had regarding
4 Ms. Guerrero's behavior or interaction with the children
5 during these visits that you have personal knowledge of?

6 A Well, Ms. Guerrero and I have had discussions
7 about certain events. There's been one incident of her
8 behavior where she had a hysterical -- she was in
9 hysterics, crying. She was upset because I wouldn't
10 allow her to leave the building. I want to say it was
11 right after his removal.

12 She had this reaction in front of the
13 children which scared them, and so we had a conversation
14 about appropriate behavior in front of the children. I
15 told her if she needed a moment to pull herself together
16 and not behave that way in front of the children because
17 they were scared, she needed to take a moment and use the
18 restroom and request that staff watch the children while
19 she was pulling herself together.

20 We had conversations about conversations she
21 had with the children that were inappropriate. She had
22 told Kayleigh, who at the time was four years old,
23 that --

24 MR. ELKINS: Judge, I'm going to object. I

1 believe this is hearsay. The source is not my client.

2 THE COURT: Did you hear this
3 inappropriate --

4 THE WITNESS: Well, I heard it, but then I
5 talked to her about it, so we did actually talk about it.

6 THE COURT: So you heard her say something to
7 Kayleigh?

8 THE WITNESS: No, no, no. I heard Kayleigh
9 say it, and then Ms. Guerrero and I talked about the
10 information.

11 MR. ELKINS: Objection.

12 BY MS. ELCANO:

13 Q So if you could limit your answer to the
14 conversation you had with Ms. Guerrero.

15 A So Ms. Guerrero and I discussed appropriate
16 conversation with the children. She had overshared what
17 happened in regards to the domestic violence incident
18 with Kayleigh.

19 Q And I just want to caution you. Is this what
20 Ms. Guerrero stated to you?

21 A Yes. We talked about it, yes.

22 Q Okay. Thank you.

23 A She told me that she felt that it was okay
24 for Kayleigh to know this, and I told her it was not okay

1 for a four-year-old to know the details of what happened,
2 but it was okay for her to tell her that her dad was in
3 jail.

4 Q And when you talk about this domestic
5 violence incident, can you just clarify what incident
6 you're talking about?

7 A The domestic violence in July of 2014.

8 Q Between who?

9 A Ms. Guerrero and Mr. Hunt-Taylor.

10 Q Thank you.

11 THE COURT: Just to clarify, you testified
12 that you wouldn't let her leave the building and she got
13 hysterical. Do you mean you wouldn't let Ms. Guerrero
14 leave the building or you wouldn't let Ms. Guerrero leave
15 with the children?

16 THE WITNESS: With the children.

17 THE COURT: She could leave the building?

18 THE WITNESS: Oh, yeah, she could leave.

19 THE COURT: I was wondering why you wouldn't
20 let her leave the building.

21 THE WITNESS: No, no.

22 MR. ELKINS: Sometimes I feel like that.

23 BY MS. ELCANO:

24 Q I apologize.

1 Any other concerns?

2 A Yes. We talked about not --

3 Q Again, before you move forward with this,
4 based on information you received from Ms. Guerrero and
5 discussed with Ms. Guerrero. Thank you.

6 A So we talked about not telling the children
7 that I was the reason that they weren't home, and so that
8 was a conversation that we had, not talking about anybody
9 on the case, not the foster parent, not the social
10 worker, not the attorney. Basically to limit her visits
11 to spending quality time with her children, having fun,
12 playing with them, and not to talk to them about -- or
13 blaming me for them not being home.

14 Q And any other concerns?

15 A No.

16 Q Did Ms. Guerrero consistently attend her
17 visits?

18 A Yes, she did.

19 Q Was she on time for her visits?

20 A Not all the time, no.

21 Q Okay. And while you were the social worker
22 and -- never mind. I think we've already covered that.

23 To your knowledge when is the last time
24 Ms. Guerrero visited her children?

1 A Friday of last week.

2 Q Does Ms. Guerrero -- I'm sorry. Has
3 Ms. Guerrero sent any cards, gifts or letters to her
4 children while you have been assigned to the case that
5 you are aware of?

6 A I don't know if she sent cards, but I do know
7 that she buys them gifts, brings snacks. I have seen
8 that.

9 Q And does Ms. Guerrero have telephonic contact
10 with the children?

11 A She's allowed to. I don't really supervise
12 it. She's allowed to call the foster parent whenever she
13 wants.

14 Q Do you know how frequently she does so or
15 does not?

16 A I don't.

17 Q Okay. To your knowledge has Ms. Guerrero
18 paid any support on behalf of Roberto, Kayleigh or Nathan
19 since you have been the assigned worker to this case?

20 A Not that I know of.

21 Q How often did you have contact with
22 Ms. Guerrero throughout the life of this -- I guess
23 throughout the first year of this case?

24 A I would say pretty frequently in person or by

1 phone or by e-mail.

2 Q And did you initiate that contact typically?

3 A It went both ways.

4 Q It did?

5 A Yeah.

6 Q Thank you.

7 Did Ms. Guerrero consistently attend meetings
8 you had scheduled?

9 A No.

10 Q And approximately how often did she attend
11 meetings?

12 A As I mentioned before, the first four months
13 she -- she was pretty consistent in attending the
14 once-a-week meeting. After about, starting about the
15 fifth month, she would no call/no show to our weekly
16 meetings. She on average was showing up about -- maybe
17 twice a month.

18 After a year she had requested that we
19 continue to meet frequently. We agreed every other week,
20 but she no show/no called to the first three, and then I
21 didn't make any further attempts to continue to schedule
22 ongoing every-other-week meetings.

23 Q When is the last time you had contact with
24 Ms. Guerrero regarding this case? Obviously not in

1 court, but --

2 A We had a conversation -- well, I had contact
3 with her last Wednesday when I provided her a letter for
4 Reno Housing. We didn't really talk in depth because the
5 children were present.

6 I would say probably a couple weeks prior to
7 that, maybe, we talked a little bit. I mean, ongoing I
8 would pop in during a visit, and she would give me
9 updates if it was possible. If not, then we wouldn't
10 talk.

11 Q Would it be normal to expect Ms. Guerrero to
12 speak with Ms. Seronio as she is the worker for Ethan?

13 A Right. And I actually encouraged that.

14 Q And what concerns, if any, have you had with
15 your contact with Ms. Guerrero?

16 A I would say my concern with Ms. Guerrero was
17 in that -- like I said, in that first year we did meet a
18 little more than we did after that. She would tend to
19 start crying, saying that she was scared, that she was
20 scared she was going to lose her kid. So we'd have
21 conversations about what could she do so she wouldn't
22 lose her kid and also addressing why she was constantly
23 crying when she's telling me, "I'm not depressed, I don't
24 need therapy," but yet she constantly seemed upset.

1 And so I would encourage her to go to
2 treatment, to get some services, but there was several
3 times that she presented that way and she -- and we had
4 the same conversation several times.

5 Q And what was Ms. Guerrero's response to your
6 suggestions?

7 A Sometimes she would say, "Okay, I'll do it,"
8 and other times she would say, "I don't need it, I'm not
9 crazy."

10 And I would tell her, "Going to therapy has
11 nothing to do with being crazy. It's about getting that
12 extra help to get through a rough time."

13 So sometimes she seemed receptive, sometimes
14 not so much.

15 Q What information -- pardon me.

16 Did you have occasion to discuss with
17 Ms. Guerrero the lack of progress on her case plan and
18 service agreement goals and objectives?

19 MR. ELKINS: Time frame, Judge, please.

20 MS. ELCANO: I was just establishing if she
21 has, Your Honor.

22 THE COURT: Okay. Then the next question --
23 if she says, "Yes," then the next question should be --

24 /////

1 BY MS. ELCANO:

2 Q When did you do so?

3 A Throughout the case. Even though I have been
4 relieved of efforts since April 2014, there's been
5 occasions where her and I have sat down and talked about
6 the lack of progress and where to go from there.

7 Q And what specifically did Ms. Guerrero say to
8 you or respond to you during those conversations?

9 A We would -- sometimes she would say, "I don't
10 understand my goal." So we'd review again the goals.
11 Sometimes she would give me updates, this is what I'm
12 doing, and so we would discuss follow-through, what's
13 important.

14 Sometimes she would say, "I've done
15 everything you asked me."

16 And so I would ask her, "What have you done?"
17 And she would have a hard time explaining that to me.

18 I think the last time we had a really good
19 conversation was right after our settlement on this -- on
20 the trial, which I can't remember when it was. I don't
21 know if it was June of 2015 or July. We sat down
22 afterwards. For about an hour we sat outside the
23 building and talked.

24 Q So this wasn't during the settlement

1 conference; correct?

2 A No, no, no. It was after.

3 Q I just wanted to make sure you weren't saying
4 something.

5 A No, no, no. It was after.

6 Q Go ahead.

7 A She was outside the building, and we sat down
8 and talked because I was leaving for the day -- it was at
9 5 o'clock -- and she -- we started talking, and we talked
10 about getting medication, the benefits, the pros and
11 cons, what she might get out of it if she tried it. We
12 talked about therapy.

13 She told me -- and one of the things that
14 every time we talked -- not every time, I shouldn't say
15 every time -- a lot of the time she would say, "Okay.
16 Now I'm ready, now I'm ready to change." That particular
17 day she said the same thing.

18 So, again, I said, "What's different now? So
19 you're ready to change now. So what's going to change
20 compared to the last couple years?"

21 So we really had a really good discussion
22 about where to go from there. She appeared motivated, it
23 seemed like. You know, she would constantly say she was
24 motivated throughout the case, but then there was no

1 follow-through.

2 Q When Roberto, Kayleigh, and Nathan were
3 originally removed -- pardon me.

4 When originally were Roberto, Kayleigh, and
5 Nathan removed from Ms. Guerrero's custody?

6 A April 19, 2013.

7 Q So approximately how long have Roberto,
8 Kayleigh, and Nathan been in the care and custody of
9 Washoe County Department of Social Services?

10 A About 28 months.

11 Q And you testified that Roberto, Kayleigh, and
12 Nathan are presently placed with Sandra Matute; is that
13 correct?

14 A That's correct.

15 Q Are the children placed in an adoptive home?

16 A Yes.

17 Q And approximately how long have they been
18 placed with Ms. Matute?

19 A For 27 months.

20 Q And can you please describe Roberto to the
21 Court?

22 A Roberto is eight years old. He is in second
23 grade, super sweet boy, very, very sweet, so sensitive,
24 loves Pokemon. He can talk to you -- talk for hours

1 about Pokemon. He is a regular boy, likes to play
2 outside, likes to do sports. He likes to do soccer,
3 baseball, karate, gets along well with the other children
4 in the home, excellent student, very smart. Does have a
5 slight speech delay but overall just a great kid, very
6 loving.

7 Q Can you please briefly describe Kayleigh to
8 the Court?

9 A Kayleigh is five years old, attending
10 kindergarten, started this year, feisty, feisty little
11 girl, bossy, but loving, so sweet, so silly, loves Little
12 Kitty.

13 She loves to follow -- she's the only girl in
14 the home besides the foster mom, so she follows all the
15 boys around, likes to do the karate, the soccer even
16 though for some of the sports she's a little young, but
17 she's starting to do some of those sports as well.

18 She likes to look for spiders, although she's
19 scared of them. I don't know why. She's just, again,
20 very loving, gets along well with the other children in
21 the home, excellent student. Very, very bright. She's
22 actually very, very bright, but does have, I would say, a
23 little more of a delay in speech. For a long time it was
24 really difficult to have conversations with her because I

1 couldn't understand what she was saying, but it's been
2 about -- I would say about a year and a half that her
3 speech has improved and we're able to have really long
4 conversations and talk to each other.

5 Q And can you please describe Nathan to the
6 Court?

7 A Nathan is four years old. He is going to
8 pre-kindergarten. He is so sweet, so loving, loves to be
9 silly. A little jealous of his little brother, Ethan.
10 He used to be the baby in the home, in the foster home,
11 and now it's Ethan, so he likes to pick on his little
12 brother a little bit.

13 He is very, very bright, also has a slight
14 delay in speech, and so -- but just really overall just
15 fun, fun kid to play with.

16 MS. ELCANO: And, Your Honor, I believe
17 Exhibit GG, so Greg Greg, has been admitted. I believe
18 it was stipulated to being admitted?

19 MR. ELKINS: Judge, how could we not agree to
20 admit that picture?

21 BY MS. ELCANO:

22 Q Could you please turn to Exhibit GG?

23 THE COURT: You did not?

24 MR. ELKINS: No, no. I said, how could we

1 not, Judge? Such an attractive photograph.

2 BY MS. ELCANO:

3 Q Could you please describe what Roberto is
4 wearing in that photograph?

5 A Roberto is wearing a green Puma shirt and
6 holding a toy up to his face.

7 Q And can you please describe what Kayleigh is
8 wearing?

9 A Kayleigh is wearing a Hello Kitty shirt
10 with -- a Hello Kitty shirt with a bow on it.

11 Q And then can you please describe what Nathan
12 is wearing there?

13 A He's wearing a blue Puma shirt.

14 Q And how are his arms positioned?

15 A They're straight up, holding a toy.

16 Q Okay. And if you could turn to the next
17 picture.

18 Are the children wearing the same things in
19 that picture?

20 A Yes, they are.

21 Q Thank you.

22 I think you've talked both about Roberto,
23 Kayleigh -- you've talked about Roberto, Kayleigh, and
24 Nathan all having speech delays to some extent; is that

1 correct?

2 A That's correct.

3 Q Are there any other identified special needs
4 of these children?

5 A Roberto goes to counseling.

6 Q With whom?

7 A He goes with Ella Cutter at a Child's World.

8 Q And why was Roberto referred to counseling?

9 A Roberto was referred to counseling about five
10 months ago because I had had a conversation -- where this
11 case is going, first of all. I think because he's the
12 oldest and more aware of what's going on, I felt that he
13 needed a safe place to talk to somebody and process any
14 kind of feelings he may have regards to the case and the
15 way things were going.

16 Q And despite these special needs, do you
17 believe these children are adoptable, Roberto, Kayleigh
18 and Nathan?

19 A Oh, of course.

20 Q And have these children had these identified
21 special needs throughout this case aside from just the
22 counseling coming up in the last five months?

23 A The speech delay, yes.

24 Q And how has the adoptive mother, Ms. Matute,

1 handled these identified special needs, based on your
2 observations and personal knowledge?

3 A So she's taken them to speech therapy,
4 allowed speech therapists to come to her home, and one of
5 the kids gets the speech therapy at school.

6 Q Can you please describe Roberto's
7 relationship with Ms. Matute based upon your personal
8 observations?

9 A They have -- they appear to have a very
10 comfortable relationship, loving relationship. She's
11 affectionate with him. He's affectionate with her. He
12 calls her "Mom." I've seen them run to her for comfort.
13 It's a comfortable relationship.

14 Q And can you please describe Kayleigh's
15 relationship with Ms. Matute based on your personal
16 knowledge and observations?

17 A I think Kayleigh would be a little more -- a
18 little closer to Ms. Matute. She calls her "Mommy." She
19 runs to her for comfort constantly. Ms. Matute uses
20 endearing names like "My Love" with them. With her,
21 sorry. She looks comfortable in the home, moves around
22 freely, and so that tells me that she's comfortable with
23 Ms. Matute.

24 Q And can you please describe Roberto's

1 relationship -- pardon me -- Ms. Matute's relationship
2 with Nathan based on your personal experience and
3 knowledge?

4 A Again, same thing. I've seen them hug, kiss.
5 She calls him, again, endearing names. She -- you know,
6 he runs to her for comfort when he falls or -- you know.
7 He, again, moves freely throughout the home, doesn't
8 appear fearful of Ms. Matute.

9 Q What is Ms. Matute's primary language?

10 A Spanish.

11 Q And does she also speak English?

12 A I would say she understands it more than she
13 speaks it.

14 Q Do Roberto, Kayleigh, and Nathan speak fluent
15 Spanish?

16 A Not fluent, no.

17 Q Do they speak some Spanish?

18 A Yes, some.

19 Q Do they understand Spanish?

20 A Yes, some.

21 Q And, Ms. Lopez, are you fluent in Spanish
22 also?

23 A Yes, I am.

24 Q So how are you able to tell whether or not

1 the children understand the Spanish spoken by Ms. Matute?

2 A Because when I'm in the home and Ms. Matute
3 talks to them in Spanish and gives them a direction, they
4 follow it.

5 Q Fair enough.

6 To your knowledge does Ms. Matute have any
7 biological children?

8 A She does.

9 Q And approximately how many?

10 A She has three biological children.

11 Q And how many children live in her home that
12 are her biological children?

13 A Two.

14 Q And do you know their approximate ages?

15 A I believe one is about eight, the other one
16 is probably about ten.

17 Q And have you seen these children interact
18 with Roberto, Kayleigh, and Nathan?

19 A Yes, I have.

20 Q And what have been your observations when
21 they interacted?

22 A They all play together. They seem to get
23 along. I've never seen them actually argue or fight when
24 I'm there in the home.

1 Q How are the children -- Roberto, Kayleigh,
2 and Nathan -- adjusting to their current placement and
3 doing in their current placement?

4 A The children are doing great. They're
5 healthy, they're making academic progress, speech
6 progress, especially Kayleigh. They've adjusted really
7 well. This is basically their home. They're doing well.

8 Q Based on your experience as a social worker,
9 what do children, specifically Roberto, Kayleigh, and
10 Nathan, require from their caregivers in order to be in
11 safe placement?

12 A They require a safe home, food, the basic
13 needs. They require someone to take them to the doctor
14 when they're ill, to take them to school every day. They
15 require love and affection, structure, stability.

16 Q And can Ms. Guerrero presently provide that?

17 A Some of it, yes.

18 Q What can't she provide?

19 A The basic needs, the stability.

20 Q And can Ms. Matute presently provide that?

21 A Yes, she can.

22 Q Do you believe that -- has Ms. Matute
23 provided that for the last 28 months?

24 A 27 months, yes.

1 Q 27 months. Excuse me.

2 Do you have any reason to believe that
3 Ms. Matute will be unable to provide that in the future?

4 A No. She's been doing great for the last 27.

5 Q What are the outstanding safety concerns and
6 impending dangers which exist today that prevent Roberto,
7 Kayleigh, and Nathan from being placed in the care and
8 custody of Ms. Guerrero right now?

9 A The impending dangers are inability to
10 provide basic needs and lack of motivation.

11 Q Do you believe that Ms. Guerrero has failed
12 to adjust her circumstances to enable the safe return of
13 Roberto, Kayleigh, and Nathan?

14 MR. ELKINS: Objection, Judge. Calls for a
15 legal conclusion.

16 THE COURT: You've asked the question in
17 different ways already, so I'll sustain the objection.

18 BY MS. ELCANO:

19 Q Do you believe that additional services would
20 bring about lasting parental adjustment at this
21 juncture --

22 MR. ELKINS: Same objection, Your Honor.

23 BY MS. ELCANO:

24 Q -- by Ms. Guerrero?

1 MR. ELKINS: Objection. Calls for a legal
2 conclusion.

3 MS. ELCANO: I don't think it calls for a
4 legal conclusion.

5 THE COURT: Well, the question is, are there
6 additional services that you can provide that would
7 assist in the reunification? Are there?

8 THE WITNESS: Not that I can think of.

9 BY MS. ELCANO:

10 Q Do you believe that there is a risk of harm
11 to Roberto, Kayleigh, and Nathan if they were returned to
12 Ms. Guerrero today?

13 A I think there is.

14 Q And what is the basis for that answer?

15 A These children are very attached to
16 Ms. Matute at this point. This is their home. It would
17 be ripping them from their home again, and so that would
18 be very emotional and traumatic for them.

19 Q And do you believe that it would be
20 beneficial or in the best interest of Roberto, Kayleigh,
21 and Nathan to be separated from Ethan?

22 A No.

23 Q And what is the basis for your answer?

24 A They've been living together for the last

1 year. They know that they are related, they're brothers
2 and sisters. Separating them at this time would just
3 cause trauma in the older children because they would
4 wonder where's their little brother.

5 Q And do you believe that it's in the best
6 interest of Roberto, Kayleigh, and Nathan that
7 Ms. Guerrero's parental rights are terminated?

8 A Yes.

9 Q And what is the basis for your answer?

10 A These children have been in care for the last
11 28 months. Being in foster care and having CPS involved
12 in your life is not healthy, it's not healthy for any
13 child. There is a reason why there is an ASFA law which
14 gives a parent 12 months to to reunify, and it's because
15 there's a stigma when a child is in foster care.

16 They do need permanency. They need to know
17 this is their forever home and allow them to move on with
18 their childhood. Bringing them into the office twice a
19 week, it's not a healthy -- it's not healthy for them.
20 Waiting around for their parent to make changes -- it's
21 been 28 months. How much more time do they have to wait?
22 And so at this point I think it's time to let these
23 children move on and have normal childhoods.

24 Q Do you believe that it's in the best interest

1 of these children to have continued contact with their
2 mother at this point?

3 A I don't -- I don't think so for the younger
4 children. For Roberto, I can't really -- that would be
5 more of a therapist question.

6 MS. ELCANO: Fair enough. I have no further
7 questions at this time, Your Honor.

8 THE COURT: Do you want to quit now and start
9 in the morning?

10 MR. ELKINS: If you don't mind, Judge. Ten
11 minutes -- there was a lot. I'm sorry, I didn't mean
12 to --

13 THE COURT: That's fine. I don't care if you
14 sit or stand.

15 MR. ELKINS: In any event, there was a lot of
16 testimony this afternoon. We're going to begin at 8:30
17 tomorrow morning.

18 THE COURT: Yeah.

19 MR. ELKINS: As you know, my client is --

20 THE COURT: Be on time tomorrow, Ms.
21 Guerrero?

22 THE RESPONDENT: Yes.

23 THE COURT: What were you telling me
24 about -- if we're going to do something next week, we

1 need to let them know by Friday?

2 THE CLERK: It would probably be the
3 following week, I believe, the 15th. Court
4 administration has asked that we wait until Friday to see
5 if another hearing date is going to need to be available,
6 but we are able to go Friday until 5:00.

7 THE COURT: Do I understand that not next
8 week, but the week after that we're all free?

9 MS. ELCANO: Your Honor, I'm not here on
10 Monday.

11 THE CLERK: The 15th, 16th, 17th or 18th.

12 MR. ELKINS: I keep a cot in my office.

13 THE COURT: Maybe I'll bring the dog over and
14 it can stay with you and get you up at 4 o'clock in the
15 morning. Nothing like a dog tongue in your ear at 4:30
16 in the morning.

17 So 15, 16, 17, 18 everybody keep free until
18 we find out Friday if we need another day, and if we do,
19 then we can have either the 15th, 16th, 17th or 18th.

20 THE CLERK: I believe they would start
21 looking then to make arrangements and then advise.

22 THE COURT: Okay. You can all be at ease.
23 We're in recess until 8:30 tomorrow morning.

24 (Proceedings adjourned at 4:37 p.m.)

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, PEGGY B. HOOGS, Certified Court Reporter
5 in and for the State of Nevada, do hereby certify:

6 That the foregoing proceedings were taken by
7 me at the time and place therein set forth; that the
8 proceedings were recorded stenographically by me and
9 thereafter transcribed via computer under my supervision;
10 that the foregoing is a full, true and correct
11 transcription of the proceedings to the best of my
12 knowledge, skill and ability.

13 I further certify that I am not a relative
14 nor an employee of any attorney or any of the parties,
15 nor am I financially or otherwise interested in this
16 action.

17 I declare under penalty of perjury under the
18 laws of the State of Nevada that the foregoing statements
19 are true and correct.

20 Dated this 12th day of September, 2015.

21

22 Peggy B. Hoogs

23 Peggy B. Hoogs, CCR #160, RDR

24

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 22nd day of July 2016. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Tyler Elcano, Deputy District Attorney
Washoe County District Attorney's Office

I further certify that I served a copy of this document by providing a copy to:

Jacqueline Guerrero.

John Reese Petty
Washoe County Public Defender's Office

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO: R.T., K.G-T., N.H-T., AND
E.H-T.,
MINOR CHILDREN,

No. 70210

Electronically Filed
Aug 01 2016 11:16 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

JACQUELINE GUERRERO,
Appellant,
vs.
WASHOE COUNTY DEPARTMENT OF
SOCIAL SERVICES,
Respondent.

Appeal from an Order Terminating Parental Rights in FV14-03897
The Second Judicial District Court of the State of Nevada
Honorable William A. Maddox, Senior District Judge, Family Division

JOINT APPENDIX VOLUME THREE

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8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9
10 IN AND FOR THE COUNTY OF WASHOE
11
12 THE HONORABLE WILLIAM A. MADDOX, SENIOR DISTRICT JUDGE
13 --oOo--

14 TERM: R. TAYLOR, K. GUERRERO- Case No. FV14-03897
15 TAYLOR, N. HUNT-TAYLOR,
16 E. HUNT-TAYLOR, Dept. No. 2

17 TRANSCRIPT OF PROCEEDINGS

18 TRIAL

19 DAY 2

20 Tuesday, September 1, 2015

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24 Reported By: PEGGY B. HOOGS, CCR 160, RDR, CRR

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Also Present:

JACQUELINE GUERRERO
MALIA SERONIO
ROCIO LOPEZ

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RENO, NEVADA; TUESDAY, SEPTEMBER 1, 2015; 9:06 A.M.

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THE COURT: This is Case No. FV14-03897 in the matter of the parental rights as to the Taylor children. There's four of them. The parties are present with their counsel.

Your next witness, Ms. Elcano.

MS. ELCANO: Thank you, Your Honor. I would call Suzanne Aberasturi, Dr. Aberasturi.

THE COURT: Is she any relation to Leon Aberasturi?

MS. ELCANO: I believe, the judge, it's her husband, yes.

THE COURT: Okay.

SUZANNE ABERASTURI,
having been first duly sworn,
was examined and testified as follows:

THE COURT: You're related to Leon, then?

THE WITNESS: I am.

THE COURT: Anybody that has to put up with

1 him is probably a saint.

2 THE WITNESS: That is so true.

3

4 DIRECT EXAMINATION

5 BY MS. ELCANO:

6 Q Good morning, Dr. Aberasturi.

7 Could you please state and spell your name
8 for the Court?

9 A Suzanne Aberasturi. Suzanne is
10 S-u-z-a-n-n-e, Aberasturi is A-b-e-r-a-s-t-u-r-i.

11 MS. ELCANO: Your Honor, it's my
12 understanding that there is no opposition to
13 Dr. Aberasturi being qualified as an expert in the field
14 of psychology, and I have provided a résumé to opposing
15 counsel. I have several copies of her résumé again today
16 if needed and would like to avoid going through all of
17 her --

18 MR. ELKINS: Judge, we stipulate she's an
19 expert -- thank you -- in psychology and neuropsychology.

20 BY MS. ELCANO:

21 Q What is your current occupation?

22 A I am a clinical psychologist specializing in
23 neuropsychology.

24 Q And what licenses do you currently hold?

1 A I have a license in clinical psychology
2 through the State of Nevada. I also have a school
3 psychologist's license and some educational licenses.

4 Q Thank you. What is a neuro -- well, let me
5 back up.

6 Are you in private practice?

7 A I'm in private practice, yes.

8 Q And approximately how much of your practice
9 is devoted to completing psychological and
10 neuropsychological evaluations?

11 A Approximately 95 percent.

12 Q And what is a neuropsychological evaluation?

13 A A neuropsychological evaluation is looking at
14 the different functional areas of the brain to see
15 exactly how it's working. You do observations, you do
16 several batteries of tests to look at different strengths
17 and weaknesses throughout the brain, and then you make
18 conclusions based on that.

19 Q What steps do you take to complete a
20 neuropsychological evaluation?

21 A I start off with an interview to kind of gain
22 what kind of questions and things that we're going for as
23 well as get a thorough history, and then from there I
24 create a hypothesis about what kind of direction I need

1 to take and I make a list of tests. Then as I test, I
2 make adjustments to that based on performance, and then
3 from there I analyze and score and kind of put together
4 to do a report, and then I give a report that goes over
5 my observations, test results, conclusions, diagnosis, if
6 it's appropriate, recommendations.

7 Q And do you only interview the individual that
8 you're completing the neuropsychological evaluation for?

9 A It depends on the question of the case and
10 the different resources that are available.

11 Q Approximately how long are your interviews
12 with the person who you are evaluating?

13 A The standard interview is typically one hour.

14 Q And do you have multiple interviews?

15 A Let me backtrack on that. It's one hour of
16 solid interviewing, and then I ask questions as I go
17 throughout the testing as well, so...

18 Q So there's an hour of interviewing and then
19 time allotted to complete tests?

20 A And in between tests sometimes I will ask for
21 clarification or ask more questions.

22 Q Fair enough. Okay.

23 And you may have kind of touched on this, but
24 what specific areas are evaluated when you are completing

1 a neuropsychological evaluation?

2 A I definitely go through the different areas:
3 Visual, spatial, verbal, memory, sensorimotor,
4 frontal-lobe executive functions, as well as emotional,
5 behavioral.

6 Q And why are those areas important to
7 evaluate?

8 A Those are the standard areas of the brain
9 that kind of develop and kind of work together to cause
10 problem-solving, reasoning, and things like that.

11 Q Thank you.

12 What diagnoses or conclusions are generally
13 rendered upon the completion of a neuropsychological
14 evaluation?

15 A It can be different depending upon the
16 initial question of the evaluation. Diagnoses are based
17 off of not only test results -- test results definitely
18 weigh the heaviest -- but observations, behavioral
19 interventions, and any records I've obtained, and so it
20 depends on the situation.

21 Q Are treatment or can treatment
22 recommendations be made as a result of the completion of
23 a neuropsychological evaluation?

24 A Yes.

1 Q And is a psychological evaluation different
2 than a neuropsychological evaluation?

3 A Yes.

4 Q How is it different?

5 A A psychological -- a neuropsychological
6 evaluation is very thorough. It's looking at the
7 different parts of the brain. A psychological evaluation
8 is really looking at the emotional state of the person
9 and frequently will include a cognitive functioning.

10 Sometimes I throw in some other tests for
11 reasoning or focus depending on the question or what the
12 person said in the interview, but it is a much shorter
13 battery and it's much more specific to a question,
14 usually typically of just diagnosis.

15 Q Is a neuropsychological evaluation
16 encompassing of a psychological evaluation, if that makes
17 sense?

18 A A psychological evaluation would be
19 encompassed in the neuropsychological evaluation.

20 Q Okay. Got it. Thank you.

21 Have you had occasion to become familiar with
22 Jacqueline Guerrero?

23 A Yes.

24 Q And in what capacity did you become involved

1 with Ms. Guerrero?

2 A Social Services requested a
3 neuropsychological eval on Jackie. I believe the funding
4 went through Children's Cabinet.

5 Q When you completed this neuropsychological
6 evaluation of Ms. Guerrero, did it include a
7 psychological evaluation as well?

8 A Psychological evaluation is always part of a
9 neuropsychological evaluation.

10 Q Thank you. When did you first meet with
11 Ms. Guerrero?

12 A 1/27/2015, I believe.

13 Q And why specifically was Ms. Guerrero
14 referred to you for evaluation?

15 A The initial question that was provided to me
16 from Social Services is that they were confused about
17 Jackie's capacity to understand her case plan and follow
18 through with different ideas they gave her. They weren't
19 sure if it was based on cognitive or based on emotional
20 issues.

21 Q And who referred Ms. Guerrero to you? You
22 may have already answered that. I apologize.

23 A It was her social worker.

24 Q Do you recall the social worker's name?

1 A It's Malia, I believe.

2 Q What was your understanding of the reasons
3 why Ms. Guerrero's children came into the care and
4 custody of Social Services?

5 A That information was provided by
6 Ms. Guerrero, and she said that she was evicted from her
7 apartment and had not sent her children to school, and
8 there was also some other issue with not paying
9 electricity and not having electricity that I recall.

10 Q Who did you interview in conducting
11 Ms. Guerrero's psychological and neuropsychological
12 evaluation?

13 A I interviewed Ms. Guerrero. I had a referral
14 from Social Services, and I briefly talked to her social
15 worker.

16 Q And why didn't you interview anybody else?

17 A There was not a large amount of people around
18 her that would have been substantial witnesses to the
19 question I was being addressed.

20 Q And when you interviewed the social worker,
21 what information did you receive?

22 A I just -- I always let the social worker know
23 when she comes, "I've got this information. Did you have
24 this information?"

1 Q I see. So it was more communicating
2 information Ms. Guerrero had given to you to the social
3 worker?

4 A Yes. And checking to see what I had is what
5 they had.

6 Q You didn't specifically interview the social
7 worker based on her interactions with Ms. Guerrero?

8 A I don't recall doing that specifically.

9 Q Thank you.
10 How many times, approximately, did you meet
11 with Ms. Guerrero?

12 A I believe it was four times.

13 Q And you said you initially met with her, you
14 believe, on January 27, 2015.

15 When did you meet with her subsequent to
16 that?

17 A Well, there were four dates, and I know it
18 ended 2/27/2015.

19 Q Would review of your
20 psychological/neuropsychological report refresh your
21 recollection as to those particular dates?

22 A Yes, it would.

23 Q Could you please turn to Exhibit CC, so
24 Charlie Charlie?

1 And I believe it's been stipulated that that
2 exhibit is admitted, Your Honor.

3 MR. ELKINS: That's correct.

4 BY MS. ELCANO:

5 Q And if you could review that document and let
6 me know if that does refresh your recollection.

7 A That does refresh.

8 Q Could you please close the document.

9 And what additional dates did you meet with
10 Ms. Guerrero?

11 A January 29, 2015, and February 5, 2015, I
12 believe was the other one.

13 Q Could it have also been February 2nd?

14 A Could have been. Sorry.

15 Q And approximately how long did you meet with
16 Ms. Guerrero?

17 A The first session was probably an hour, and
18 I'm going to predict that the other two sessions were
19 either two hours -- I know the first one was two hours,
20 and the second one was probably an hour and a half to two
21 hours.

22 I do remember that the second -- the third
23 session took a little longer because it took her a long
24 time to fill out the questionnaire, so that one might

1 have actually gone to three, and then the final session
2 is an hour.

3 Q And where did you meet with Ms. Guerrero?

4 A At my private office on Vassar.

5 Q And during your interview with Ms. Guerrero,
6 did she demonstrate any cognitive delays or difficulties
7 communicating or understanding with you?

8 A No.

9 Q Can you please describe Ms. Guerrero's level
10 of engagement and cooperation throughout this process?

11 A She did seem -- she was very pleasant to be
12 with. She did seem very forthcoming. I didn't have any
13 trouble or animosity on her part. She didn't seem to be
14 holding back information.

15 As I mentioned in the report, I was confused
16 about one thing having to do with a boyfriend, but other
17 than that, what I had from Social Services matched what
18 she told me.

19 Q Okay. And what areas specifically did you
20 evaluate in regards to Ms. Guerrero?

21 A Say that question again.

22 Q What areas did you evaluate when completing
23 this for Ms. Guerrero?

24 A I did a very thorough neuropsychological

1 evaluation as well as personality assessment.

2 Q What areas did that neuropsychological
3 evaluation encompass?

4 A It encompassed intellectual ability, memory,
5 visual and verbal memory, short-term working memory,
6 processing speed, the ability to process both verbal and
7 visual information, naming, motor ability, and
8 frontal-lobe functioning, as well as a personality
9 assessment.

10 Q Just one second. Sorry. I was writing those
11 down.

12 And what were your observations of
13 Ms. Guerrero while completing this evaluation?

14 A She put forth good effort. She wanted to
15 look good. She tried very hard. As I mentioned before,
16 she was very pleasant to be with.

17 Q I kind of want to turn to your evaluation and
18 walk through each piece of this. Obviously there are a
19 lot of tests and I kind of want to, hopefully, understand
20 how those were applied and the results.

21 But, first of all, it seems that you obtained
22 work history, academic history, and learning history from
23 Ms. Guerrero.

24 Can you summarize that to the Court?

1 A Ms. Guerrero had said that she had had
2 several different employment histories. Some of them she
3 left because the situation wasn't conducive to her
4 schedule; some of them she left because she had panic
5 attacks.

6 She had not obtained her high school degree.
7 She had prepared for a GED and was told she was ready,
8 but then her anxiety got in the way and she didn't
9 complete it.

10 She had been in high school when she was in
11 foster care, when she was pregnant, and was doing well,
12 she reported, and then she went -- she was sent home to
13 her mother, and her mother wanted her to stay home, so
14 she stopped attending high school, based on
15 Ms. Guerrero's report.

16 Q To your knowledge, was Ms. Guerrero employed
17 at the time you were conducting this evaluation?

18 A Not to my knowledge.

19 Q Did you discuss government benefits at all?

20 A Yes. She was applying for SSI at the time
21 and had -- I believe there was a future appointment to
22 meet with them.

23 Q And to your knowledge did Ms. Guerrero
24 receive SSI or follow through with those appointments?

1 MR. ELKINS: Objection.

2 MS. ELCANO: I don't know the basis of the

3 objection.

4 MR. ELKINS: Here's the objection: It's

5 hearsay.

6 MS. ELCANO: She's an expert. She's allowed

7 to testify to hearsay.

8 MR. ELKINS: She's talking about a future

9 appointment, so, also, I don't think she would have a

10 basis for knowledge.

11 THE COURT: Well, she's right if it's

12 something that an expert could rely on, so I guess you

13 can ask her that question.

14 BY MS. ELCANO:

15 Q To your knowledge did she obtain SSI or

16 follow through with those appointments?

17 A I don't know.

18 THE COURT: That was a lot to do about

19 nothing.

20 BY MS. ELCANO:

21 Q What observations did you have of

22 Ms. Guerrero in terms of obtaining the work history and

23 academic learning history?

24 A She did seem forthcoming. She could report

1 it well. She did seem to have a good timeline to it.

2 Q I'd like to turn now to the emotional and
3 behavioral impressions that you had with Ms. Guerrero.

4 Could you please summarize those for the
5 Court?

6 A Based on -- are you asking this based on the
7 interview?

8 Q Yes.

9 A On the interview she seemed -- she reported a
10 large amount of anxiety, she reported a lot of obsessive
11 behaviors and compulsive behaviors. She had reported
12 past panic attacks. Some reliance on people was a long
13 history. She also had a traumatic history going back
14 into her childhood in a lot of different situations. She
15 did not present as depressed at that time.

16 Q Did Ms. Guerrero make any reports regarding
17 her mother's behavior to you?

18 A Yes. She reported that her mother's behavior
19 was somewhat chaotic, that her mother would call the
20 police on her and lock her out and be angry with her at
21 times, and she had also reported she had been in foster
22 care during -- when she was in her mother's care as well.

23 Q I'd like to next turn to the language
24 portion.

1 What information did you obtain regarding
2 language when speaking with Ms. Guerrero?

3 A Ms. Guerrero started with -- I believe it was
4 Spanish as her first language but now felt like she spoke
5 English much better than she spoke Spanish. And so I
6 believe there were no speech services when she was young
7 other than there might have been ESL services, English as
8 a Second Language services.

9 Q In regards to your interview with
10 Ms. Guerrero regarding motor and sensory, what
11 information did you obtain there?

12 A She reported she was relatively clumsy. She
13 was pregnant, so that's hard to assess at that time, and
14 she was also having some headaches and things like that
15 that were interfering with that. There was concerns of
16 seizure at the time.

17 Q In regards to developmental and medical
18 history, what information did you obtain from
19 Ms. Guerrero?

20 A She had a history of headaches and migraines,
21 and she was seeking some help for that, but as I
22 mentioned, she was pregnant and it was interfering with
23 that. I think she had mentioned she had received
24 something for her headaches from the ob-gyn.

1 There was a concern of a seizure. She had an
2 incident where she had altered consciousness that a
3 person in her life had witnessed, and there was a concern
4 surrounding that, but there was no -- at that time she
5 had not seen a doctor regarding that, that I know of.

6 Q In regards to Ms. Guerrero's family history,
7 what information did you obtain when interviewing her
8 that you haven't already provided? I don't mean to make
9 you reiterate anything. Is there anything additional?

10 A I think that there was some chaos surrounding
11 a brother, some problems with the brother that I recall.
12 I'd have to -- I'd have to relook at the report on that
13 section. I apologize. I don't want to misspeak.

14 Q That's fine.

15 Did Ms. Guerrero provide any information
16 regarding visitations associated with her children who
17 were in foster care?

18 A She said she had had, I believe it was three
19 days' visitation that was reduced to two, and I think it
20 had something to do with the power at the apartment, but
21 I'm not going to state that for a fact.

22 Q What tests were administered to complete the
23 neuropsychological evaluation of Ms. Guerrero?

24 A She was given the Wechsler Abbreviated Scale

1 of Intelligence II. That was supplemented with the
2 Wechsler Adult Intelligence Scale IV. I also gave her
3 the California Verbal Learning Test II, the Rey Complex
4 Figure Test, the Boston Naming Test, grooved pegboard,
5 hand dynamometer, Wisconsin Card Sorting, Delis-Kaplan
6 Executive Function Test, Conners Continuous Performance
7 Test, and the Personality Assessment Inventory.

8 Q And what factors, if any, may have affected
9 testing?

10 A Ms. Guerrero presented as anxious, and that
11 sometimes affects scores, but it goes to part of the
12 interpretation of the neuropsych functioning. Any time a
13 person is being forced to do a neuropsych, that is
14 definitely an issue that needs to be taken into account
15 as well.

16 Q How do you take that into account when you're
17 rendering?

18 A Well, you look for effort issues. If I felt
19 there was an effort problem, I would definitely have done
20 some effort measures. Within the measures that were
21 given, there are definitely some effort things that you
22 can look at. At no point did I feel like she was not
23 giving her all during the testing.

24 Q Were there any concerns that there were

1 interruptions or any other factors during the testing
2 that could have impacted these scores?

3 A My office is actually pretty quiet. She
4 sometimes got some phone calls, but, you know, take that
5 in stride, so I felt like it went well.

6 Q I'd like to first turn to the Wechsler
7 Abbreviated Scale of Intelligence II and the Wechsler
8 Adult Intelligence Scale IV.

9 What does that assess?

10 A Those are both intelligence tests. They
11 measure verbal, nonverbal, as well as working memory
12 processing speed.

13 Q And how is that test administered?

14 A It is a one-on-one test with activities that
15 she does in front of me, so it's not a paper-pencil test.
16 Me asking questions or her doing things.

17 Q Can you give me an example of an activity?

18 A On the perceptual reasoning test, I give her
19 blocks, and she has to copy a picture and some blocks.
20 One of the other subtests is patterns, and she has to
21 pick out what piece finishes the pattern. She answers
22 vocabulary questions and compares vocabulary words.

23 Working memory, I give you numbers, you have
24 to give them back to me. You have to give them backwards

1 and put them in order. And processing speed, you have to
2 scan and respond to information quickly.

3 Q And how did Ms. Guerrero score on these
4 tests?

5 A She did very well on the Wechsler Abbreviated
6 Scale of Intelligence. She was average overall. I
7 believe her verbal scale was 100. She was slightly
8 higher on the verbal comprehension index.

9 She had a very good score on similarities
10 compared to vocabulary, which that occurs when you have
11 less schooling. So she basically had a lot of verbal
12 knowledge, but she didn't have a lot of vocabulary. Her
13 vocabulary was still average, but it didn't match because
14 of her lack of schooling. Her nonverbal was slightly
15 lower but still solidly average. The only -- and her
16 processing speed, I believe, was average.

17 The only deficit she had was verbal working
18 memory, and that test only measures verbal working
19 memory, and she was below average on that, which will
20 cause some difficulties when giving verbal information,
21 processing it quickly, and kind of responding to it.

22 Q And what -- I think you've just answered what
23 the verbal memory subtest results indicated to you in
24 regards to Ms. Guerrero.

1 What did the other test scores indicate to
2 you?

3 A She had a pattern on the verbal subtest of
4 trouble with verbal memory when there was one exposure
5 and when there wasn't outside structure. So, basically,
6 if you repeated it and then you gave her some structure
7 on how to put it into her memory, kind of like into a
8 nice, neat file cabinet, she did fine, but if you just
9 relied on her to organize the information, she had a mild
10 amount of difficulty. It wasn't horrible, but it was a
11 mild amount of difficulty, which could result in some
12 difficulties not understanding verbal instructions.

13 Q I see. Okay.

14 And you said you also administered the
15 California Verbal Learning Test II. CVLT, I think is the
16 acronym.

17 What does that assess?

18 A That measures verbal learning as well as your
19 ability to kind of transition between that and
20 distraction lists, as well as long-term memory, as well
21 as there's a structural component to that and a
22 recognition part.

23 Q How is that test administered?

24 A I give her a list of 16 words, and then she

1 has to give them back to me, and I do it again and again
2 and again, and then I give another list, and then we go
3 back to the first list, and then we do it 30 minutes
4 later.

5 Q And how did Ms. Guerrero score on this CVLT
6 test?

7 A She had some difficulty initially encoding it
8 into memory. She actually had some variability on
9 encoding and retrieval, but as we went down to the later
10 recalls, when I cued her, which means I group it for you
11 based on the categories in the list, then she jumped up
12 to average. So that showed me that if I structure the
13 information for her, she was able to retrieve and encode
14 it relatively well.

15 Q I just kind of want to back up because
16 there's some terms that I'm not super familiar with, so I
17 just want to make sure I'm understanding correctly.

18 When you talk about encoding something, what
19 do you mean by that?

20 A Encoding is -- if you think about it as a
21 file cabinet, encoding is putting it into the file
22 cabinet, and then retrieving it is taking it back out of
23 the file cabinet.

24 Q When you talk about structuring how it's

1 encoded, can you give me an example of that?

2 A When I give you the list, it's not in
3 any -- it's not in any order, it's not organized by
4 categories of any sort, and so you can either try to
5 remember it in order or you can try to group it, and she
6 tried to kind of remember it somewhat randomly.

7 Then what happens is I say, "Okay. Tell me
8 all the vegetables." And then she would tell me all the
9 vegetables, and that actually helped her increase into
10 the average range.

11 So basically I was helping her kind of
12 organize her storage so she could get the words out
13 appropriately.

14 Q Okay. Fair enough.

15 You used the term "cue" or to "cue" someone.
16 How do you cue someone?

17 A That would be by providing the different
18 categories.

19 Q Okay. Thank you.

20 And I believe you said that she was below
21 average at first, but then as you helped her, she
22 improved; correct?

23 A Yes.

24 Q What did this tell you about Ms. Guerrero and

1 her memory?

2 A That she has the ability to learn and
3 understand verbal information well, but she might need
4 some help organizing it in order to have it done
5 efficiently.

6 Q Next I'd like to turn to the Rev Complex
7 Figure Test and Recognition Trial. Rey. Pardon me. I'm
8 misreading that.

9 What test is that?

10 A It is a test of both visual-motor integration
11 and visual memory.

12 Q And how is that test administered?

13 A I give her a complex visual picture that she
14 copies. She has as much time as she likes to copy it,
15 and then after she copies it, I distract her for two
16 minutes, and then I make her draw it from memory, and
17 then 20 minutes later I make her draw it from memory
18 again. And then there's a recognition phase where I show
19 her different parts of a drawing, and she has to pick out
20 which were the ones that were in the original picture.

21 Q And how did Ms. Guerrero test on this
22 visual-spatial test?

23 A She was -- she had good visual memory. She
24 actually kept what she encoded, which was very good. She

1 was a little stronger with visual memory than she was
2 with verbal memory.

3 She had a mild issue with the organization of
4 what's called visual-motor integration. What comes into
5 your brain gets processed, and then when it comes out, we
6 hope it looks exactly like what we saw, and hers looked
7 close to what my picture was, but it was a little
8 disorganized. So, again, she had a little trouble kind
9 of organizing the pieces of the picture. It was a low
10 average score.

11 Q And what did that tell you about
12 Ms. Guerrero?

13 A Again, that reflects that she might have some
14 difficulties kind of organizing the environment,
15 especially when it becomes relatively complex. That can
16 also correlate with mood issues and math problems.

17 Q Can you explain what "mood issues" mean?

18 A That can go with either depression issues
19 reactive emotional issues like aggression and things like
20 that. It doesn't mean it happens, but it does tend to
21 correlate with that.

22 Q And math difficulties, just --

23 A Because math is basically taking pieces and
24 putting it together to make a whole, which is very

1 similar to what that test is measuring, so those two
2 things tend to go together.

3 Q I see. Thank you.

4 And then you indicated that the Boston Naming
5 Test was completed. What is the Boston Naming Test?

6 A It's a booklet with line drawings that are
7 basically objects, and she just basically has to name
8 them.

9 Q So a drawing is presented, and then she
10 identifies what objects are in that drawing; is that
11 correct?

12 A Yes.

13 Q How did Ms. Guerrero test in this area?

14 A She was a little bit low on that measure.
15 And then what happens is, if you don't have it, I give
16 you the first sound. So if it's "harmonica," I say "har"
17 to see if you have it and you're not pulling it out.

18 She increased, but she didn't increase
19 significantly. So that shows she doesn't have what's
20 called anomia, which is a word-finding problem.

21 Her vocabulary was average on the IQ test,
22 and this test was a little bit lower. Sometimes that
23 occurs with anxiety, but it also sometimes occurs with
24 English as a second language.

1 Q I see. So what did that tell you about
2 Ms. Guerrero?

3 A It just said that her naming vocabulary was
4 just a little low.

5 Q I see. Okay.

6 And then I believe you talked about the
7 grooved pegboard and hand dynamometer. I just butchered
8 that.

9 What are those tests?

10 A The group pegboard and the hand dynamometer
11 are motor tests, and they're not only looking at small
12 motor ability, they're also looking at whether there's
13 some kind of weakness throughout the brain. So group
14 pegboard looks at dexterity and hand dynamometer looks at
15 grip strength.

16 Q And how did Ms. Guerrero test in these motor
17 and sensory tests?

18 A Is it possible I can look at the report one
19 more time for that?

20 Q Would that refresh your recollection?

21 A Yes, it would.

22 Q Okay. If you could please turn to Exhibit
23 CC. Take your time, and if it does refresh your
24 recollection, let me know.

1 A That does refresh my recollection.

2 Q Thank you.

3 How did Ms. Guerrero test on the motor,
4 sensory, and tactile areas?

5 A On the group pegboard, which measures
6 dexterity, she was average with her right hand and below
7 average with her left hand, so she had a left-hand
8 weakness on that test.

9 Q Is that normal?

10 A I want average for both, so no.

11 Q Is it normal to see a difference between left
12 and right hands?

13 A You should have a 10 percent difference.
14 That would still put you in the average range on both.
15 You're always 10 percent stronger on your dominant hand
16 if there's a preferential dominant hand, and so I do
17 expect that and that is put in the calculation, so --

18 Q But in this case was that larger than 10
19 percent?

20 A Yeah. She was much larger on -- her right
21 hand was significantly faster than her left hand, so her
22 left hand had relative weakness with that.

23 Q What does that indicate to you regarding
24 Ms. Guerrero?

1 A Well, in motor tests you want to look for a
2 pattern, and then you want that pattern to match up with
3 the rest of the testing. So one test all by itself
4 really isn't that meaningful.

5 So let's do the hand dynamometer.

6 Q Okay. Go for it.

7 A The hand diameter is a grip strength test to
8 see how strong you are. She was weak in both, and
9 there's lots of different reasons why people can be weak
10 in both. That can come from prenatal problems. It can
11 be inherited where whole families have weak grip
12 strengths. It can happen for a variety of reasons. And
13 she was, again, much better with her right hand than her
14 left hand, so we had two left-hand weaknesses.

15 Left hand goes to the right side of the
16 brain, which would be associated with a lower
17 visual-motor integration, lower nonverbal IQ. It
18 correlates with math issues, and it can sometimes
19 correlate with some mood issues as well.

20 Q I'd like to next turn to the Wisconsin Card
21 Sorting Test.

22 Can you please describe what that test
23 evaluates?

24 A That test actually measures what's called

1 executive functions. It specifically looks at reasoning,
2 your ability to transition, your ability to benefit from
3 feedback, as well as some issues with distractibility.

4 Q And how is that test administered or what
5 activities are done?

6 A There are cards, and she sorts the cards, and
7 every time she puts a card down, I tell her she's right
8 or she's wrong, and then she is supposed to take my
9 feedback to figure out where I want her to put the cards.
10 Then after she gets so many right, I change it, and then
11 she has to figure out what changed, and then she has to
12 kind of go with me, so...

13 Q When you say "cards," are we talking playing
14 cards? Do they have pictures?

15 A They have pictures of different geometric
16 shapes that are in different colors and have different
17 numbers of items on the cards.

18 Q So are you giving instructions on basically
19 how they're supposed to be sorted initially and then --

20 A No. All I tell her is I want her to match
21 them up based on what she thinks they match the best
22 with, and there's some base cards she's matching to. And
23 then I tell her every time she puts one down, I'm going
24 to tell her she's right or wrong, and she has to take my

1 feedback and try to figure it out.

2 Q How did Ms. Guerrero test in this area?

3 A She did really well on that. She was
4 absolutely fine on that test. She did well with the
5 transition, well with reasoning. She had no problems
6 benefiting from feedback.

7 Q What did that tell you about Ms. Guerrero
8 generally?

9 A That generally correlates -- that's the
10 middle frontal part of the brain. That generally
11 correlates with people who do have the ability to
12 understand cause and effect, understand that things go
13 together and see patterns in life.

14 Q So you didn't believe that she had any
15 difficulty with that causal effect thing based on this
16 test?

17 A In a situation like that test, she would not
18 have problems.

19 Q And then you also, I believe, indicated you
20 did the Delis-Kaplan Executive Function System Test, and
21 what does that evaluate?

22 A That's a large battery of executive function
23 tests that looks at different parts of the front.
24 There's actually about 25 tests in that test, and I pick

1 and choose based on the question and what I'm looking to
2 measure.

3 In this case I gave a visual transitioning
4 test, I gave a test that measures production, and I gave
5 an impulsivity test from that.

6 Q And is one of those tests the Trail Making
7 Test?

8 A Yes.

9 Q And what is a Trail Making Test?

10 A The Trail Making Test inadvertently looks at
11 processing speed, but it also looks at your ability to
12 transition. Again, it's a little bit of a visual working
13 memory. You have to switch between two different
14 stimuli, so you have to transition between two different
15 ideas.

16 Q Can you tell me how that test is
17 administered?

18 A There's four parts, and the first three are
19 just to get you basically used to the test. They're like
20 dot-to-dots, 1, 2, 3, A, B, C.

21 The only one I truly care about is the last
22 one, and you have to go 1A, 2B, 3C. It's like a
23 dot-to-dot. So you have to put them in sequence and
24 switch between the two.

1 Q I see.

2 And did you also do a Verbal Fluency Test,
3 you said?

4 A Yes.

5 Q What is a Verbal Fluency Test?

6 A A Verbal Fluency Test has three sections.
7 The first section, I give you a letter and you have to
8 come up with as many words as you can think of in one
9 minute, but there are rules and that's what causes issues
10 for people. You can't tell me names of people, places or
11 numbers, and so that obstacle causes people to have
12 trouble with production. The Category 1 doesn't have
13 those same rules, so it's a bigger pool of information.
14 And then the category switching, she has to switch
15 between two categories.

16 Q And then the Color Word Interference Test,
17 can you please describe what that is and what it
18 evaluates?

19 A That also has four sections. The first two
20 sections are just to get you accustomed to the task; the
21 last two are the ones I care about. It's basically a
22 test called the Stroop Test. It's the word "blue"
23 written in red ink, and you have to tell me the color of
24 the ink. On the harder inhibition switching one, if it's

1 in a box, you have to read the word. If it's not in the
2 box, you have to tell me the color of the word.

3 Q And then the Conners Continuance Performance
4 Test III, what's that evaluating? How is it
5 administered?

6 A That's one of the only tests that she does
7 independently. It's actually on a computer, and she has
8 to just hit a key every time she sees a letter unless
9 it's an X. She's not supposed to hit the key with the X.
10 It's actually in the hallway on purpose
11 because it's supposed to mimic a real-life situation as
12 much as my office can mimic a real-life situation, so
13 it's in the hallway where people walk by.

14 Q And how did Ms. Guerrero test on the Trail
15 Making Test, the Verbal Fluency Test, the color --

16 Well, let's start with the Trail Making Test.
17 How did she test on that?

18 A She did fine on the Trail Making Test. She
19 didn't have any trouble with transitions.

20 Q What did that indicate to you about
21 Ms. Guerrero?

22 A Again, she always did much better with visual
23 material on that, so she did okay with switching between
24 information.

1 Q And how did she test on the Verbal Fluency
2 Test?

3 A She did well on that. That test is
4 interesting. It tends to correlate with people who can
5 produce things. People who do poorly on that test have a
6 very difficult time continuing to do tasks when there's
7 some kind of obstacle, and she did fine on that test.

8 Q And when you talk about "produce things,"
9 what do you mean by "produce"?

10 A It correlates really highly with people who
11 can kind of keep working and sustaining their efforts in
12 tasks in life. A good example is for people who are in
13 school, they're the kind of person that they get a math
14 question they don't know, they stop working. Or they
15 stop working; they have a job and they stop working
16 because they can't get to work and they just give it up.

17 Q And Ms. Guerrero did well in that area, you
18 said?

19 A Yes, she did.

20 Q The Color Word Interference Test, how did
21 Ms. Guerrero test in that area?

22 A She did well in that as well.

23 Q And what did that indicate to you about
24 Ms. Guerrero?

1 A That she did not have -- at least in the
2 nonemotional sense, she didn't have issues with
3 impulsivity or inhibition on that test.

4 Q When would you see issues with impulsivity in
5 people?

6 A Almost everybody who sees me has impulsivity.

7 Q Would that relate possibly to drug or alcohol
8 abuse issues, or no?

9 A People who are impulsive tend to go towards
10 drug and alcohol use. So you can go the opposite
11 direction; people who use drugs can be much more
12 impulsive. But there's a lot of different reasons why
13 people are impulsive: ADHD, mental health issues.
14 Impulsivity comes with a lot of different problems and
15 can create a lot of difficulties with people's lives.

16 Q And Ms. Guerrero did not have impulsivity?

17 A Not on that test.

18 Q Thank you.

19 And then the Conners Continuous Performance
20 Test, how did Ms. Guerrero test in that area?

21 A She did have a problem on that test. She
22 had -- she had -- she matched up with a group of
23 attention problems. That was the only test she did
24 independently, and she had a hard time sustaining on that

1 test.

2 Q And when you say she did it independently,
3 what do you mean by that?

4 A On all the other tests I'm in front of her,
5 kind of encouraging her and, you know, giving her
6 feedback, and on that test she doesn't have that. It's
7 basically 15 minutes of her being completely at the end
8 of the hall without me.

9 Q And what did that indicate to you regarding
10 Ms. Guerrero?

11 A Well, that can be indicative of focus issues.
12 There are other things that can interfere with focus. As
13 I mentioned in the report, that can create that kind of
14 profile as well.

15 Q And then I think the final test that you did
16 was the Personality Assessment Inventory, I believe it's
17 called, and can you tell the Court how that is done?

18 A That is a questionnaire. Many people are
19 much more familiar with the Minnesota Multiphasic
20 Personality Inventory. It's a shorter version which I
21 typically use in my practice because my clients typically
22 can't do that long MMPI, and it basically
23 measures -- it's a general personality assessment looking
24 at all sorts of different areas of personality.

1 Q How is it administered?

2 A It's a questionnaire she does independently,
3 so --

4 Q So it's read by a person; they fill out the
5 information?

6 A Yes. So she would read it herself and she
7 would fill out the information. She was allowed to ask
8 questions.

9 Q And did Ms. Guerrero ask you any questions?

10 A She asked a large amount of questions.

11 Q And is that indicative of anything to you,
12 asking those questions?

13 A It did seem anxiety based. She was very
14 worried about how she was going to present, so she wanted
15 to make sure she was being honest.

16 Q And how did Ms. Guerrero test in this area?

17 A She -- on the personality questionnaire,
18 consistent with her interview, she reported quite a bit
19 of anxiety, some phobias, some fears, some past traumatic
20 events and things like that. So she definitely -- she
21 did a good job validity-wise on the test, but she
22 definitely was pretty consistent with interview.

23 Q And it seems as if this test is broken down
24 into validity and main scales and subscales.

1 Can you describe what the validity scales
2 are?

3 A The validity scales are looking to see
4 whether a person -- it basically has questions in there
5 to make sure you're paying attention, and then it also
6 has questions in there that most people don't answer in a
7 certain direction, to make sure that you're not answering
8 the bizarre or idiosyncratic -- in a weird way and so
9 that you're reading it. And in that sense it makes sure
10 that you're not being odd or if you have a good reading
11 level.

12 It also answers whether you answered too
13 positively or too negatively. Some people will be
14 defensive, especially in this situation, and some people
15 will be overly positive, and sometimes, for different
16 reasons, some people will be overly negative.

17 Q And how did Ms. Guerrero test on the validity
18 scales?

19 A Can I just glance?

20 Q If review of your report will refresh your
21 recollection, yes.

22 A Thanks.

23 Q And, again, that's Charlie Charlie.

24 THE COURT: Do you have any objection? This

1 is admitted, so if you need to review your report, just
2 say you're going to do that and what you're reviewing.

3 THE WITNESS: Thank you.

4 THE COURT: Because it's admitted, so there's
5 no reason why she shouldn't be able to --

6 THE WITNESS: It's hard to memorize the whole
7 thing.

8 THE COURT: It's hard for me to memorize
9 where I'm at.

10 THE WITNESS: Okay. That refreshed my
11 recollection.

12 BY MS. ELCANO:

13 Q Thank you.

14 How did Ms. Guerrero score on the validity
15 scale?

16 A She did very well on the validity section.
17 There was no indications that the report was invalid in
18 any manner.

19 Q And what about the main scale, what does that
20 look at?

21 A The main scales, there are actually a large
22 number of main scales looking at different ones. I
23 reported ones that are significant in her -- on hers,
24 which were anxiety based.

1 Q And the subscales?

2 A Subscales kind of explain why they're having
3 problems. For example, the anxiety scale has three
4 different subscales. People can be anxious because -- in
5 a physiological or body manner, people can feel anxiety
6 and people can think anxiety, and the subscales break
7 them up into those sections.

8 Q And was any applicable to Ms. Guerrero?

9 A Can I refresh my memory again? Sorry.

10 Q Yes.

11 A I thought I had that one down.

12 She did -- that refreshed my recollection.

13 Q And what area applied to Ms. Guerrero?

14 A She was elevated on phobias and fears. She
15 has a very high sense of fear and phobia that kind of
16 went into that.

17 If you look at the individual questions, some
18 things are subclinical. She also had indications of
19 different trauma situations as well.

20 Q And what did this tell you, this evaluation
21 of the Personality Assessment Inventory as to
22 Ms. Guerrero?

23 A Secondly, there was a second part where it
24 talked about her view of her interpersonal relationships,

1 and she felt she was very warm and friendly, which is how
2 she presented in interview.

3 Q I'm sorry. It is or is not?

4 A It is how she presented in interview.

5 And she also talked and the way she answered
6 the questions is she's a person who put a high value on
7 harmony, so she tends to avoid conflict even in the face
8 of the times that she should have conflict, And so she
9 might give in to people based on the fact she wants life
10 to be harmonious. So it did help.

11 Now, sometimes it's very different than
12 interview and sometimes it matches up with interview. In
13 this case it matched up very much so with interview.

14 Q So what did that tell you in regards to
15 Ms. Guerrero?

16 A That she was consistent in how she was
17 presenting and reporting.

18 MS. ELCANO: The Court's indulgence. I
19 apologize.

20 BY MS. ELCANO:

21 Q So what summary or diagnoses did you make
22 based upon all of this information as to Ms. Guerrero?

23 A Ms. Guerrero had three different diagnoses
24 that technically fall under the anxiety. I gave her

1 generalized anxiety with history of panic attacks, I gave
2 her obsessive-compulsive disorder, and I gave her
3 post-traumatic stress disorder based on her past
4 traumatic experiences. Whenever you have those three,
5 those tend to kind of marry together because they're all
6 kind of anxious-based diagnoses.

7 In addition to that, I gave her attention
8 deficit -- attention hyperactivity -- attention deficit
9 hyperactivity disorder, inattentive presentation, which
10 means she doesn't have the hyperactivity piece. She has
11 mostly the inattentive section.

12 She did present that way on the testing in
13 the sense that she was a little bit disorganized and she
14 had trouble with that one test, and sometimes she can be
15 a little scattered. Now, I do think that was secondary
16 to anxiety, that if the anxiety was clean, then you might
17 not have as much focus issue. So I gave it to her, but I
18 lowered it down, and I put it as very mild on that scale.

19 Q And --

20 A Oh, and I gave one more diagnosis. Sorry.

21 Dependent personality disorder was my last
22 diagnosis. Dependent personality disorder is a person
23 who relies on other people and fears rejection and wants
24 harmony and wants other people to make decisions.

1 Q So a dependent personality disorder is a
2 personality disorder as characterized in the old -- I'm
3 not asking the question right, sorry -- the old diagnosis
4 scale that was used before?

5 MR. ELKINS: Judge, I would object to the
6 reference to the DSM. It's no longer used.

7 MS. ELCANO: I was trying to clarify -- I
8 think that there was some confusion as to whether or not
9 there was a personality disorder made based on trial
10 statements, and I'm trying to clarify that the old DSM
11 index is different than the new DSM index, and they are
12 categorized differently.

13 THE COURT: What I gain from all of this is
14 she's relatively normal except she's anxious and she
15 lacks harmony.

16 THE WITNESS: Yes.

17 BY MS. ELCANO:

18 Q Was post-traumatic stress disorder at all an
19 issue?

20 A Yes.

21 Q Was there a depression diagnosis at all here?

22 A She did not indicate issues with depression.
23 She does have a little bit of a neuropsych profile that
24 could go that way, but there was no history reported to

1 me of significant depression, and she didn't present as
2 depressed at that time.

3 Q I see.

4 And the Court's indulgence.

5 You testified as to the reason why
6 Ms. Guerrero was referred to you based on what Social
7 Services indicated and to determine if there was some
8 sort of an issue related to understanding tasks and
9 whatnot.

10 What was your conclusion as to evaluating
11 that particular question?

12 A I do believe she can understand tasks. She
13 had average intelligence. She definitely could process
14 information.

15 It would behoove Social Services to present
16 in a better way because she sometimes has some trouble
17 with verbal instructions, including some trouble with
18 focus and some issues processing verbal, but she
19 definitely -- once it's processed, she definitely can
20 understand in an average manner.

21 Q When you say "present it in a better way,"
22 what do you mean by that?

23 A Everybody has strengths and weaknesses on how
24 they process information. If you were to walk by

1 Ms. Guerrero and just give her verbal information once,
2 you're taking a little bit of a chance that maybe all
3 that information doesn't get processed. So she would do
4 better if you had it in writing or you did some type of
5 demonstration.

6 Q Okay. You also talked about Ms. Guerrero's
7 dependency issues. Can you go into those a little bit
8 more?

9 A Yes. Ms. Guerrero, in her -- when she
10 reported her history and her life, she tends to be based
11 on the person that -- her life centers around the person
12 that's around her and kind of structure in her life. If
13 we even go back to when she was in foster care, she
14 reported she did very, very well at that last foster care
15 she was at because that apparently really structured her
16 life, and so she felt good, she did well, she went to
17 school. Then Social Services returned her to her mom,
18 and her mom was not that same person, her mom was more
19 chaotic, and then she had more difficulty because of
20 that.

21 Then she reported that she had different
22 boyfriends, significant others, and her life was kind of
23 based on them making decisions, them doing things, and
24 her life was chaotic based on whether they were chaotic.

1 Q So it would be fair to say that Ms. Guerrero
2 is impacted by her environment?

3 A Yes.

4 Q What recommendations did you make given this
5 diagnosis?

6 A I definitely recommended therapy. I felt
7 good strong therapy to help guide her and help her learn
8 to be independent in her decision-making, because she
9 does have good intelligence and she is capable of making
10 decisions.

11 I also suggested therapy might help her deal
12 with her anxiety systems as well as her post-traumatic
13 stress disorder symptoms as well as deal with her past,
14 and they might also help her provide a better structure
15 so that she can, you know, do the things that Social
16 Services wants her to do.

17 In addition to that, I suggested she might
18 seek a psychiatry evaluation to see if the
19 medication -- the treatment of choice for anxiety is
20 therapy, but you can also do therapy and medication, and
21 so I referred her to a psychiatrist as well.

22 I had also made some suggestions on how to
23 help her with her case plan and processing of
24 information, as well as her children. I gave her a

1 suggestion that she might get some structure for her
2 children because several of her children had some special
3 needs, and there's some agencies out there that can help
4 you with that.

5 Q Was dialectical behavioral therapy
6 recommended?

7 A I'll have to refresh my memory again. Sorry.
8 My memory is refreshed.

9 Q Did you recommend dialectical behaviorial
10 therapy?

11 A I did. I traditionally do with anxiety
12 disorders.

13 Q What is dialectical behavioral therapy?

14 A It is behavioral therapy that is also more
15 educational based. They tend to focus on relationships,
16 and they deal with things like fears of abandonment and
17 things like that, and for personality disorders it is --
18 the research suggests it is the most appropriate form of
19 therapy for that disorder.

20 Q When you indicated or recommended that
21 Ms. Guerrero undergo therapy, does that have to be with a
22 psychologist?

23 A You can do a psychologist, you can do a
24 marriage and family therapist, or you can do a social

1 worker.

2 Q And any of those individuals would have been
3 beneficial, in your opinion, for Ms. Guerrero to engage
4 in therapy with?

5 A Yes. If they were appropriate for her
6 issues.

7 Q And could, in your opinion, Ms. Guerrero's
8 diagnoses have been addressed by just therapy?

9 A The research does suggest you can tackle
10 these disorders with therapy only. It does take longer,
11 and it takes a longer time to get resolution as well as
12 to see any kind of effect, so yes.

13 Q In your opinion, if Ms. Guerrero had engaged
14 in therapy, would she likely have been able to overcome
15 these issues?

16 A If she had fully engaged in therapy and it
17 was an appropriate therapist, I would be hopeful.

18 Q To your knowledge, did Ms. Guerrero engage in
19 therapy?

20 MR. ELKINS: Objection.

21 THE COURT: It's just to her knowledge.

22 Yes or no?

23 THE WITNESS: I have no idea.

24 /////

1 BY MS. ELCANO:

2 Q If treatment were obtained and consistently
3 engaged in, would Ms. Guerrero have been able to
4 effectively -- pardon me, let me --

5 Did Ms. Guerrero receive a copy of this
6 report?

7 A Yes.

8 Q And in your report did you provide phone
9 numbers as well as locations where Ms. Guerrero could
10 obtain the psychiatric evaluations?

11 A I did provide the agencies and the phone
12 numbers.

13 Q Did you do the same for where Ms. Guerrero
14 could obtain therapy?

15 A I believe -- I don't believe -- I don't
16 believe I did. I'll have to look again. Sorry.

17 Q If you could look. Thank you.

18 A That refreshes my memory.

19 Q And did you?

20 A I did.

21 Q And did you also recommend that Ms. Guerrero
22 possibly see an epi- --

23 A Epitologist.

24 Q Thank you.

1 A Yes.

2 Q And did you provide a phone number for where
3 she could do that?

4 A I did.

5 Q And did you also request that Jackie complete
6 a Nevada PEP?

7 A That is called Nevada PEP, and that is not to
8 complete a PEP. It is an agency that helps her with her
9 children for special education and their school needs.
10 So I suggested she contact them just to help her with
11 that situation because that can be overwhelming for
12 everybody.

13 Q And did you also provide a phone number for
14 the Nevada PEP?

15 A I believe I did.

16 MS. ELCANO: I have no additional questions
17 at this juncture.

18 Does the Court need a copy of the résumé?

19 THE COURT: I don't think so, no, as long as
20 you guys have stipulated to her expertise. Sounds like
21 she knows what she's talking about.

22 Go ahead.

23 MR. ELKINS: Thank you, Judge.

24 /////

CROSS-EXAMINATION

BY MR. ELKINS:

Q Good morning.

A Good morning.

Q Just in the interest of full disclosure,
we've met before, have we not?

A Yes.

Q I was present in your office when you
reviewed the results of your evaluation with my client?

A Yes.

Q Dr. Aberasturi, is Jackie Guerrero's anxiety
imaginary?

A No.

Q Would you say that it's an excuse or a
crutch?

A No.

Q In fact, you determined, did you not, that
it's a condition of long standing; is that right?

A Yes.

Q That she suffers from an anxiety disorder,
general anxiety disorder with panic attacks?

A Yes.

Q And by the way, you can open the exhibit book
to your report and leave it open since -- I don't think

1 anybody objects because it's in evidence.

2 THE COURT: That's fine. Just leave it open
3 if you want.

4 THE WITNESS: If I need it, I'll pull it out.
5 By now I think I've got it memorized.

6 BY MR. ELKINS:

7 Q Okay. So as I understand it, among your
8 conclusions is that Ms. Guerrero sometimes has difficulty
9 organizing complex tasks; is that correct?

10 A Yes.

11 Q Do you ever do evaluations to determine if
12 people are employable?

13 A I would say that I do evaluation -- I don't
14 have that direct question. I have questions on whether
15 people are eligible for disability, which is kind of the
16 opposing side of that, so...

17 Q Well, can you just explain that a little bit
18 more to the Court? How do you do that?

19 A Frequently, if somebody comes to me and their
20 question is whether they're going to be eligible for
21 services, such as SSI, SSD, whatever you want to call it,
22 I will do, based on what kind of questions they're coming
23 to me with and what type of symptoms they're coming to me
24 with, I'll do a thorough neuropsych eval to see whether

1 there are issues that are inherent in that person that
2 might make them eligible for their services or not
3 eligible for those services.

4 If I do feel like they are work-ready, I do
5 recommend different services to try to get them to work.

6 Q The evaluations you do for work readiness, is
7 it similar to what you did with Ms. Guerrero?

8 A The bend of the recommendations would
9 probably have been different, so, again, it also depends
10 on what the client presents with.

11 Q So in terms of the data, though, and the
12 testing, would that have been essentially the same?

13 A In this case they would have been very
14 similar.

15 Q Okay.

16 A There might have been some life skills
17 testing on there that I don't have on this one.

18 Q So could you conclude, based upon the data
19 that you took here, whether or not Ms. Guerrero would be
20 employable?

21 MS. ELCANO: Objection. That's outside the
22 scope of direct.

23 THE COURT: He's just asking if she could.

24 THE WITNESS: I could.

1 BY MR. ELKINS:

2 Q Could you determine whether you would
3 recommend that she qualify for SSI?

4 A I could.

5 Q Given her profile, would you recommend her
6 for Social Security Insurance?

7 A I would have recommended her for Social
8 Security Insurance while she was seeking treatment.

9 Q In fact, part of the history was a story
10 about Motel 6.

11 Do you remember that?

12 A Yes.

13 Q Now, Ms. Guerrero had told you, I think, that
14 she had a history of employment at Motel 6 in Arizona.

15 Do you remember that?

16 A I do.

17 Q For like eight months, I think?

18 A Yes. And then she moved.

19 Q Right. And then I believe she told you she
20 was working at Motel 6 here in Reno.

21 A Yes.

22 Q And something occurred.

23 Do you recall what she said?

24 A She said she had a panic attack when she went

1 to work.

2 Q Do you recall the circumstances?

3 A I don't recall the circumstances.

4 Q Would that be consistent with her profile,
5 according to your testing?

6 A Yes.

7 Q And can you explain how that would work, in
8 other words, just dynamically how a panic attack would
9 interfere with your ability to continue working?

10 A Panic attacks are brief episodes where you
11 feel like you're going to die. Frequently you have heart
12 palpitations, you can't breathe, you can't move.
13 Frequently you get kind of frozen, have a hard time
14 moving on. They're very exhausting. So that definitely
15 could interfere with a person's ability to go to work,
16 yes.

17 Q You stated, I think, more than once in your
18 evaluation that Ms. Guerrero needs structure; is that
19 correct?

20 A She does better with structure.

21 Q Okay. So is it also true that you found she
22 relies on other people to help her with structure?

23 A Yes.

24 Q And is that what you mean by "dependent"?

1 A Yes.

2 Q So that would include a significant other,
3 presumably?

4 A Yes.

5 Q And when that is taken away from
6 Ms. Guerrero, according to your evaluation, what happens?

7 A Based on her history, she seeks another
8 person to rely on.

9 Q If she doesn't have a person, then what
10 happens?

11 A Based on the history she told me, I can't
12 think of an episode she didn't.

13 Q But you're a doctor, obviously. You've done
14 an evaluation. What would you predict if she didn't have
15 someone to assist her with structure?

16 MS. ELCANO: Objection. Calls for
17 speculation.

18 THE COURT: She's an expert, so objection
19 overruled.

20 THE WITNESS: Based on her testing, I think
21 at first she would be really anxious, and so she might
22 have some anxiety and might have some problems with her
23 decision-making. However, I think if she could get past
24 that, I do feel like she has the ability to stand on her

1 own two feet and make her own decisions.

2 BY MR. ELKINS:

3 Q So let's talk about her strengths.

4 Nothing wrong with her intelligence?

5 A No. Her intelligence was average.

6 Q Would you say she has a mental illness?

7 A I would say she has an emotional disability
8 with the anxiety disorder.

9 Q But does that qualify as a major mental
10 illness?

11 MS. ELCANO: Objection. What do we mean by
12 "mental illness"?

13 THE COURT: I tend to agree.

14 MR. ELKINS: I'll withdraw the question,
15 Judge.

16 BY MR. ELKINS:

17 Q But does it render her unable to function,
18 her anxiety disorder?

19 A Her anxiety disorder has proven in the past
20 that she's had difficulty functioning. It is a treatable
21 disorder.

22 Q Okay. Is it fair to say that in an
23 environment that she controls that she'll do better?

24 A I would say she would have to learn how to

1 control the situation because, based on what she told me,
2 she didn't have situations where she controlled them
3 well.

4 Q Did you ask her, for example, about managing
5 her children when they were living with her?

6 A No.

7 Q I'm just curious. This was a referral by
8 Social Services. You knew the children were in foster
9 care.

10 Is there any reason that you didn't go into
11 that area?

12 A I'm not parental capacity. I don't make
13 judgments in any sense of the word on whether she should
14 or shouldn't be a parent, so I don't go into the
15 parenting aspects.

16 Q Is there anything that you saw in your
17 evaluation that would prevent her from parenting?

18 A Again, I'm not parental capacity. I never
19 witnessed her with her children, so...

20 THE COURT: Parental what? Parental
21 capacity?

22 THE WITNESS: Parental capacity.

23 THE COURT: I didn't -- okay.

24 /////

1 BY MR. ELKINS:

2 Q I'll move on.

3 Can you describe for the Court what DBT
4 behavior is?

5 A Dialectical behavioral therapy.

6 MS. ELCANO: Objection. Asked and answered.
7 She already provided this information.

8 THE COURT: He gets to ask again. Go ahead.
9 Objection is overruled.

10 BY MR. ELKINS:

11 Q Yes, please. And if you could just answer it
12 in some detail so the judge has an idea of what's
13 required of a person engaging in dialectical behavioral
14 therapy.

15 A Dialectical behavioral therapy is behavioral
16 therapy that has an educational component to it. It
17 frequently focuses on relationships and fear of
18 abandonment and kind of being more independent and
19 standing on your own two feet. You can do it in
20 independent individual therapy. You can also do it with
21 individual and group therapy. There's often educational
22 components where you read things and respond to them.
23 It's a little more confrontive than traditional therapy
24 as well.

1 Q A person who engages in dialectical
2 behavioral therapy, do they need special education?

3 A A person who administers?

4 Q Yes.

5 A They need to be trained in that, yes.

6 Q And is there a special licensing for that?

7 A Not that I know of that. I believe you just
8 do training.

9 Q And can you tell me, are you familiar with
10 the training?

11 A Yes.

12 Q And can you just tell me how much training,
13 over what period of time, and just generally without, you
14 know -- not a lecture necessarily, but how much time and
15 effort goes into that?

16 A It seems to me the local one that does the
17 training for that, you go and you meet several times
18 throughout the year for educational. It seems like it's
19 several weekends and that they do kind of educational
20 parts of it, and then they do some training, and then
21 they do some supervision with it. The one that I am
22 aware of that kind of hangs out in the Reno-Las Vegas
23 area.

24 Q Okay. So is it fair to say that not every

1 social worker, therapist is qualified to do dialectical
2 behavioral therapy?

3 A That would be true.

4 Q Okay. You testified that Ms. Guerrero's
5 anxiety could be treated with medication; correct?

6 A Therapy and medication.

7 Q But you did say medication?

8 A Yes.

9 Q And I believe you testified on direct that
10 while therapy ultimately could reach the goal, that it
11 would be quicker with medication; is that right?

12 A Typically.

13 Q What kind of medication?

14 A I'm not a medical doctor.

15 Q So you're not familiar with what kinds of
16 medication are administered for anxiety?

17 A I am, but I don't prescribe medications.

18 Q I'm not asking you to prescribe. I'm just
19 asking you to describe what medications would be
20 appropriate.

21 MS. ELCANO: Objection. She's not a medical
22 doctor and can't say what kind of medication is
23 appropriate. I think she could answer as to her
24 knowledge of medications which have been provided

1 previously for anxiety.

2 THE COURT: Have her do that. That's fine.

3 MR. ELKINS: I'm happy with that. I'll
4 rephrase the question.

5 BY MR. ELKINS:

6 Q In your experience -- and let's talk about
7 your experience for a minute.

8 How long have you been a doctor of
9 neuropsychology?

10 A Since -- I think it's seven years.

11 Q And how many patients have you seen in that
12 time; would you say?

13 A A lot. A lot, a lot. Hundreds, maybe
14 thousands.

15 Q And how many of those patients have been
16 administered medication for anxiety?

17 A For anxiety?

18 Q Yes.

19 A Probably a large percentage.

20 Q Okay. And what medications generally are
21 prescribed?

22 A Well, the better ones get an SNRI,
23 serotonin-neuro- -- norepinephrine reuptake inhibitor, or
24 an SSRI to use as a maintenance medication to help with

1 anxiety.

2 Q Can you give me some of those brand names?

3 A Celexa, Lexapro, Effexor, Zoloft, Prozac,
4 Prilosec, those type of medications. Some doctors will
5 prescribe benzodiazepines at times.

6 Q And can we talk just a little bit more about
7 DBT, dialectical behavioral therapy? What kind of
8 commitment does it require on the part of the patient?

9 A The patient definitely has to participate in
10 therapy, has to go, and then he has to engage in the
11 process. They have to do -- frequently there's homework
12 and they have to do homework. I'm really happy if I get
13 80 percent of homework.

14 Q What does the homework consist of?

15 A Sometimes there's tasks they have to do.
16 Sometimes there's reading they have to do. Sometimes
17 they have to try different skills out on different people
18 and report back on how it goes.

19 Q So you said apparently you're trained to do
20 dialectical behavioral therapy?

21 A No, I am not.

22 Q I'm sorry. I thought I heard you say that.

23 And so how many hours a week would you say a
24 patient who is doing this would be required to devote to

1 that?

2 MS. ELCANO: Objection. She's just said
3 she's not trained in this area. Asking her about it, I
4 think it's outside the scope.

5 MR. ELKINS: Let me rephrase the question.

6 BY MR. ELKINS:

7 Q Although you're not trained yourself in
8 dialectical behavioral therapy, do you work with others
9 who do that?

10 A I do.

11 Q Are you generally familiar with the practice?

12 A I am.

13 Q Okay. Do you know how much time commitment
14 it requires on the part of a patient?

15 A That also depends on where you go for it
16 because different people have different philosophies.
17 Traditionally, it's at least two to three hours a week of
18 therapy. Traditionally, there's an individual and a
19 group. Sometimes the group is two hours. I believe
20 NNAMHS runs it where you do like three hours is my
21 understanding.

22 Q Okay. So is it fair to say that, compared to
23 other therapies, it's labor intensive by the patient?

24 A Yes.

1 Q So when you said in your testimony an
2 appropriate therapist, presumably you meant someone who's
3 trained in DBT?

4 A And I also like the client to be comfortable
5 with that person. Not every client matches up with every
6 therapist, and so I do feel that that's a part of things.

7 Q By the way, who paid for the evaluation?

8 A I believe it was paid for through the grant
9 through Children's Cabinet, which is technically through
10 Social Services, but I'm not sure how that money works.
11 I know the checks come from Children's Cabinet.

12 Q Okay. That answers my question.

13 Initially when you were approached to do this
14 evaluation, were you asked to do it through Amerigroup;
15 do you recall?

16 A I don't take Amerigroup, so if somebody
17 called and said that, I'd say no, and I don't recall that
18 happening.

19 THE COURT: Why don't people take Amerigroup?
20 Is that a problem or --

21 THE WITNESS: They don't like to pay.

22 THE COURT: And this is the government, the
23 federal government?

24 THE WITNESS: There are three Medicaid's,

1 there's Fee for Service, HPN, and Amerigroup, and Fee for
2 Service is by far the best. They still pay a little, but
3 they pay most of the time. HPN, I took -- I took eight
4 clients; I got paid on one. Amerigroup won't actually
5 talk to me about being on their panel.

6 THE COURT: How do people end up with
7 Amerigroup versus one of the others?

8 THE WITNESS: My understanding is, when you
9 walk up to get your Medicaid, they give you a list and
10 they say, "Pick one," and Amerigroup is first, and that
11 frequently adults are on either Amerigroup or HPN.

12 Fee for Service, you have to live rurally,
13 outside of Reno, Carson City, or you have to have a
14 significant emotional disorder. So it's tricky. People
15 don't know it. They think they're getting Medicaid.

16 THE COURT: I don't think anybody knows
17 anything about insurance. At least when I tried to sign
18 up for Medicare, Jesus, how does anybody understand this
19 stuff?

20 THE WITNESS: They have whole classes on how
21 to do Medicare.

22 THE COURT: Where do you take the class at?

23 THE WITNESS: There's one down at the
24 hospital that's excellent.

1 THE COURT: That's what I should do. I think
2 I'm settled now, but who knows.

3 MR. ELKINS: Thank you, Judge.

4 THE COURT: I'm sorry to interrupt. That's
5 come up --

6 MR. ELKINS: No, no. I'm listening very
7 carefully, Judge.

8 THE COURT: So, then, very few providers will
9 provide services if your insurance is Amerigroup?

10 THE WITNESS: Amerigroup is taken pretty
11 widely, in my understanding, in Las Vegas, from when I
12 was talking to someone in Las Vegas. The bigger places
13 are starting to take Amerigroup, but it's really
14 difficult to get paid from those companies. They
15 want -- like if I forgot to put a period on something,
16 they're just like, "You're done. No pay for you."

17 THE COURT: So it used to be -- I
18 was -- this is interesting because -- not in the context
19 of this case -- I was a welfare hearings officer for the
20 State of California when I was in law school, and they
21 had Medi-Cal --

22 THE WITNESS: They still do.

23 THE COURT: What you're saying is Medicaid in
24 Nevada, there's three different companies that insure,

1 the ones you just mentioned?

2 THE WITNESS: Yes.

3 THE COURT: So that's comparable to what
4 would be Medi-Cal in California?

5 THE WITNESS: Medi-Cal is much more similar
6 to Fee for Service, which most people take, Fee for
7 Service.

8 THE COURT: That question wasn't getting
9 answered in my mind, so I'm allowed to ask some
10 questions.

11 MR. ELKINS: I have no problem with that,
12 Judge.

13 THE COURT: Go ahead.

14 BY MR. ELKINS:

15 Q So, Dr. Aberasturi, Ms. Guerrero came to your
16 office on how many occasions?

17 A Four.

18 Q Was she on time?

19 A I don't recall.

20 Q You can look at your report if you'd like.
21 Do you think that would refresh your memory?

22 A I believe she was early because she was
23 nervous about being late. If I remember right, she was
24 sitting in my waiting room all the time waiting for me.

1 Q Okay. That's fine.

2 A Yes, she was. I do remember that now that

3 you bring it up.

4 Q Did she appear motivated?

5 A Oh, yes.

6 Q She was cooperative?

7 A Yes.

8 Q Was she hostile?

9 A No.

10 Q Given your profile and the incident at

11 Motel 6, would you say that it would be difficult for

12 Ms. Guerrero to maintain employment without treatment?

13 A Without treatment, based on how she presented

14 in my assessments, I would say yes.

15 Q And that's because of her difficulty with

16 sustained attention?

17 A That would be more about the anxiety issues.

18 Q You made specific recommendations to Social

19 Services about how they should deal with Ms. Guerrero; is

20 that correct?

21 A Yes.

22 Q And can you just tell me what specifically

23 those were?

24 A I did recommend that Social Services make

1 sure, when they tell her things, they do repetition and
2 give her written instructions or do some kind of
3 demonstration of some sort to make sure that she fully
4 processed the information.

5 Q So something like a coach?

6 A I do like coaches, yes.

7 Q What kind of coach would have been
8 appropriate?

9 A Well, the social worker can often act as a
10 coach. When they give her, like, tasks or her case plan
11 that she must do, they can help her walk through that
12 with her, role-play with her. That can definitely be
13 done. So you can definitely have a therapist do that
14 role. There's other agencies that provide workers that
15 do that role as well. Children's Cabinet provides some
16 roles, things like that.

17 Q Can you give me an example of what you were
18 recommending concretely?

19 A So let's say that they wanted Ms. Guerrero to
20 enroll her children in school. Rather than just saying,
21 "Go, go enroll your kids in school," they could go to the
22 website and they could show her the forms, they could
23 talk about the address, they could talk about how she's
24 going to get there, they could talk about what she needs

1 to bring with her that day, where she has that
2 information and kind of help her gather that. If that's
3 still problematic, they could have her bring in the
4 packet before she goes to school to show them. That
5 would be a good example of that.

6 Q Would the same thing apply to job
7 applications?

8 A Yes. Yes, I would say so.

9 Q Okay. Did anyone from Social Services ever
10 follow up with you to ask you what specifically you were
11 requesting them to do?

12 A Follow up, you mean after the report?

13 Q Yes.

14 A I don't believe so.

15 Can I preface that with, I get a lot of calls
16 and I don't recall.

17 Q That's fine. No, I understand.

18 Am I correct in your profile you did not see
19 any evidence of aggression? Correct?

20 A The only incident she reported of aggression
21 is there was some incident between her and -- I'm not
22 sure if she was married at the time -- for domestic
23 violence, where she said that her boyfriend person and
24 her argue and sometimes they get a little physical.

1 There was also a comment about when she was
2 under the age of 18 she had to do anger management
3 classes because she was angry at the father of her baby's
4 father, the father of the father.

5 Q And did she tell you that this person was
6 arrested and prosecuted?

7 MS. ELCANO: Objection. What person?

8 MR. ELKINS: The person you said she was
9 having conflict with.

10 THE WITNESS: I do believe the police picked
11 them up, but I don't know if they were cited or whatnot,
12 but I know that she mentioned that people called because
13 they were out in the open.

14 BY MR. ELKINS:

15 Q Okay. But you didn't find her to be
16 aggressive, right, in your profile?

17 A No.

18 Q Okay. And you didn't find her to be
19 impulsive?

20 A No.

21 Q You found her to be empathetic?

22 A Yes.

23 Q Nurturing?

24 A (No audible response.)

1 Q Let me rephrase that.

2 She had the capacity for nurturance based
3 upon her psychological profile?

4 A Well, I think empathetic is part of that.

5 I'm trying to think of a situation where
6 people would be nurturing in my office.

7 Q Finally, Dr. Aberasturi, given Ms. Guerrero's
8 profile, how would situational stressors contribute to
9 her ability to function?

10 A They definitely would. She has -- what the
11 testing shows is when things are unemotional, she has an
12 optimal level of functioning where she has some very good
13 strengths, but when a person gets anxious or the
14 situation gets chaotic or disorganized, then that
15 accentuates our problem. So she'll definitely be more
16 anxious in those situations, which will cause her more
17 trouble with those, which will cause her more trouble
18 processing information. So definitely those issues will
19 impede that problem.

20 Q So, for example, loss of housing --

21 A Yes.

22 Q -- would be impactful, making it more
23 difficult for her to function?

24 A Yes.

1 MR. ELKINS: Thank you, Judge.
2 THE COURT: Ms. Elcano, redirect?
3 MS. ELCANO: Thank you, Your Honor.
4 THE COURT: Do we want to take a break now?
5 THE WITNESS: What time is it?
6 THE COURT: 10:30.
7 THE WITNESS: Do we think we're going to be
8 done by 11:30?
9 MS. ELCANO: I just have a few quick
10 questions, Your Honor.
11 THE COURT: Go ahead.
12 MS. ELCANO: Thank you.
13
14 REDIRECT EXAMINATION
15 BY MS. ELCANO:
16 Q If you could turn to page --
17 THE COURT: I find that I optimize what's
18 going on in court when I'm consistent in giving breaks to
19 the attorneys, but on occasion that doesn't happen, so
20 that's fine.
21 Go ahead, Ms. Elcano.
22 THE WITNESS: I'm fine.
23 THE COURT: I'm being flip. Go ahead.
24 /////

1 BY MS. ELCANO:

2 Q If you could turn to page 14 of your report
3 and the third circle indentation, is it accurate to say
4 that you recommended therapy for Ms. Guerrero in this
5 case; correct?

6 A Yes.

7 Q And was that individual therapy that you
8 contemplated?

9 A Again, it depends on which provider you go
10 for. Some of them will do individual and group. Some of
11 them will do just individual.

12 Q And you recommended that DBT or dialectical
13 behavioral therapy was considered?

14 A Yes.

15 Q But you didn't necessarily recommend that it
16 was mandated in order to address these issues?

17 A I recommended it was a good idea.

18 Q Thank you.

19 You also referenced who paid for this
20 evaluation. Did that in any way impact your evaluation?

21 A No.

22 Q And did the fact that Social Services
23 presented a question to you because the children -- and
24 that the children were in care impact in any way your

1 evaluation?

2 A No. I do go through a system with the client
3 before they even start talking to me to explain to them
4 that someone else is paying for this and someone else is
5 getting this, and I very plainly state in these exact
6 words, "Don't tell me things you don't want Social
7 Services to know." I'm very clear on that.

8 So that does impact it in that sense, but, I
9 want people to be educated about the fact they're making
10 a decision to tell me things, so...

11 Q And the incident reported at Motel 6, that
12 was reported by Ms. Guerrero? You were not able to
13 verify that incident with anybody else; correct?

14 A Correct.

15 Q And then opposing counsel referenced that he
16 had met with you to discuss this report.

17 Who else was present during that discussion?

18 A I know Ms. Guerrero was present. I don't
19 recall if the social worker was there or not, so...

20 Q And would it surprise you to find out that
21 the social worker was there? Is it the practice that the
22 social worker normally comes?

23 A I would say on cases that are from Social
24 Services, about half the time they come. I always invite

1 them.

2 MR. ELKINS: Judge, I'm sorry. I'm prepared
3 to stipulate there was a social worker present, and I
4 believe it was Ms. Serriano (phonetic).

5 MS. ELCANO: Seronio is her name.

6 MR. ELKINS: Seronio. Sorry.

7 BY MS. ELCANO:

8 Q So I think you were asked a question, did
9 Social Services call and follow up with recommendations
10 regarding how they were supposed to communicate or you
11 recommended the social worker communicate with
12 Ms. Guerrero.

13 A After the report is the question
14 specifically?

15 Q Yes.

16 And is it fair to say that no recommendations
17 were specifically made to Social Services in your report
18 on how to communicate specifically with Mom?
19 Ms. Guerrero, I mean.

20 A I do have the thing about how they need to do
21 instructions and things. I think that was specific to
22 Social Services. And then my recommendations are
23 basically to Social Services to help with the case plan,
24 so...

1 Q Fair enough. Okay.

2 Would there be any reason for Social Services
3 to follow up with you?

4 A If they had a question. I try to be really
5 thorough, and I talk to social workers all the time, so
6 I'm not going to stake my life on that I haven't talked
7 to one, but...

8 Q Right.

9 MS. ELCANO: I have no further questions.
10 Thank you.

11 THE COURT: Mr. Elkins?

12 MR. ELKINS: Nothing further, Judge. Thank
13 you.

14 THE COURT: Is this witness excused, then?

15 MS. ELCANO: I will request she's excused,
16 Your Honor.

17 MR. ELKINS: She's free to go.

18 THE COURT: You're no longer subject to any
19 subpoenas.

20 We're in recess until five minutes to 11:00.

21 (A recess was taken.)

22 THE COURT: Case No. FV14-03897 in the matter
23 of the parental rights as to the Taylor children.
24 There's four of them named in the petition. The parties

1 are present with their counsel.

2 Ms. Elcano, your next witness.

3 MS. ELCANO: Amanda Buttacavoli.

4

5

AMANDA BUTTACAVOLI,

6

having been first duly sworn,

7

was examined and testified as follows:

8

9

DIRECT EXAMINATION

10 BY MS. ELCANO:

11 Q Good morning.

12 A Morning.

13 Q Could you please state and spell your name
14 for the court clerk?

15 A Amanda Buttacavoli, A-m-a-n-d-a
16 B-u-t-t-a-c-a-v-o-l-i.

17 THE COURT: That's got to be one of those
18 names you wish your family had changed when they
19 immigrated.

20 THE WITNESS: Or that I kept my maiden name.

21 BY MS. ELCANO:

22 Q Ms. Buttacavoli, what is your current
23 occupation?

24 A I'm a therapist.

1 Q And what kind of a therapist are you?

2 A Licensed clinical social worker.

3 Q And how long have you been employed in that
4 occupation?

5 A Since -- licensed, since 2002.

6 Q Are you in private practice or are you
7 employed by someone?

8 A I'm an independent contractor at Healing
9 Minds.

10 Q And how long have you been employed at
11 Healing Minds?

12 A Since January of 2014.

13 Q And where were you employed prior to that?

14 A Northern Nevada Medical Center on the Senior
15 Bridges unit.

16 Q Can you please provide your educational
17 background to the Court?

18 A I have a master's degree.

19 Q In?

20 A Social work.

21 Q And what typically do you do as a -- what are
22 your job responsibilities as an independent contractor
23 for Healing Minds?

24 A I assess, diagnose, and treat individuals,

1 families, couples and groups, providing them with
2 therapy.

3 Q Do you oversee or conduct group as well as
4 individual therapy?

5 A I do.

6 Q And as a licensed clinical social worker,
7 what are you able to do?

8 A Diagnose, assess, and treat individuals,
9 families, couples and groups who are seeking mental
10 health or substance abuse treatment.

11 Q Are you familiar with dialectical behavioral
12 therapy?

13 A Yes.

14 Q Are you certified to provide dialectical
15 behavioral therapy?

16 A Yes.

17 Q Can you please describe the certification
18 process?

19 A It was the continuing education units which
20 licensed clinical social workers are required to do. We
21 can choose different areas to get the certified education
22 units. For dialectical behavioral therapy as a
23 certification, I did an online course, which was the
24 equivalent of two days worth of a seminar.

1 Q Okay. Can you please describe to the Court
2 what dialectical behavioral therapy is?

3 A Dialectical behavioral therapy is an
4 evidence-based treatment model that was developed by
5 Marsha Linehan in order to assist individuals who, prior
6 to dialectical behavioral therapy, had been relatively
7 difficult to treat with quite -- with success, as it's
8 evidence based.

9 It's particularly helpful for individuals
10 diagnosed with borderline personality disorder,
11 individuals who have some behaviors which can cause them
12 to be somewhat treatment-resistant.

13 Q What does dialectical behavioral therapy
14 involve?

15 A Dialectical behavioral therapy involves
16 typically individual and group therapy, both occurring
17 weekly. However, the group therapy is often recommended
18 for clients to start that once a commitment has been
19 established. Once clients are engaged and committed to
20 attending regularly, then -- and also are expressing that
21 the treatment is helpful and that there's benefit, then
22 group therapy can then be initiated.

23 It's essentially a set of skills with four
24 categories. There's mindfulness, interpersonal

1 effectiveness, emotion regulation, and distress
2 tolerance.

3 So it's asked or requested, highly suggested,
4 that clients commit to one year because there are a lot
5 of skills to be learned in all of those categories, and
6 the recommendation is to review all of those skills twice
7 in the group setting and then reinforce individually with
8 the particular skills that are helpful for that
9 particular individual.

10 Q Would it be accurate to characterize some of
11 those skills as life skills?

12 A Sure. I mean, unfortunately, we don't often
13 have the opportunity to learn specific ways or healthy
14 ways of managing stress, and we often learn by observing
15 those around us. Not everyone has very healthy role
16 models for how to handle upsetting life events, and so,
17 sure, I guess they could be classified as life skills in
18 that way.

19 Q With dialectical behavioral therapy, do you
20 require individuals participating and engaging in that to
21 take any steps outside of the therapy?

22 A Sure. I mean, that's one of the most
23 difficult things about any kind of therapy in general is
24 that, as the therapist, we are only aware of what's

1 happening in our office and in the groups that we're
2 conducting. It's up to the individual to take what is
3 learned and apply it in between the sessions.

4 Q Have you had an occasion to become familiar
5 with Jackie Guerrero?

6 A Yes.

7 Q And in what capacity were you involved with
8 Ms. Guerrero?

9 A As her therapist.

10 Q And when did you first meet Ms. Guerrero?

11 A June 10th of 2015.

12 Q Who referred Ms. Guerrero to you?

13 A She reported that Child Protective Services
14 had referred her for treatment.

15 Q Do you know what type of treatment was --
16 Ms. Guerrero was referred to you for?

17 A She was referred for dialectical behavioral
18 therapy.

19 Q Did you complete an evaluation when
20 Ms. Guerrero was first referred to you?

21 A Yes.

22 Q And can you tell me what that evaluation
23 involves?

24 A It's a face-to-face assessment, asking

1 questions. It's a psychosocial assessment, asking the
2 client a variety of different questions about their life
3 up to now, and particularly focusing on their reason for
4 seeking treatment now and their current presentation of
5 symptoms.

6 Q What were your diagnoses as to Ms. Guerrero?

7 A She was diagnosed with a mood disorder,
8 otherwise specified, as well as borderline personality
9 disorder.

10 Q And what was the basis for the mood disorder?

11 A Mood disorder, because there was some
12 evidence in her reporting of some depressed mood that did
13 not meet full criteria for a major depressive disorder.
14 There wasn't enough severity of symptoms and length of
15 time, and it wasn't clear as to whether it was
16 situational, which is understandable, versus true
17 clinical depression. Therefore, I didn't want to
18 completely rule that out, so making sure to continue to
19 assess her level of depression as treatment went on.

20 Q What was the basis for the borderline
21 personality disorder?

22 A She met criteria based on five different
23 factors: A fear of abandonment; difficulty in
24 interpersonal relationships; changing emotionality; as

1 well as reported feelings of emptiness and transient
2 disconnectedness.

3 MR. ELKINS: I'm sorry. I didn't hear that
4 last one.

5 THE WITNESS: Transient disconnectedness.

6 BY MS. ELCANO:

7 Q What is transient disconnectedness?

8 A You can think about it -- most human beings
9 desire feeling connected with others.

10 THE COURT: Do we have any witnesses in the
11 room?

12 MS. ELCANO: I don't recognize --

13 MR. ELKINS: I think these are social worker
14 interns from my office, Judge, and attorneys from my
15 office and the social worker from my office.

16 THE COURT: Just making sure. Go ahead.

17 MR. ELKINS: None of whom will be testifying.

18 BY MS. ELCANO:

19 Q I'm sorry. I think we were talking about
20 transient disconnectedness.

21 A Yes. Most human beings desire connection,
22 and often in borderline personality disorder, individuals
23 desire connection from others but report a feeling of not
24 having a true connection with others.

1 There also can be periods of times where
2 individuals with borderline personality disorder are not
3 in the moment that they're in, they're distracted by
4 various thoughts and feelings and are not in touch with
5 exactly what's happening in the moment.

6 Q Were any other conclusions or diagnoses made?

7 A Not at that time, no.

8 Q Okay. And what were these diagnoses based
9 on?

10 A Based on the only thing that I can base it
11 on, the report of the client.

12 Q And was anxiety discussed?

13 A Yes. Ms. Guerrero did report that she felt
14 that she had struggled with anxiety. She stated that she
15 had been feeling anxious over the past two years since
16 her children were removed.

17 She described -- when I asked her to describe
18 her symptoms of anxiety, they weren't symptoms that one
19 would typically associate with an anxiety disorder or a
20 panic disorder. Therefore, I didn't diagnose her with
21 any anxiety-related diagnoses.

22 Q And what were the symptoms that Ms. Guerrero
23 provided?

24 A She talked about uncontrollable crying,

1 yelling, and pulling her own hair.

2 Q Were you aware that Ms. Guerrero had received
3 an evaluation from Dr. Suzanne Aberasturi?

4 A No.

5 Q Did Ms. Guerrero at any time inform you of
6 that?

7 A No. The only professional she mentioned to
8 me was Dori Orlich.

9 Q Thank you.

10 So how many times did you see Ms. Guerrero?

11 A Three.

12 Q And I'm sorry. When was the first time you
13 saw her? I think you said that, but I apologize.

14 A June 10, 2015.

15 Q And when was the second time?

16 A I don't -- June 19th, I believe. And then
17 the last time, I know, was June 25th. I did submit the
18 notes with the dates on them.

19 MR. ELKINS: Judge, I'd like the witness to
20 just answer the questions that she's asked, please.

21 THE COURT: I didn't notice she didn't.

22 MR. ELKINS: I just don't want the witness to
23 go beyond the scope of the question.

24 /////

1 BY MS. ELCANO:

2 Q Would review of the progress reports that
3 were provided to opposing counsel refresh your
4 recollection as to the dates that you saw Ms. Guerrero?

5 A Yes.

6 MS. ELCANO: Your Honor, I have copies of
7 three progress reports that were provided to me by
8 opposing counsel. They are not an exhibit. May I
9 approach?

10 THE COURT: Mark them for purposes of
11 identification.

12 MR. ELKINS: Judge, they are -- they are
13 Respondent's 6, I believe.

14 Is that what you're referring to? No? I'm
15 sorry. May I see what you're marking?

16 Thank you very much.

17 THE CLERK: Marked as one?

18 MS. ELCANO: Yes, that's fine with me.

19 Do you have an objection to having them
20 marked as one exhibit?

21 MR. ELKINS: No.

22 THE COURT: Are we going to admit them or
23 just mark them for purposes of identification?

24 MR. ELKINS: I have no objection to them

1 being admitted.

2 THE COURT: What's the number on them?

3 THE CLERK: It will be Petitioner's Exhibit
4 HH.

5 THE COURT: HH is admitted.

6 (Petitioner's Exhibit HH was marked and
7 admitted.)

8 MS. ELCANO: Thank you.

9 May I approach, the witness, Your Honor?

10 THE COURT: Go ahead.

11 MS. ELCANO: Thank you.

12 BY MS. ELCANO:

13 Q If you could review the documents and let me
14 know if these refresh your recollection.

15 Thank you.

16 So what were the three dates you saw
17 Ms. Guerrero?

18 A The 10th of June, the 19th, and the 25th.

19 Q And the first time you saw Ms. Guerrero on
20 June 10th, was that just your evaluation?

21 A Initial assessment, that's correct.

22 Q And --

23 MR. ELKINS: Excuse me for interrupting you.

24 I don't have HH in my binder.

1 MS. ELCANO: It wasn't one that was marked.
2 That's why we marked it, because --
3 MR. ELKINS: I have HH. Do you have another
4 copy of it?
5 MS. ELCANO: No. This is what you provided
6 to me.
7 MR. ELKINS: Okay. I didn't bring it to
8 court.
9 MS. ELCANO: I can make a copy of it at
10 lunch.
11 MR. ELKINS: Well, Judge, can I get a copy
12 because I don't have a copy here? I didn't --
13 THE COURT: How long will it take to make a
14 copy?
15 THE CLERK: I don't know where the copy
16 machine is over here.
17 MR. ELKINS: I think it's two or three pages.
18 THE COURT: Why don't you walk back and see
19 if they can copy it.
20 MR. ELKINS: Sorry, Judge.
21 THE WITNESS: I have a copy to save time.
22 MR. ELKINS: As long as I can look at it.
23 THE WITNESS: You can keep it.
24 MR. ELKINS: Now I feel much better. Thanks.

1 THE COURT: That's what we try to achieve,
2 that counsel feel better.

3 MR. ELKINS: Thank you, Judge.

4 BY MS. ELCANO:

5 Q The June 19th date, 2015, in what capacity
6 were you meeting with Ms. Guerrero?

7 A That was an individual therapy session.

8 Q And the June 25, 2015, date?

9 A Individual therapy session.

10 Q Thank you.

11 So based on your evaluation of Ms. Guerrero,
12 what treatment did you recommend?

13 A Individual therapy with continued assessment
14 of her ability to commit to ongoing therapy and, thus,
15 starting group therapy.

16 Q Would that have included the dialectical
17 behavioral therapy?

18 A Right. The individual therapy was using the
19 dialectical behavioral therapy model.

20 Q Thank you.

21 A But we were waiting to initiate to make
22 certain that that was the method of therapy that she
23 found most helpful.

24 Q And how often did you recommend that

1 Ms. Guerrero engage in individual therapy with you?

2 A Once a week.

3 Q And how many times or appointments were
4 scheduled with Ms. Guerrero?

5 A There was an initial session that was
6 scheduled prior to June 10th that she didn't show for.
7 She did phone the front office and reschedule that
8 appointment. She then came on the 10th. There were two
9 other sessions that were missed following the June 25th
10 appointment. It is our policy at Healing Minds to only
11 allow one no call/no show appointment.

12 Attendance was discussed with Ms. Guerrero
13 following a missed appointment, and then I'm unclear as
14 to what happened following June 25th.

15 Q So you reference two appointments after
16 June 25th that Ms. Guerrero did not attend.

17 Did she call and cancel and reschedule, or
18 were they no call/no shows?

19 A They were no call/no shows.

20 Q Thank you.

21 And was that concerning to you --

22 A Yes.

23 Q -- that she didn't show?

24 Why?

1 A It's always concerning when any patient
2 misses an appointment, concerning because she had
3 mentioned that she was coming to therapy in order to try
4 to reunify with her children, and it was certainly
5 concerning considering what potential consequences there
6 could be for her not following through.

7 Q How would you describe or characterize
8 Ms. Guerrero's level of engagement with you?

9 A Ms. Guerrero was very engaged during
10 individual sessions. She was punctual, she was
11 respectful, she was appropriate in all of the sessions.
12 She took notes, she asked appropriate questions, she
13 asked for clarification if there were things she didn't
14 understand. She demonstrated, you know, complete
15 engagement and willingness to participate fully.

16 Q Do you know why Ms. Guerrero no longer showed
17 up to her appointments?

18 A No. She had mentioned in one session, which
19 I referenced in a progress note, she was looking for
20 work, so -- but, you know, I never was given information
21 as to why she didn't come.

22 Q So was Ms. Guerrero effectively -- her case
23 closed with your office or discontinued or --

24 A Right. When people don't appear for a period

1 of time or have consecutive missed appointments, the
2 office reaches out, and then if no word is heard, then
3 they're essentially discharged from services.

4 Q At the time Ms. Guerrero was discharged, did
5 you believe that Ms. Guerrero still needed therapy?

6 A Sure. I think that based on her behavior and
7 engagement during the sessions, I think that she showed
8 that she's capable of benefiting provided she can make it
9 to the appointments.

10 Q During your interactions with Ms. Guerrero,
11 did she display any cognitive delays or difficulty
12 communicating with you?

13 A No.

14 Q To your knowledge was Ms. Guerrero employed
15 while she was meeting with you?

16 A No. She told me that she did not have a job
17 and that she was looking for work.

18 Q To your knowledge where did Ms. Guerrero
19 reside?

20 A She told me that she lived at CAAW, the
21 Committee to Aid Abused Women.

22 Q To your knowledge was Ms. Guerrero engaged in
23 a romantic relationship?

24 A It was unclear to me. She mentioned being

1 separated from the father of her children. She stated
2 that there was a man that was not child protective
3 service material. She told me that he -- that her social
4 worker told her that she felt that he was verbally
5 abusive. It was unclear to me as to whether she was
6 choosing to discontinue that relationship based on that
7 feedback or if she was still involved.

8 Q And did Ms. Guerrero ever identify this
9 person?

10 A She did not.

11 Q She didn't provide a first name or anything?

12 A No.

13 Q You indicated previously that you felt that
14 therapy would be beneficial to Ms. Guerrero.

15 What was the basis for that?

16 A She definitely identified being dissatisfied
17 with her symptoms and her ability to manage her emotions.
18 She talked about really wanting help with that, and she
19 was very engaged, as I said, in the sessions and believed
20 that she would benefit from continued work in developing
21 specific skills to manage the symptoms she was having.

22 Q You indicated that you did discuss the
23 attendance policy to Ms. Guerrero with her; correct?

24 A Yes.

1 Q And did you provide, at the time Ms. Guerrero
2 became a patient, any sort of written attendance policy
3 to her?

4 A Sure. We have consents for treatment and
5 also a policy agreement that patients sign.

6 Q To your knowledge did Ms. Guerrero seek
7 treatment elsewhere?

8 A Following -- you mean --

9 Q Following discharge from your office. I
10 apologize.

11 A I have no knowledge of that.

12 Q Thank you.

13 The Court's indulgence. I apologize.

14 MS. ELCANO: I have no further questions at
15 this time.

16 THE COURT: Mr. Elkins.

17 MR. ELKINS: Thank you, Judge.

18

19 CROSS-EXAMINATION

20 BY MR. ELKINS:

21 Q Good morning.

22 A Good morning.

23 Q Ms. Buttacavoli, let me just briefly review
24 your credentials.

1 You are a licensed social worker?

2 A A licensed clinical social worker.

3 Q Clinical social worker, okay.

4 And you say that you took an online course in
5 dialectical behavioral therapy; is that correct?

6 A That's correct.

7 Q When did you take that course?

8 A Over a year ago.

9 Q So when you say "over a year ago," do you
10 remember about when last year?

11 A The summer of last year.

12 Q Okay.

13 MR. ELKINS: Can you hear the floor, Judge?

14 THE COURT: Pardon me?

15 MR. ELKINS: The floor is squeaking.

16 BY MR. ELKINS:

17 Q I'm sorry.

18 A No problem.

19 Q And the online course took how long?

20 A They were recorded live seminar -- recorded,
21 you know, so it's not live, it's recorded from a live
22 seminar, so it's on your own. You can take as long as
23 you want. All together would be a couple days.

24 Q Okay. And when you completed that course,

1 did you engage in the practice of dialectical behavioral
2 therapy in the last 12 months?

3 A Yeah. What happens then -- what happened
4 then is I began -- we have a dialectical behavioral
5 therapy group that runs at Healing Minds, which I
6 conducted in conjunction with another therapist that had
7 been DBT trained for quite some time. We worked together
8 doing the groups, and then following a period of time I
9 began seeing individual patients as well as doing the
10 groups.

11 Q So when did the groups start after you did
12 the online seminar?

13 A I started in September of last year.

14 Q So about a year ago?

15 A Uh-huh.

16 Q And how long did you participate in the
17 groups?

18 A I still do them.

19 Q Before you began seeing individual clients?

20 A How long did I facilitate groups before I
21 started seeing --

22 Q Yes.

23 A It was a few months, probably.

24 Q So at the end of last year, about?

1 A Probably, yeah.

2 Q So it's really the last six months that
3 you've been seeing individual clients for dialectical
4 behavioral therapy; correct?

5 A Sure.

6 Q You found that Ms. Guerrero did not suffer
7 from post-traumatic stress disorder?

8 A I mentioned in my assessment that she
9 certainly experienced trauma, and there is no doubt about
10 that, multiple traumas. She did not, however,
11 acknowledge that she was suffering from any of the other
12 symptoms or criteria that are required for a diagnosis of
13 post-traumatic stress disorder.

14 So we can experience a trauma -- probably
15 most everyone in this room has experienced one trauma or
16 another -- but if we don't have reexperiencing or
17 hypervigilance, any other symptoms that are interrupting
18 our day-to-day life, we do not meet criteria for
19 post-traumatic stress.

20 Q So the answer is you did not diagnose her
21 with post-traumatic stress disorder?

22 A That is correct.

23 Q Can you tell me what the difference is
24 between a dependent personality disorder and a borderline

1 personality disorder?

2 A Sure. So dependent personality disorder is a
3 person who has often unhealthy attachment with other
4 individuals. They don't have a lot of the same
5 difficulty in interpersonal relationships that
6 individuals with borderline personality disorder do.
7 There's also not the push-pull sort of experience that
8 individuals with borderline personality disorder display.
9 They want connection, they fear abandonment, yet often
10 they act in a way that is difficult to get close to them.

11 Q Okay. With regard to Ms. Guerrero, she told
12 you she had been in a relationship with the father of her
13 children for 12 years; is that correct?

14 A That's correct. She did state that she was
15 separated currently.

16 Q That's a long-term relationship, isn't it, 12
17 years?

18 A Sure. She did state that it was on-again,
19 off-again, fraught with domestic violence, periods of
20 separation for him being incarcerated.

21 Q In other words, she told you that there had
22 been an incident of domestic violence and he was in jail;
23 is that correct?

24 A She did say that he was arrested for an

1 incident of domestic violence.

2 Q Did you take notes, by the way?

3 A When?

4 Q During your interview.

5 A Yes, I did.

6 Q Do you have your notes with you?

7 A I do not.

8 Q Okay.

9 A I have my assessment.

10 Q That's all right. I'm just asking if you
11 have your initial notes.

12 Did she talk about her children?

13 A She did.

14 Q And did she speak of them, like, approvingly
15 when she -- did she say anything bad about them?

16 A She didn't really describe them. She gave me
17 their names and ages. She talked to me about when the
18 older children were initially removed and then when the
19 younger one was removed.

20 Q Is it fair to say she was upset about her
21 children having been removed?

22 A She talked about feeling -- the only feelings
23 I recall her talking about were related to the younger
24 child and being anxious about not knowing how he was

1 being cared for.

2 Q Okay. Speaking of anxious, did you examine
3 her for anxiety symptoms?

4 A I did.

5 Q How did you do that?

6 A By asking her questions.

7 Q Okay. And your conclusion was that she did
8 not suffer from an anxiety disorder?

9 A No. I mean, you and I, we can all get
10 anxious. I'm anxious right now, but that doesn't mean I
11 meet criteria for an anxiety disorder.

12 Q That's kind of nonresponsive.

13 So my question is, did you find that she did
14 not meet the criteria for an anxiety disorder?

15 A Yes, I did.

16 Q Are you familiar with Dr. Suzanne Aberasturi?

17 A I know her name.

18 Q Do you know that she's a doctor of
19 neuropsychology?

20 A Yes.

21 Q Has anyone ever shown you an evaluation that
22 she did of Ms. Guerrero?

23 A No.

24 Q You never had the opportunity to review it?

1 A No. It has never been provided to me.

2 Q Do you think it would have affected your
3 evaluation of Ms. Guerrero if you had learned that
4 Dr. Aberasturi diagnosed her with having post-traumatic
5 stress disorder?

6 MS. ELCANO: Objection. Calls for
7 speculation.

8 THE COURT: She can answer yes or no.

9 THE WITNESS: What was that? I'm sorry. Can
10 you repeat your question?

11 BY MR. ELKINS:

12 Q Would it have affected your opinion if you
13 had been informed that Dr. Aberasturi, a doctor of
14 neuropsychology, diagnosed Ms. Guerrero with having
15 post-traumatic stress disorder?

16 MS. ELCANO: Your Honor, I don't think she's
17 rendered an opinion. I think she's rendered diagnoses.

18 MR. ELKINS: Judge, I'm not sure I understand
19 the distinction, but I'm happy to use the word
20 "diagnosis."

21 BY MR. ELKINS:

22 Q Would it have affected your diagnosis if you
23 had learned that?

24 A No.

1 Q Okay. Would it have affected your diagnosis
2 if you had learned that Dr. Aberasturi found that
3 Ms. Guerrero suffers from a generalized anxiety disorder
4 with panic attacks?

5 MS. ELCANO: Objection. Speculation.

6 THE COURT: Again, she can answer yes or no.

7 THE WITNESS: No.

8 BY MR. ELKINS:

9 Q So is it your testimony that if you had been
10 informed that a doctor of neuropsychology had found
11 various symptoms and diagnoses of Ms. Guerrero, that
12 would not have had any effect on your opinion?

13 MS. ELCANO: Objection. Badgering the
14 witness. These are both asked and answered.

15 THE COURT: She can answer the question.

16 THE WITNESS: Can I explain?

17 BY MR. ELKINS:

18 Q No. I'd like you to answer the question. It
19 would not have affected your diagnosis?

20 A I am required to diagnose patients based on
21 the symptoms that they're presenting to me at the time.

22 Q Okay.

23 A Patients can go to a variety of different
24 professionals, report various symptoms and get various

1 diagnoses as a result, so, no, in that sense it would
2 not.

3 Q Well, would you have been curious to know why
4 a doctor of neuropsychology --

5 A Sure. I'm always interested in reading
6 reports, but I still come to my own conclusions based on
7 what the patient is presenting to me.

8 Q I understand. Had you been provided with
9 that report, would it have assisted you in making your
10 diagnosis?

11 A Absolutely.

12 Q Okay. And do you think it might have
13 improved the quality of the diagnosis if you had had the
14 opportunity to --

15 A No. I stand behind my assessment, and I
16 believe that I provide my patients with extremely
17 high-quality work.

18 MR. ELKINS: I have no further questions.
19 Thank you.

20 THE COURT: Any redirect?

21 MS. ELCANO: I just have a few questions.

22 /////

23 /////

24 /////