

1 prior to trial. I did inform Mr. Elkins immediately that
2 I would be calling him as well.

3 THE COURT: This isn't like a criminal
4 information, I don't think. I think you can add as time
5 goes on.

6 DEKEN GOSSETT,
7 having been first duly sworn,
8 was examined and testified as follows:

9
10 DIRECT EXAMINATION

11 BY MS. ELCANO:

12 Q Good morning. Could you please state and
13 spell your name for the court?

14 A Deken, D-e-k-e-n, Gossett, G-o-s-s-e-t-t.

15 Q Mr. Gossett, what is your present employment
16 or occupation? Pardon me.

17 A I'm a marriage and family therapist intern
18 and I work with Clover Community Counseling.

19 Q Are you specifically employed there or are
20 you an independent contractor with Clover?

21 A I'm an independent contractor with Clover
22 Community Counseling.

23 Q Approximately how long have you been employed
24 there?

1 A About seven years.

2 Q What is your educational background?

3 A I have a master's degree in educational --
4 counseling and educational psychology.

5 Q What license or licenses do you currently
6 hold?

7 A I'm a licensed marriage and family therapist
8 intern under my supervisor, Mike Freitas.

9 Q Thank you. I apologize, I didn't mean to cut
10 you off there.

11 And what are you allowed to do as a marriage
12 and family therapist intern?

13 A We do psychotherapy as well as family systems
14 counseling.

15 Q What training have you undergone to become an
16 MFT? Sorry. The beeping was distracting to me.

17 What training have you undergone to become an
18 MFT intern?

19 A My master's degree, there was pre- and
20 postgraduate counseling hours. I've had over 3,000
21 postgraduate counseling hours as well as supervision and
22 postgraduate education, continuing education, in my
23 field.

24 Q Have you had occasion to become familiar with

1 Jackie Guerrero?

2 A Yes, ma'am.

3 Q And in what capacity have you been involved
4 with Ms. Guerrero?

5 A I was her therapist briefly.

6 Q When did you first become or start to treat
7 Ms. Guerrero?

8 A January 9, 2014.

9 Q I'm sorry. You said January 9th?

10 A January 9, 2014.

11 Q Thank you.

12 I'm sorry. If you can just close anything
13 you have open in front of you.

14 A I'm sorry, ma'am.

15 Q And who referred Ms. Guerrero to you for
16 treatment?

17 A It was a Washoe County referral through, I
18 believe, the Children's Cabinet.

19 Q And why was Ms. Guerrero referred to you?

20 A She was referred to me initially, I believe,
21 for counseling specifically related to depression
22 symptoms and anxiety symptoms.

23 Q Did you complete an evaluation of
24 Ms. Guerrero when you first met with her?

1 A The initial evaluation was difficult to
2 complete because she was --

3 MR. ELKINS: Objection, Judge.
4 Nonresponsive.

5 BY MS. ELCANO:

6 Q Did you complete?

7 A No.

8 Q And why not?

9 A She was standoffish and withdrawn and
10 difficult to answer questions.

11 Q But you proceeded -- well, approximately how
12 many times did you meet with Ms. Guerrero?

13 A Four times, ma'am.

14 Q And the first time you met with her, was that
15 specifically for the evaluation?

16 A It was not for an evaluation. It was for an
17 initial counseling session.

18 Q Okay.

19 A It was for the first session. We did -- of
20 course, any time that there's an initial counseling
21 session, we go over confidentiality, we try to build
22 rapport within that session, we look at what's the
23 presenting issue, and I generally work with the client
24 within the guidelines of what is present within the

1 moment.

2 At that time Ms. Guerrero was talking about
3 reasons why she was coming to counseling, why she was
4 being asked to come to counseling, and I was dealing
5 with -- we were trying to process, within that moment,
6 all of the extending factors that had brought her into
7 the office.

8 Q And then you met with Ms. Guerrero how many
9 subsequent times?

10 A Four times after, or three times after our
11 initial meeting.

12 Q Okay. And so you indicated that you tried to
13 do an evaluation of Ms. Guerrero.

14 Did you render any diagnoses or make any
15 diagnoses?

16 A She had previous diagnoses, ma'am. I did not
17 render any new diagnoses.

18 Q And -- I'm sorry?

19 A That's it.

20 Q And what was your understanding for why
21 Ms. Guerrero's children were in care?

22 MR. ELKINS: Objection.

23 THE WITNESS: My understanding --

24 MR. ELKINS: Objection. I don't know what

1 that is as to this counseling, so maybe -- my objection
2 is, I don't believe that's within the scope of his
3 expertise. It's actually to the form of the question, I
4 suppose, and could be rephrased.

5 THE COURT: You threw a whole bunch of them
6 out there this time.

7 Ask the question again.

8 MS. ELCANO: I was asking what the
9 understanding was of why Ms. Guerrero's children were in
10 care.

11 THE COURT: Did that have anything to do with
12 the counseling you provided?

13 THE WITNESS: No.

14 THE COURT: Okay.

15 MR. ELKINS: Thank you, Judge.

16 THE COURT: Objection sustained.

17 BY MS. ELCANO:

18 Q And how long were your sessions with
19 Ms. Guerrero?

20 A Fifty-minute sessions.

21 Q Five zero or one five? I'm sorry.

22 A Five zero, 50-minute.

23 Q And you said you met on January 9th. When
24 did you subsequently meet?

1 A I'm sorry, I don't understand.

2 Q If you have anything in front of you, can you
3 just close it and move it down? I just want to make sure
4 you're not looking at anything.

5 THE COURT: If you can't remember something
6 and you need to refer to your notes, ask if you can refer
7 to your notes, and then we can argue about whether you
8 can do that or not.

9 So go ahead.

10 MS. ELCANO: Thank you.

11 BY MS. ELCANO:

12 Q So you said you first met with Ms. Guerrero
13 on January 9th. When did you meet with her next?

14 A May I refer to my notes?

15 Q I have progress reports that you have
16 written --

17 MR. ELKINS: Judge, I object to the --

18 THE COURT: Does he need to refer to his
19 notes. If he does --

20 MS. ELCANO: I was just going to refresh
21 recollection based on progress reports, Your Honor.

22 MR. ELKINS: I just don't want the attorney
23 to testify.

24 MS. ELCANO: I was saying I have progress

1 notes. If they would refresh recollection, I could
2 provide the progress notes to him.

3 THE COURT: Okay.

4 MR. ELKINS: I would like, if I can, to see
5 what is being handed to the witness.

6 MS. ELCANO: Again, this is all discovery
7 that has been provided to me.

8 BY MS. ELCANO:

9 Q Would your progress report in January of 2014
10 refresh your recollection?

11 A Yes, ma'am.

12 MS. ELCANO: May I approach the witness?

13 THE COURT: You've got a copy?

14 MS. ELCANO: Yes.

15 THE COURT: Okay. Go ahead.

16 MS. ELCANO: Do you want it marked first?

17 THE COURT: You need to mark it, yes.

18 MS. ELCANO: May I approach the clerk?

19 THE COURT: Yes. It's probably good practice
20 to do that, but you don't have to do it with me, so --

21 MS. ELCANO: It's habit. I apologize.

22 THE COURT: It's probably a good habit to get
23 into, but if you don't, I'm not going to yell at you.

24 MS. ELCANO: Thank you. I might jump if you

1 did.

2 THE COURT: I yelled at the defense attorney
3 down in Pahrump, but he asked for it. I'll try not to
4 yell at you.

5 MR. ELKINS: It's hard to believe you yelled
6 at him, Judge.

7 THE COURT: This guy was -- it was in front
8 of a jury, and he was -- he objected, and I overruled the
9 objection, and he kept arguing with me. So finally I
10 told him to sit down and shut up, and I yelled it at him,
11 and I had a little discussion with him at the next
12 recess.

13 MR. ELKINS: I'm going to make a note of
14 that, Judge.

15 (Petitioner's Exhibit II was marked.)

16 BY MS. ELCANO:

17 Q If you could please review the note and let
18 me know if that does refresh your recollection.

19 THE COURT: That was marked as Exhibit II.

20 THE COURT: Okay.

21 THE WITNESS: The next date of service is --

22 BY MS. ELCANO:

23 Q Did that refresh your recollection?

24 A Yes.

1 Q May I take that back from you?

2 A Yes.

3 Q Thank you.

4 When did you see Ms. Guerrero next?

5 A The 16th, January 16th.

6 Q Of 2014?

7 A Yes, ma'am.

8 Q And when did you see Ms. Guerrero again?

9 A The 23rd.

10 Q And after that?

11 A The 30th.

12 Q And you did not see Ms. Guerrero or did you

13 see Ms. Guerrero again?

14 A No, ma'am.

15 Q Did Ms. Guerrero arrive on time for your

16 sessions that you saw her?

17 A Yes, ma'am.

18 Q And how would you characterize Ms. Guerrero's

19 demeanor during your sessions?

20 A Ms. Guerrero seemed very -- her posture was

21 slumped most of the time during the session. She seemed

22 withdrawn and resistant to certain questioning.

23 Q How would you characterize her level of

24 engagement?

1 A She would engage only when prompted. She was
2 never free with her thoughts or emotions regarding
3 matters of anxiety or depression.

4 Q And where specifically were you when you met
5 with Ms. Guerrero?

6 A My office.

7 Q Which is located?

8 A 131 Ryland Street, Reno, Nevada.

9 Q Had you reviewed the previous psychosocial
10 examination that had been done of Ms. Guerrero?

11 A No, ma'am, I never received the previous
12 psychosocial.

13 Q Okay. What information did Ms. Guerrero
14 provide to you regarding previous services being provided
15 for mental health?

16 A I knew that she had a past -- she had a
17 previous mental health diagnosis, a DSM diagnosis, based
18 on the voucher that was provided to me to start services
19 through the Children's Cabinet and Washoe County.

20 Q But in regards to what Ms. Guerrero informed
21 you of?

22 A Ms. Guerrero said that she had done
23 counseling prior and that it had worked for her
24 depression.

1 Q What issues or problems were you addressing
2 with Ms. Guerrero in these four sessions that you had?

3 A She came to sessions with anxiety issues and
4 seemed visually as well as expressed being anxious and
5 fearful of -- and suspicious of not only CPS, but
6 suspicious of counseling services as well.

7 Q And what treatment did you recommend based
8 upon those observations or those mental health issues
9 that you were addressing?

10 A I'm sorry. Just to add, she also did express
11 some depression and lack of energy. And to work within
12 that moment, we had looked at breathing exercises, we had
13 looked at trying to process through all of the outside
14 forces that placed her in the situation that she was
15 placed in, as well as she was assigned homework to try to
16 identify factors and causes of her depression or things
17 that triggered her depression, but she was resistant to
18 homework assignments.

19 Q Did she complete the homework assignments?

20 A No, ma'am, she did not.

21 Q And what -- sorry.

22 So you had indicated you last saw
23 Ms. Guerrero, I believe, on January 30th; correct?

24 A Yes, ma'am.

1 Q And at that time did you believe Ms. Guerrero
2 required additional therapy services?

3 A Yes, ma'am. And we had another appointment
4 established, I believe, for the 3rd of February, which
5 she no called/no showed.

6 Q And what did you do when Ms. Guerrero did not
7 show up for that?

8 A I continued to try to contact Ms. Guerrero.
9 I tried multiple attempts for multiple weeks, and she
10 never got back to me, so we issued a cancellation policy.
11 I believe that we issued it to -- because we couldn't get
12 ahold of Ms. Guerrero, we issued it to Rocio.

13 Q And during your interactions with
14 Ms. Guerrero, did she explain any cognitive delays or
15 difficulty communicating or understanding questions and
16 conversation?

17 A None that I was aware of.

18 Q To your knowledge, was Ms. Guerrero employed
19 while she was seeing you?

20 MR. ELKINS: Objection. Relevance.

21 MS. ELCANO: Your Honor, I think, obviously,
22 employment is relevant. There has been a lack of
23 sustaining employment, and I think --

24 THE COURT: Does that have anything to do

1 with your treatment, whether she was employed or not?

2 THE WITNESS: Actually, we did talk about her
3 employment, Your Honor.

4 MR. ELKINS: I'll withdraw the objection,
5 Your Honor.

6 THE COURT: Go ahead.

7 BY MS. ELCANO:

8 Q Was Ms. Guerrero employed?

9 A I do not believe so.

10 Q And what were your discussions with
11 Ms. Guerrero regarding employment?

12 A If she was looking for employment, talking
13 about how that generally made her feel in regards to her
14 depression, if that helped her depression when looking
15 for work, always just in regards to her symptoms of
16 depression or anxiety or any lack of anxiety for not
17 having work at the moment. I mean, increased
18 anxiety -- I'm sorry -- increased anxiety for not having
19 work.

20 Q And did you discuss with Ms. Guerrero whether
21 or not she was engaged in a relationship romantically
22 with anyone?

23 A She was engaged in -- I was aware that she
24 was engaged in a relationship with a Robert Taylor-Hunt,

1 I believe is his name, and they were working on their
2 relationship, although they were not living together at
3 the time I was seeing Mrs. Guerrero.

4 Q Was therapy beneficial to Ms. Guerrero?

5 A I think therapy is beneficial generally in
6 most cases, and it would have been beneficial for
7 Mrs. Guerrero. I'm not sure she was amenable to the
8 process with me.

9 Q And aside from the information you've already
10 provided, did you have any other observations of
11 Ms. Guerrero while working with her?

12 MR. ELKINS: Objection. Relevance. Any
13 other observation?

14 THE COURT: That's kind of a pretty
15 open-ended question.

16 MS. ELCANO: I don't think relevance
17 is -- well, anyway.

18 BY MS. ELCANO:

19 Q What were your other observations regarding
20 Ms. Guerrero's demeanor while working with her?

21 A As far as demeanor goes, it was difficult to
22 build a relationship with Mrs. Guerrero because there
23 wasn't a lot of consistency as far as appointments. So
24 we would make an appointment, and then we would, just in

1 that session, I think, begin to build a relationship, and
2 then there was a lapse between the appointment -- because
3 we had initially set up for twice a week, and she would
4 only show up once a week and seemed a little bit distant
5 within the appointment and somewhat noncompliant, just
6 with the therapeutic process. I believe she was just
7 suspicious of the process, with me suspicious of the
8 process.

9 Q Did Ms. Guerrero demonstrate an ability to
10 follow through when working with you?

11 MR. ELKINS: Objection. That's not a
12 therapeutic question, Judge. We know she went to four
13 sessions.

14 THE COURT: Yeah. He's already testified
15 that she didn't come back and she should have, so
16 that's -- that question has probably already been
17 answered.

18 BY MS. ELCANO:

19 Q Did you believe that continued therapy was
20 necessary at the time Ms. Guerrero stopped seeing you?

21 MR. ELKINS: Judge, I believe this question
22 has been asked and answered already.

23 THE COURT: Overruled.

24 MR. ELKINS: Thank you.

1 THE COURT: Answer the question.

2 THE WITNESS: Yes. She had -- she was -- had
3 not completed her goals.

4 BY MS. ELCANO:

5 Q What were those goals?

6 A To reduce anxiety and depression.

7 MS. ELCANO: If I may approach the witness
8 again with Exhibit II.

9 MR. ELKINS: May I see it? Is this the one
10 you've already shown him?

11 MS. ELCANO: II.

12 MR. ELKINS: Thank you.

13 BY MS. ELCANO:

14 Q Can you please identify that document to the
15 Court?

16 A This is a January progress report that I
17 submit to Social Services.

18 Q And you authored the report?

19 A Yes, ma'am.

20 Q Is it a true and accurate copy of your
21 progress report?

22 MR. ELKINS: Judge, I have no objection if
23 she wants to move it into evidence.

24 THE COURT: It's admitted.

1 (Petitioner's Exhibit II was admitted.)

2 MS. ELCANO: Thank you. If I may approach
3 and give it to the clerk, Your Honor.

4 THE COURT: Yes.

5 MS. ELCANO: I have no further questions.

6 MR. ELKINS: Thanks.

7

8 CROSS-EXAMINATION

9 BY MR. ELKINS:

10 Q How are you, Mr. Gossett?

11 A Good, sir.

12 Q Good. So Ms. Guerrero saw you for four
13 sessions, once a week from January 9th until January
14 30th; correct?

15 A Yes, sir.

16 Q Is there anything atypical about seeing a
17 therapist once a week?

18 A That's usually typical, sir.

19 Q When you engage in a therapeutic relationship
20 or -- I don't know if that's the correct language, I'm
21 sorry -- when you engage a new patient --

22 A Yes, sir.

23 Q -- is it important to establish a therapeutic
24 alliance?

1 A It is, sir.

2 Q Were you able to establish a therapeutic
3 alliance with Ms. Guerrero?

4 A No, sir.

5 Q Without a therapeutic alliance, would she
6 have benefited from this process?

7 A No, sir.

8 Q Okay. So would you say that you were an
9 appropriate therapist for Ms. Guerrero?

10 A I'm not sure -- I'm not sure I was an
11 appropriate therapist, but I'm not sure that I was not an
12 appropriate therapist either, sir.

13 Q It was a good fit?

14 A Not at that time, sir.

15 Q Okay. Given what happened in those four
16 weeks, is it possible you would have recommended she see
17 someone else?

18 A I would have continued to work with the
19 client, sir, hopefully to build a relationship.
20 Sometimes it takes longer than four sessions.

21 Q Okay. But you saw her because she was
22 referred by Children's Services; correct?

23 A That is correct.

24 Q Did she ask you to see her with

1 Mr. Hunt-Taylor, her significant other?

2 A I'm not sure. I think -- I'm not sure of
3 that one, but it might have been.

4 Q When you first saw her, Mr. Gossett, did you
5 take a history from her?

6 A I did take a history.

7 Q Did you know that she had just given birth on
8 January 1st?

9 A I did, sir.

10 Q Did you know that she had previously been
11 diagnosed or -- withdraw that.

12 Did she ever tell you she had been previously
13 diagnosed with postpartum depression?

14 A No, sir.

15 Q Did you consider postpartum depression?

16 A I did, sir.

17 Q What was your opinion with regard to that?

18 MS. ELCANO: Objection. He hasn't been
19 qualified as an expert witness.

20 MR. ELKINS: Let me rephrase the question.

21 THE COURT: He was giving her therapy, so the
22 objection is overruled.

23 Did you have an opinion about it?

24 THE WITNESS: My opinion was to just work

1 within the moment and to work with whatever the client is
2 giving me. Mrs. Guerrero was not very forthcoming with
3 much information within the session.

4 BY MR. ELKINS:

5 Q Are you familiar with postpartum depression?

6 A I am familiar with postpartum depression.

7 Q Did she present consistently with someone who
8 might have postpartum depression?

9 A I'm not -- I can't -- I can't say.

10 Q Had she just given birth?

11 A Yes.

12 Q Did she appear depressed?

13 A Yes, sir.

14 MR. ELKINS: No further questions.

15 THE COURT: You only saw her four times;
16 right?

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: Do you feel like you developed
19 any kind of a rapport with her at all?

20 THE WITNESS: Some rapport, yes, Your Honor,
21 some. And it seemed to be building at that point. I
22 mean, each session seemed to build some -- some more
23 rapport upon the next.

24 THE COURT: But you were disappointed that

1 she stopped?

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: You know, maybe I keep saying
4 that things are intuitive, but she just had a baby, there
5 are three other kids that had been taken away from her,
6 she's living with her father. I'd be depressed, too, and
7 I'd be anxious, too.

8 Am I wrong?

9 THE WITNESS: No, Your Honor.

10 THE COURT: Okay.

11 THE WITNESS: There was a lot going on for
12 her.

13 THE COURT: Okay.

14 THE WITNESS: I was actually worried for her.

15 THE COURT: Okay. Does anybody have any
16 questions from the questions I asked?

17 MS. ELCANO: I just have one follow-up
18 question, Your Honor.

19

20 REDIRECT EXAMINATION

21 BY MS. ELCANO:

22 Q Why were two sessions a week requested
23 initially versus one?

24 A I believe I had talked to Rocio about that, I

1 believe -- I'm not positive, but I think that --

2 Q So just before you answer, I don't want you
3 to provide any of the information that Ms. Lopez provided
4 to you, but why did you personally recommend twice-a-week
5 sessions?

6 A I think also after talking with -- to my
7 knowledge, I think after talking with Ms. Guerrero, she
8 was looking to fast-track the process, and her -- I
9 believe that her kids were in care at the moment that she
10 had started, so she was looking to get -- to move
11 forward.

12 MS. ELCANO: Okay. Thank you. I have no
13 further questions.

14 THE COURT: You may step down.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: I assume this witness is excused
17 permanently?

18 MS. ELCANO: Yes, Your Honor. Thank you for
19 clarifying.

20 MR. ELKINS: We don't have any other
21 questions.

22 THE COURT: Based on your demeanor, I assumed
23 that. I should have asked.

24 MR. ELKINS: No, no. That's fine.

1 THE COURT: I'm sorry.

2 MR. ELKINS: No, no. I can take care of
3 myself.

4 THE COURT: Do you have a short witness?
5 Whenever I say "a short witness," it's like some little
6 guy is going to walk in and testify. A brief witness, I
7 guess. I don't know if there is such a thing.

8 MS. ELCANO: I'm hopeful, if we can go a
9 little bit longer, I might be able to get through my next
10 witness quickly.

11 THE COURT: Okay. So we can either start
12 lunch now and come back at 1:15 or we can do lunch late
13 and --

14 MS. ELCANO: Were we only going to take an
15 hour-and-15-minute lunch.

16 THE COURT: We will.

17 How are we moving along? It appears to me at
18 this point in time we're going to need another day no
19 matter what, so if we have another day no matter what,
20 how are we moving along?

21 MS. ELCANO: I think I'll be fine with
22 another day. I do think I will get through some more
23 witnesses as we progress today. I think my longer
24 witnesses for the most part have testified.

1 MR. ELKINS: I have witnesses on tap for
2 tomorrow. I've pushed them back.

3 THE COURT: Do you want to push a little bit
4 in terms of not taking an hour and a half for lunch,
5 taking an hour and 15 minutes?

6 MR. ELKINS: I don't know if 15 minutes is
7 going to make a big difference, Judge. I'm all in favor
8 of lunch.

9 THE COURT: Do you want to call your witness
10 when you come back?

11 MS. ELCANO: I would prefer to push through.
12 I have people who have been waiting for hours.

13 THE COURT: How long is the next witness
14 going to be?

15 MS. ELCANO: If she's out there -- let me
16 just double-check if she's out there.

17 THE COURT: Okay.

18 MS. ELCANO: I'll call Belinda Boan.

19 /////

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BELINDA BOAN,
having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ELCANO:

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

A Belinda Boan. You need it spelled?

Q Please.

A B-e-l-i-n-d-a B-o-a-n.

Q And what is your present occupation,
Ms. Boan?

A I'm a family nurse practitioner.

Q How long have you been employed as a nurse
practitioner?

A I've been employed Sequel for six months now.

Q And where are you presently employed?

A Sequel Family Alliance.

Q Okay. And how long have you been licensed as
a nurse practitioner?

A Since 2013.

Q And can you please briefly describe your
educational background to the Court?

1 A I have a Bachelor of Science degree in
2 nursing. I got that back in 1992. And then I got my
3 master's degree in nursing in 2013, and that was family
4 nurse practitioner.

5 Q And as a licensed nurse practitioner, what
6 are you authorized to do?

7 A I'm authorized to do evaluations for
8 patients, follow-ups, and medication, and I'm in
9 collaborative practice with a psychiatrist.

10 Q So you can prescribe medication?

11 A Yes.

12 Q Does that include psychotropic medication?

13 A Yes.

14 Q And working at Sequel Alliance Family
15 Services, LLC, what are your job duties and
16 responsibilities?

17 A Okay. My duties are to do initial evals.
18 Those are like 50 minutes. In that 50 minutes I get as
19 much history as I can on the patient. And then the other
20 things I'm looking at are medical conditions. Some
21 patients may not be appropriate to prescribe psychotropic
22 medications to. I look at that.

23 Q If I can back up a little bit.

24 What specifically are you evaluating these

1 patients for?

2 A Mental health.

3 Q Thank you. I'm sorry. If you could
4 continue.

5 A Okay. And then if appropriate, then I
6 prescribe medications.

7 The first step for a lot of people is for
8 them to get therapy, and so a lot of -- almost 100
9 percent of patients I'm going to refer for therapy. Not
10 100 percent are going to get medication.

11 Q And have you conducted just an evaluation for
12 Jackie Guerrero?

13 A I did.

14 Q When, approximately, did you do so?

15 A That was April 9th of this year.

16 Q Okay. And what information was provided to
17 you by Ms. Guerrero?

18 A She briefly went through her history growing
19 up. You know, the other thing that I kind of wanted in
20 the record, if it's possible, is that this
21 testimony -- I've never been called before, and this
22 patient does have a patient-provider --

23 THE COURT: Confidentiality.

24 THE WITNESS: -- confidentiality here, and

1 so, you know, the only way that I could testify as to
2 details of her assessment is if it was court-ordered by
3 the judge here.

4 MS. ELCANO: I would request that given that
5 Ms. Boan did complete an evaluation for Ms. Guerrero,
6 that she be ordered to testify.

7 MR. ELKINS: Judge, may we have a brief
8 conference out of the presence of the witness?

9 THE COURT: Certainly.

10 You'll have to leave, ma'am, but it is
11 appropriate because of the confidentiality. I agree.

12 (The following proceedings were held outside
13 the presence of the witness.)

14 MR. ELKINS: Judge, we weren't provided with
15 a copy of the evaluation.

16 MS. ELCANO: I don't have a copy of the
17 evaluation.

18 MR. ELKINS: I'm going to object on grounds
19 of surprise.

20 MS. ELCANO: They were notified of the
21 witness, when we initially exchanged information as to
22 witnesses to be called, specifically that she would
23 provide testimony regarding the psychotropic medication
24 evaluation which was done.

1 While I did try to obtain it, I was informed
2 I couldn't get it because there has been no release
3 signed, so I wasn't able to obtain this. The person who
4 is able to obtain it is Ms. Guerrero.

5 MR. ELKINS: It could have been subpoenaed,
6 Judge, and, also, I was --

7 When was she put on the witness list?

8 MS. ELCANO: She was initially disclosed to
9 you as a witness.

10 MR. ELKINS: The witness list. When was she
11 put on the witness list?

12 MS. ELCANO: When we exchanged witness lists,
13 she was initially disclosed.

14 MR. ELKINS: Is she on your witness list,
15 Ms. Elcano?

16 MS. ELCANO: Are you asking in regards to a
17 trial statement or are you asking in regards to the
18 witness list that I initially provided to you at
19 disclosure of discovery.

20 MR. ELKINS: You sent me an e-mail with
21 people you might call, if that's what you're talking
22 about. We got no evaluation and she was not noticed to
23 me as someone you were calling.

24 MS. ELCANO: Yes, she was. She was also in

1 my trial statement.

2 THE COURT: She is in the trial statement.

3 MR. ELKINS: Is she, Judge? I'm sort of at a
4 disadvantage here because, without seeing the evaluation,
5 how do I know if I think that it's --

6 THE COURT: What are you expecting her to
7 testify to?

8 MS. ELCANO: Your Honor, one of the --

9 THE COURT: Make a proffer.

10 MS. ELCANO: It's my understanding that no
11 medication was recommended, no psychotropic medication.
12 I think one of the biggest or one of the things that has
13 been argued through this case is that Ms. Guerrero needs
14 medication and hasn't gotten it, and she did an
15 evaluation and she recommended that medication was not
16 appropriate.

17 MR. ELKINS: Judge, I have no problem,
18 without disclosing the evaluation, which I don't have,
19 having this RN, nurse practitioner, testify that she saw
20 this client and did not recommend medication.

21 MS. ELCANO: I think that she needs to
22 provide a basis for that recommendation.

23 THE COURT: If that's the evidence you want,
24 then all she has to do is say she evaluated her and

1 determined she didn't need medication.

2 MS. ELCANO: I think we have to have a basis
3 for why she didn't need medication. I think -- I can try
4 to go about that without getting specific information as
5 to what was disclosed.

6 MR. ELKINS: Judge, in effect she's being
7 asked to testify as an expert based on information I
8 don't have. It's a complete surprise to me that --

9 THE COURT: If all you're trying to prove is
10 she didn't -- that a nurse practitioner, who is more than
11 just a nurse -- they're between a nurse and a doctor,
12 and, actually, I'm usually more happy to see a nurse
13 practitioner than I am the damn doctor, because the nurse
14 practitioner will at least talk to you. The doctor, half
15 the time you feel like a cow that's getting led to
16 slaughter. So I actually place a lot of weight on the
17 nurse practitioner's testimony.

18 So she evaluated her and didn't feel she
19 needed to be prescribed any medication. If he stipulates
20 to that, do we need her testimony?

21 MS. ELCANO: I think, Your Honor, I would
22 like to have the basis for that, and I think that can be
23 provided without going into specifics as to what was
24 disclosed by Ms. Guerrero in the evaluation.

1 MR. ELKINS: Judge, I don't see how that's
2 possible, okay, and for me, at this juncture in the
3 middle of a trial, to have to review the evaluation,
4 maybe consult with another expert, go into the basis for
5 her opinion, you know --

6 THE COURT: I agree.

7 MS. ELCANO: Your Honor --

8 THE COURT: If it's stipulated --

9 MS. ELCANO: I would just like to make it
10 clear he was notified of this witness.

11 THE COURT: Why wasn't he given the
12 evaluation?

13 MS. ELCANO: Because I don't have it. I
14 don't have it.

15 THE COURT: Because she wouldn't give it to
16 you?

17 MS. ELCANO: She wouldn't sign a release so I
18 couldn't get a copy of the evaluation.

19 MR. ELKINS: I was never asked for my client
20 to sign a release. It could have been subpoenaed.

21 THE COURT: What would you expect her to say
22 about why she -- make a proffer of what you expect this
23 witness to testify.

24 MS. ELCANO: I think this witness could

1 testify that sufficient information was not provided by
2 Ms. Guerrero in order to merit the need for medication.

3 THE COURT: Well, if that's all her testimony
4 is, then would you stipulate to that?

5 MR. ELKINS: Judge, I have no problem with
6 the stipulation saying, based on an interview with my
7 client, this nurse practitioner did not recommend
8 medication.

9 THE COURT: But if she wasn't forthcoming
10 with information and that's why she wouldn't do it,
11 that's --

12 MR. ELKINS: Again, how do I know? There's
13 something. Obviously there was an evaluation. I don't
14 have it. I literally do not physically have it, Judge.
15 I'm not playing games. It's not a card trick.

16 THE COURT: I tell you what I'm going to do.
17 I'm going to bring her back in and tell her I want her to
18 provide a copy of the evaluation.

19 MR. ELKINS: Well, you know, it just comes
20 as --

21 THE COURT: We may have to subpoena her later
22 on. I don't know.

23 MR. ELKINS: It comes as a surprise to me,
24 Judge, and --

1 THE COURT: Well, we could do this, you
2 know -- we're not going to have this extra day for at
3 least -- it's not going to be next week, so it will be
4 the week after that.

5 So the stipulation at this point is that she
6 was not prescribed medication. You want to get into why
7 she wasn't. I'll order her to turn a copy of the
8 evaluation over to you and you.

9 So bring her back in. She doesn't need to
10 come all the way up here.

11 THE COURT: Ms. Boan, I wanted -- did you do
12 an evaluation, a written evaluation?

13 THE WITNESS: Yes.

14 THE COURT: I want you to provide a copy of
15 that to -- you don't have to come up. I want you to
16 provide a copy to Ms. Elcano and a copy to Mr. Elkins.
17 Okay? I'm ordering you to do that.

18 THE WITNESS: Okay.

19 THE COURT: And that's all we need right now
20 from you. It's doubtful -- I suspect you're not going to
21 have to come back.

22 THE WITNESS: You suspect what?

23 THE COURT: I suspect you're not going to
24 have to come back. It was -- like I was explaining to

1 them, I had a heart attack back in 2000, so I have to
2 go -- I have to go to a doctor every now and then, and
3 I'm always more happy when I get the nurse practitioner
4 than I am the doctor because at least you can talk to the
5 nurse practitioner.

6 So I don't want to waste your time. Doctors
7 I don't care about. I don't want to waste your time
8 because you're the one who's providing the treatment, but
9 I'm also ordering you to give the D.A. a copy of your
10 evaluation and Mr. Elkins.

11 Do you have it there with you?

12 THE WITNESS: I actually made two copies in
13 case, in case, and --

14 THE COURT: Give each one of them a copy.

15 MR. ELKINS: Judge, I'm going to ask this
16 witness be continued at least.

17 THE COURT: That's what we're going to do.

18 We may have to call you back in a week or
19 two. I hope not.

20 MS. ELCANO: Your Honor, to be clear --

21 THE COURT: It could be the report would be
22 enough.

23 MS. ELCANO: I did provide notice of this
24 witness to Mr. Elkins on August 12, 2015. Additionally,

1 her résumé was requested by Mr. Elkins subsequent to
2 then. I did inform him what she would be testifying to.

3 THE COURT: Maybe once she looks at the
4 report, you can admit it as an exhibit and it will have
5 everything that you --

6 MS. ELCANO: I just wanted that to be clear,
7 that that initial disclosure was made.

8 MR. ELKINS: Yes. Ms. Elcano included this
9 witness's name in an e-mail along with a number of
10 others.

11 THE COURT: Okay. We've got the reports.
12 Thank you, ma'am.

13 THE WITNESS: Thank you.

14 THE COURT: We're going to take our noon
15 recess now.

16 MS. ELCANO: Thank you, Your Honor.

17 Come back at 1:15.

18 (The midday recess was taken.)
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RENO, NEVADA; WEDNESDAY, SEPTEMBER 2, 2015; 1:15 P.M.

-oOo-

THE COURT: Let's go on the record, then.

This is Case No. FV14-03897 in the matter of the parental rights of the Taylor children as alleged in the petition. The parties are present with their counsel.

Ms. Elcano, next witness.

MR. ELKINS: Judge?

THE COURT: Mr. Elkins asked for some preliminary matters.

MR. ELKINS: First of all, we would like to excuse the witness Robert Hunt-Taylor who is subject to an order to produce. We feel that given the progression of the trial, that his testimony would be cumulative, and we don't want to delay the matter any further if necessary, the cumbersomeness, etcetera.

I have consulted with my client.

Do you agree with this?

THE RESPONDENT: Yes.

THE COURT: Do you agree, Ms. Elcano?

MS. ELCANO: Yes. I was not intending on

1 calling him. Thank you for asking, Your Honor.

2 MR. ELKINS: So we would ask that the order

3 to produce be vacated.

4 THE COURT: Do I need to sign something for

5 that?

6 THE CLERK: I will find out.

7 THE COURT: Given the stipulation by counsel

8 and the representations by the respondents --

9 I don't know -- are you, I guess, a

10 respondent.

11 MR. ELKINS: Respondent's counsel.

12 THE COURT: Close enough.

13 -- I'll set aside that order requiring

14 production.

15 MR. ELKINS: Thank you, Judge.

16 Secondly, initially I believed that

17 Ms. Carter would not testify, that she wasn't able to be

18 located. Apparently she has been located. Given that, I

19 will stipulate to the admissibility of her evaluation. I

20 have no objection if she's going to testify.

21 MS. ELCANO: It's AA, apple apple.

22 THE COURT: Apple apple is admitted.

23 (Petitioner's Exhibit AA was admitted.)

24 MR. ELKINS: In light of her availability to

1 lay the foundation and testify to the contents thereof, I
2 have no objection to its admission.

3 I think that's all, Judge. Thank you very
4 much.

5 THE COURT: Did you get anything straightened
6 out about Ms. Boan?

7 MR. ELKINS: Yes, Judge. I read that
8 document and an attached document. The attached document
9 is certainly not admissible under any circumstances, the
10 e-mail.

11 MS. ELCANO: I didn't receive an attached
12 document.

13 MR. ELKINS: I'll show you right here.

14 Also, Judge, given the contents, we would not
15 be stipulating to the admission of that document, and I
16 would have to cross-examine to make her --

17 THE COURT: As I understand, you've already
18 stipulated that, based on her evaluation, no medications
19 were prescribed.

20 MR. ELKINS: Yes. I have no problem with
21 that, Judge, but the document itself, I cannot stipulate
22 to its admission without cross-examination.

23 THE COURT: If you want to go into this later
24 on, you can, but if you have witnesses waiting, let's go

1 on with that.

2 MS. ELCANO: I'd call Brianna Carter, Your
3 Honor, and I will make the decision as to whether I am
4 going to re-call Ms. Boan.

5 THE COURT: I'll make an observation,
6 Ms. Elcano. Sometimes if it seems like I'm being hard on
7 you, this is just hardly one step below prosecuting a
8 criminal case, and the Supreme Court is really -- at
9 least the decisions I've seen that they've written in
10 regards to termination of parental rights, as you're
11 aware, they consider this as serious a civil case as
12 possible.

13 So to a limited degree I treat you like
14 you're a prosecutor, and I've always found that if you
15 bear the burden, sometimes me making sure that you do
16 that, when it gets up on appeal, ensures a better -- a
17 better chance that there's not going to be any problem.

18 MS. ELCANO: Your Honor, I haven't taken it
19 that way at all, but I appreciate the clarification.

20 MR. ELKINS: I think you're being too nice to
21 her, Judge.

22 THE COURT: Most people thought because I was
23 a prosecutor, when I got to be a judge, that I would be
24 hard on the defense attorneys, but the truth is that, if

1 you're not willing to accept the responsibility when you
2 bear the burden, you probably shouldn't be doing it in
3 the first place. And all the presumptions are against
4 the prosecutor. That's also something we have to accept.

5 So go ahead.

6
7 BRIANNA CARTER,
8 having been first duly sworn,
9 was examined and testified as follows:

10
11 DIRECT EXAMINATION

12 BY MS. ELCANO:

13 Q Good afternoon, Ms. Carter.

14 A Good afternoon.

15 Q Can you please state your name and spell your
16 name for the Court?

17 A Brianna Carter, it's B-r-i-a-n-n-a
18 C-a-r-t-e-r.

19 Q And, Ms. Carter, what is your present
20 occupation?

21 A I'm a psychotherapist.

22 Q And can you explain what a psychotherapist
23 is?

24 A We provide individual, couples, and family

1 therapy. We also assess and diagnose emotional and
2 mental health disorders.

3 Q And are you a licensed marriage and family
4 therapist?

5 A I am.

6 Q When did you become a licensed MFT?

7 A I became licensed in November 2014.

8 Q Who is your present employer?

9 A I am currently employed by Great Basin
10 Behavioral Health and Wellness.

11 Q Approximately how long have you been employed
12 there?

13 A Since January of this year.

14 Q And where were you employed prior to that?

15 A The Children's Cabinet.

16 Q And approximately how long were you employed
17 with the Children's Cabinet?

18 A Eight years.

19 Q And what were your duties and
20 responsibilities while employed at the Children's
21 Cabinet?

22 A I had various positions. I was a case
23 manager for a number of years, and then I was a marriage
24 and family therapist intern, so provided individual,

1 couples, and family therapy there.

2 Q When did you become an MFT or marriage and
3 family therapist intern?

4 A It would have been May of 2011.

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

7 A I have my bachelor's of science in human
8 development and family studies, and then my master's in
9 counseling/educational psychology.

10 Q I think you already answered one license that
11 you have, but what licenses do you carry?

12 A My license -- my only license is my marriage
13 and family therapy license.

14 Q Thank you.

15 Do you know Ms. Guerrero, Jackie Guerrero?

16 A Yes.

17 Q And when did you first meet Ms. Guerrero?

18 A I believe it was September 2013.

19 Q Could it also have been June of 2013?

20 A Possibly.

21 Q Okay. In June of 2013 were you an MFT
22 intern?

23 A I was.

24 Q And as an MFT intern, what are you licensed

1 to do?

2 A The same -- the same things that you do as an
3 MFT, a fully licensed MFT. You're just supervised by a
4 clinical supervisor, so someone that is a licensed MFT
5 and then also certified as a supervisor as well.

6 Q Who was your supervisor in June of 2013?

7 A Gail Faulstich.

8 THE COURT: How do you spell that?

9 THE WITNESS: First name is G-a-i-l, last
10 name F-a-u-l-i-c-h [sic].

11 BY MS. ELCANO:

12 Q Has Jacqueline Kleinedler -- I may have
13 completely mispronounced that -- ever been your
14 supervisor?

15 A She was also my supervisor. She was my
16 supervisor at the Children's Cabinet, but the person who
17 was supervising my clinical internship was Gail
18 Faulstich.

19 Q Got it.

20 Can you explain to the Court what a
21 psychosocial examination is?

22 A It's a structured clinical interview to
23 collect diagnostic information, and that information is
24 used to assess mental health -- mental and emotional

1 health, and then provide -- and then provide content to
2 planned treatment.

3 Q What steps are taken to complete a
4 psychosocial evaluation?

5 A Usually it's just a self-report from the
6 client. And so I'll ask the client about her history and
7 things like that, and so then you'd use the history and
8 any observations and signs and symptoms to complete the
9 assessment and diagnosis.

10 Q Approximately how long do you interview a
11 patient in order to render a psychosocial examination?

12 A It's generally hour to hour and a half.

13 Q And I think you've kind of answered this, but
14 just so we're all on the same page, what information is
15 taken into consideration to render your psychosocial
16 evaluation?

17 A So the client's history, medical history,
18 social, family history, any trauma history, the client's
19 self-report of the presenting situation, so their chief
20 complaint, and then the signs and symptoms and
21 observations.

22 Q Why is that information important?

23 A It's important to have a clear picture in
24 order to provide appropriate recommendations and planned

1 treatment services.

2 Q And did you complete a psychosocial
3 evaluation for Ms. Guerrero?

4 A I did.

5 Q And why was Ms. Guerrero referred to you for
6 an evaluation?

7 A She was referred by her social worker to kind
8 of assess what services she was engaged in and to
9 determine if they were appropriate and if she needed
10 further treatment.

11 Q Did you discuss with Ms. Guerrero where her
12 children were?

13 A I did.

14 Q And what information did she provide
15 regarding her children?

16 A She explained that they were in the care of
17 Washoe County Social Services.

18 Q What, if any, information did she provide for
19 the reason for that?

20 A She explained that her children were removed
21 because the social worker determined that she couldn't
22 meet their basic needs and because of their history with
23 the agency.

24 Q And who did you interview when conducting

1 Ms. Guerrero's psychosocial interview -- evaluation?

2 Pardon me.

3 A Just the client.

4 Q So just Ms. Guerrero?

5 A Yes.

6 Q Thank you.

7 And how many times did you meet with
8 Ms. Guerrero?

9 A Three times.

10 Q And what were each of those times used to do?

11 A The first meeting was to conduct the
12 interview for the psychosocial assessment, and then the
13 following two meetings were therapy sessions.

14 Q Okay. When did you first meet with
15 Ms. Guerrero?

16 A Well, I thought it had been in September of
17 2013, but it could have been in June. The first --

18 Q Would a review of your psychosocial
19 examination refresh your recollection?

20 A Yes, it would.

21 Q If you open the black binder in front of you
22 and turn to Exhibit AA -- not the white one there -- and
23 it's apple apple, so it's going to be closer to the end.

24 Just for identifying purposes, can you tell

1 me what that document is?

2 A The psychosocial evaluation.

3 Q Did you author that?

4 A I did.

5 Q So when did you first meet with Ms. Guerrero?

6 A It was June 24, 2013.

7 Q And when did you subsequently meet with

8 Ms. Guerrero for those two additional sessions?

9 A I believe that was in September.

10 Q Okay. Of what year?

11 A 2013.

12 Q How long, approximately, was your meeting

13 with Ms. Guerrero?

14 A To complete the psychosocial interview?

15 Q Correct. I apologize.

16 A An hour and a half.

17 Q It was, okay.

18 And where did you meet with Ms. Guerrero to

19 complete the psychosocial evaluation?

20 A I met with her in my office at the Children's

21 Cabinet.

22 Q And during your interview did Ms. Guerrero

23 demonstrate any cognitive delays or difficulty in

24 communicating or understanding you?

1 A That was something that I wanted to further
2 assess. I did have some concerns about some possible
3 cognitive delays, but I did not have enough time to fully
4 assess that in the interview.

5 Q What were those concerns?

6 A I just had minor concerns about her ability
7 to process some information.

8 Q And what was the basis for those concerns?

9 A Her ability to kind of follow the content of
10 the conversation and the response to my questions. I had
11 to rephrase a number of questions.

12 Q And how would you describe Ms. Guerrero's
13 level of engagement during the psychosocial evaluation?

14 A She was engaged. She was cooperative and
15 forthcoming with information.

16 Q The Court's indulgence for just a moment.
17 Turning to your evaluation, you have a
18 category identified as "Presenting Situation."

19 A Yes.

20 Q And can you just briefly summarize what
21 information was provided to you by Ms. Guerrero in terms
22 of the presenting situation?

23 A She was experiencing quite a bit of anxiety
24 triggered by the -- kind of the life circumstances she

1 was experiencing at the time. The removal of her
2 children was causing some anxiety. That was her chief
3 complaint was her children being separated from her.

4 Q Did Ms. Guerrero, throughout this evaluation,
5 report to you any prior mental health issues?

6 A She stated that she had been medicated for
7 depression during her adolescence, I believe, for a short
8 period of time. That was her only other mental health
9 history that I collected.

10 Q And if you could turn to the mental health
11 history -- I believe it's on page 2 -- did Ms. Guerrero
12 provide any information regarding anger issues?

13 A She did.

14 Q And can you tell the Court what that was?

15 A She reported she had a history of anger
16 issues starting in the adolescent years and then
17 continuing on to that present moment. She -- I asked her
18 about coping strategies she used to address her anger,
19 and she was able to report some coping strategies.

20 Q What were those coping strategies?

21 A She stated that she would sometimes yell into
22 a pillow, draw a picture and throw it away, or she would
23 clean the house to self-soothe.

24 Q And what information, if any, did

1 Ms. Guerrero provide to you regarding what she might
2 describe as panic attacks?

3 A She described physical sensations and
4 symptoms of panic attacks. She stated they were
5 generally triggered by thoughts of her separation from
6 her children.

7 Q And what were your clinical impressions of
8 Ms. Guerrero?

9 A She was cooperative during the interview.
10 She did appear to be anxious and restless during certain
11 parts of the interview. Her affect was congruent to the
12 situation and topics discussed. Her flow of thought and
13 language was normal. She demonstrated good insight
14 because she was -- had an ability to connect her anxiety
15 to thoughts that triggered that anxiety. And I evaluated
16 her judgment as fair as she understood and agreed for the
17 need for assessment services.

18 Q And what diagnoses, if any, did you render
19 regarding Ms. Guerrero?

20 A It was a provisional diagnosis, but it's a
21 panic attack disorder without agoraphobia.

22 Q What's agoraphobia?

23 A Agoraphobia is basically a fear about having
24 a panic attack in a public place and not being able to

1 escape that place, so it perpetuates the anxiety. So
2 this panic disorder diagnosis can be -- it has to be
3 specified with or without agoraphobia.

4 Q Now, you qualified this as a provisional
5 evaluation. Can you tell me what you mean by that?

6 A The provisional diagnosis was --

7 Q Or diagnosis, I'm sorry.

8 A -- given because I wanted to be able to get
9 to know Jackie a little bit better and further assess
10 other areas, and it's also -- I'm sorry to interrupt.

11 Q That's fine.

12 A I also provided a provisional diagnosis
13 because I wasn't able to -- wasn't able to gather enough
14 information to be completely confident in that diagnosis.

15 Q Did you schedule another appointment with
16 Ms. Guerrero in order to further evaluate?

17 A I did.

18 Q And when was that appointment scheduled for;
19 do you recall?

20 A I can't recall.

21 Q Do you recall if Ms. Guerrero attended that
22 appointment?

23 A She did.

24 Q Okay. And did that change your evaluation in

1 any way?

2 A It didn't at the time. I believe that
3 session was focused on kind of the things that she was
4 dealing with that week, kind of trying to de-escalate her
5 anxiety was my focus, and then I planned to follow up
6 with more questions about assessment and future sessions.

7 Q And obviously you've noted a lot of anxiety
8 throughout your report.

9 Why wasn't an anxiety disorder identified or
10 diagnosed here?

11 A She didn't meet -- her current presenting
12 symptoms didn't meet the full criteria for any other
13 anxiety-related disorders.

14 Q And why not?

15 A Well, she just didn't meet the criteria in
16 the Diagnostic and Statistical Manual of Mental
17 Disorders. For example, I looked at generalized anxiety
18 disorder as a differential diagnosis, and she didn't meet
19 the full criteria for that diagnosis.

20 Q What criteria didn't she meet, if you recall?

21 A I would have to reference my DSM, and it's a
22 DSM that I no longer use. It was a couple of years ago.

23 Q What were your recommendations for
24 Ms. Guerrero given the diagnosis of panic disorder

1 without agoraphobia?

2 A I recommended that Jackie attend individual
3 therapy and that she could possibly benefit from couples
4 therapy as well, and I think that was something that she
5 was interested in.

6 Q Did you have any indication of depression
7 when dealing or evaluating Ms. Guerrero?

8 A She had some symptoms of a depressed mood,
9 but, again, she didn't meet the full criteria for
10 depressive disorder.

11 Q And was any recommendation made as to
12 obtaining a psychiatric evaluation?

13 A I didn't at that time.

14 Q And why not?

15 A Well, my treatment recommendations for this
16 particular diagnosis, I thought therapy would have been a
17 sufficient treatment at that time, to try that first, and
18 then if that wasn't effective, then I would have referred
19 her to a psychiatrist for medication.

20 Q And did Ms. Guerrero participate in
21 individual therapy with you?

22 A I believe she attended two sessions after the
23 psychosocial interview was completed.

24 Q And do you know approximately when those

1 were?

2 A I believe they were in September.

3 Q Okay. And did Ms. Guerrero engage in
4 couples therapy?

5 A She did not.

6 Q And the two sessions in September, why were
7 they so long if your evaluation was done in June, until
8 September?

9 A And I apologize, I haven't been able to look
10 at the file completely to refresh my memory. I haven't
11 looked at my clinical notes since I no longer work at the
12 Children's Cabinet, but I believe I had a difficult time
13 scheduling Jackie. I remember she had to reschedule
14 numerous times.

15 Q Okay. And when you saw her again in
16 September of 2013, why didn't you see her more than just
17 those two sessions?

18 A From my recollection, I don't think she
19 followed through after that second session.

20 Q And do you recall whether or not you
21 attempted to reschedule with Ms. Guerrero?

22 A I did.

23 Q And was that successful?

24 A No.

1 Q Given those two sessions with Ms. Guerrero,
2 how would you describe her level of engagement?

3 A Again, she was cooperative, she was
4 forthcoming with information. She wasn't -- she stated
5 numerous times she was very motivated to get her children
6 back and to engage in services, but, you know, she wasn't
7 able to follow through with my recommendations.

8 Q And at the time you no longer were seeing
9 Ms. Guerrero, was it your belief that additional
10 counseling service -- was it your recommendation that
11 Ms. Guerrero continue to engage in counseling?

12 A Yes.

13 Q And what was the basis for that
14 recommendation?

15 A Because of her high level of anxiety.

16 Q To your knowledge, did Ms. Guerrero switch to
17 a different therapist?

18 A I know that she was referred to another
19 therapist, but I'm not sure of what the follow-through
20 was on that.

21 Q To your knowledge, who was that therapist, if
22 you recall?

23 A I believe she was referred to Patrick Tanner,
24 but I'm not sure.

1 Q At what agency?

2 A Clover Counseling.

3 MS. ELCANO: I have no further questions at
4 this time, Your Honor.

5

6 CROSS-EXAMINATION

7 BY MR. ELKINS:

8 Q Good afternoon.

9 A Good afternoon.

10 Q If you look at AA, which is your psychosocial
11 evaluation, you determined that Jackie began having
12 anxiety attacks starting at the age of 13; is that
13 correct?

14 A I see under her mental health history that
15 she had the diagnosis of depression at age of 13.

16 Q If I can draw your attention to the top of
17 the third page, second line.

18 A Oh, yes. Yes.

19 Q Okay. And she said, in fact, that they were
20 getting worse; is that correct?

21 A They were increasing in frequency, yes. I'm
22 not sure about intensity.

23 Q She reported panic attacks of two or three in
24 a six-month period; frequency has increased since April

1 of 2013?

2 A Yes.

3 Q And did she tell you what happened in April
4 of 2013?

5 A I believe that's when her children were
6 removed from her care.

7 Q And in your conclusion you state "does
8 not" -- it says "Jackie's anxiety and experience of panic
9 attacks does not currently meet the need for referral to
10 a physician to assess for medication."

11 Does that leave open the possibility that
12 subsequently there might be a recommendation for such a
13 referral?

14 A Yes. I thought that that might be a
15 possibility in the future.

16 Q Did you conduct any tests of Ms. Guerrero?

17 A No.

18 Q And you spent -- was it a 90-minute
19 interview?

20 A Yes.

21 MR. ELKINS: Judge, I'd like the witness to
22 be shown Respondent's 6, please. The white binder, I
23 don't know if it's there or not.

24 /////

1 BY MR. ELKINS:

2 Q Is there a white binder there?

3 A Yes.

4 Q Can you turn to No. 6?

5 A Yes.

6 Q Do you recognize that document?

7 A Yes.

8 Q And can you identify it for me?

9 A This is a copy of my clinical documentation.

10 Q And did you create this document?

11 A I did.

12 Q Would you look at all three pages.

13 A Yes.

14 Q And does a signature appear on this document?

15 A Yes.

16 Q And whose signature is that?

17 A Mine.

18 Q And the entries in the document, were they

19 made by you?

20 A They were.

21 Q And were they made at or about the time of

22 the events that you refer to there?

23 A Within a week, yes.

24 Q And this document belongs to what

1 organization?

2 A The Children's Cabinet.

3 Q And is it a document that you made in the
4 regular course of your business as an employee at the
5 Children's Cabinet?

6 MS. ELCANO: I have no objection to this
7 being entered into evidence.

8 MR. ELKINS: Thank you very much.

9 THE COURT: 6 is admitted. I guess it's
10 Respondent's 6.

11 MR. ELKINS: Respondent's 6. Thank you.

12 (Respondent's Exhibit 6 was admitted.)

13 BY MR. ELKINS:

14 Q Ms. Carter, looking at this document, which
15 is now 6 in evidence, you see the date of August 9, 2013?

16 A Yes.

17 Q Is that referring to the hour and a half you
18 spent with Ms. Guerrero doing the assessment where it
19 says "Intake"?

20 A It -- I'm sorry, I'm refreshing my memory.

21 Q Let me know when you're ready to answer.

22 A Okay. This appears to be, yes, the first
23 session of therapy. It looks like I completed the
24 psychosocial on a different date.

1 Q Okay. So August 9th would have been the
2 first therapy session after the psychosocial was
3 completed?

4 A It appears to be, yes.

5 Q Okay. And in that session Ms. Guerrero told
6 you she was uncomfortable attending the sessions alone
7 and would prefer to attend with her partner, Robert; is
8 that correct?

9 A That is correct.

10 Q But she wasn't asking for couples therapy,
11 though, was she?

12 A Not at this time.

13 Q So she simply wanted him to be present; is
14 that correct?

15 A She did request to have him present at the
16 interview.

17 Q Did that strike you as interesting from a
18 clinical perspective?

19 A It's not an uncommon request, but I thought
20 it was important for her to attend the interview alone.

21 Q Did that indicate to you the possibility of
22 some dependency issues?

23 A Yes. I had wondered if that was something
24 that we could work on in therapy.

1 Q She reported feeling overwhelmed; is that
2 correct?

3 A Yes.

4 Q And specifically by appointments and demands
5 of Washoe County Department of Social Services?

6 A She was overwhelmed by the amount of
7 appointments she had to attend, yes.

8 Q Which she reported as -- did she tell you how
9 frequently she had to do that?

10 A Not that I recall.

11 Q Okay. She was pregnant at the time; correct?

12 A Yes.

13 Q She saw you again about six days later.
14 Well, actually, withdrawn.

15 She came to see you, she came at the wrong
16 time, and then when you went to see her, she was no
17 longer present; is that right?

18 A Yes.

19 Q Then a couple days later she sends you an
20 e-mail requesting an appointment?

21 A Yes.

22 Q And you tried to find a time to do that?

23 A Yes.

24 Q And then you sent her an e-mail -- let's

1 see -- a few days later in an attempt to -- five days
2 later in an attempt to reschedule, and she did answer.

3 Well, when you say "E-mail to Jackie which
4 was returned," does that mean answered or bounced back?

5 A No. I was referring to bounced back.

6 Q So you didn't have a correct e-mail address;
7 correct?

8 A I'm not sure why it was returned to me.

9 Q It came back. All right.

10 Then on the 27th of August you attempted to
11 contact her and her phone was disconnected; correct?

12 A Yes.

13 Q Then on September 5th you sent her another
14 e-mail?

15 A Yes.

16 Q Then on the 20th you got a text from her
17 requesting an appointment; right?

18 A Yes.

19 Q And you texted her back and set up an
20 appointment for the following week.

21 Following, then, on the 23rd --

22 Would that be a Friday and a Monday; do you
23 know?

24 A I'm not sure.

1 Q Judge, begging your indulgence.

2 I would request that the Court take judicial
3 notice that September 20, 2013, was a Friday, and that
4 September 23, 2013, was a Monday. I have the calendar if
5 you'd like to see it.

6 THE COURT: That's fine. I'll take your word
7 for it.

8 BY MR. ELKINS:

9 Q So on that Monday after the Friday, you
10 texted her again, sent her an e-mail, and then two days
11 later you received a text from her scheduling a session
12 for October 3rd; correct?

13 A Yes.

14 Q And then she, in fact, appeared on October
15 3rd and she brought Robert with her?

16 A She did.

17 Q You hadn't actually authorized that; right?
18 She just sort of did that on her own?

19 A Yes.

20 Q And so then they agreed to, it looks like,
21 couples counseling?

22 A I think in this case it was -- I had Robert
23 sign the consent for services just to be in the session,
24 but I wasn't treating them as a couple at that point.

1 Q So she got her wish to have him present,
2 basically?

3 A Yes.

4 Q And then she saw you again a week later,
5 correct, October 10th?

6 A Yes.

7 Q And she reported that she and Robert, one of
8 the -- it appears that the session dealt with ways of
9 managing family finances as a joint effort; correct?

10 A It looks like that was some of the content
11 discussed, yes.

12 Q And there was apparently a disagreement over
13 how Robert prioritized money, according to her; is that
14 right?

15 A Yes.

16 Q Did she indicate to you what her means of
17 support was at that time?

18 A No.

19 Q Did she indicate how much income they had?

20 A I don't believe so.

21 Q Do you have any recollection of the
22 discussion about finances?

23 A It's generally documented. I don't have
24 specific information I can recall from two years ago,

1 but --

2 Q Okay.

3 A I believe Robert was working at the time or
4 trying to find work.

5 Q And we've established that Jackie was
6 pregnant?

7 A Yes.

8 Q Do you know when she was due?

9 A She didn't know how far along she was at that
10 point.

11 Q Subsequent attempts to reach Jackie were
12 unsuccessful because, it says, no working number,
13 disconnected numbers, and then finally in November, in
14 the middle of November, November 18th, there's an e-mail
15 from Jackie attempting to schedule an appointment; right?

16 A Yes.

17 Q Okay. And, again, about a week later, calls
18 and e-mails, and then it looks like on December 1st the
19 e-mail from and to Jackie attempting to schedule an
20 appointment; correct?

21 A Yes.

22 Q Same thing on the 3rd, you set an appointment
23 for December 10th, and then at that point you were told
24 that she was going to Clover Counseling; is that right?

1 A Yes.

2 Q Do you have any idea what was happening with
3 Jackie in December 2013 in terms of what was happening in
4 her life?

5 A I knew very little. I had some contact with
6 her social worker.

7 Q Okay. Given your diagnosis, if I were to
8 tell you that she was in the process of being evicted,
9 would you think that that would have contributed to her
10 condition?

11 MS. ELCANO: Objection. Calls for
12 speculation.

13 THE COURT: Go ahead and answer the question.

14 THE WITNESS: I'm sorry. Can you ask the
15 question again?

16 BY MR. ELKINS:

17 Q Sure. I apologize.

18 Being pregnant and being evicted, would that
19 have contributed -- would that have exacerbated her
20 anxiety?

21 A Yes, I think those two life circumstances
22 could increase her anxiety.

23 Q And the diagnosis that you gave her, panic
24 disorder, is that affected by one's circumstances, the

1 acuity of that condition?

2 A Yes.

3 Q And if a person with this condition is in
4 difficult circumstances, such as an eviction, being
5 pregnant, how would that affect the person? How would
6 that likely affect the person?

7 MS. ELCANO: Objection. Calls for
8 speculation.

9 THE COURT: Well, some of this, she's
10 diagnosing her and considering her mental condition, and
11 it's appropriate for her, I think, to give opinions on
12 why life circumstances affect those, so I'm going to
13 allow this line of questioning.

14 MS. ELCANO: My concern is that a particular
15 diagnosis was entered based on information provided by an
16 individual at the particular time, and to somehow suggest
17 that there were other things going on that were not
18 disclosed and somehow impact that diagnosis ends up
19 undermining the diagnosis as it was provided.

20 MR. ELKINS: Judge, I'm happy to explain the
21 reason for my question if you'd like.

22 THE COURT: Go ahead.

23 MR. ELKINS: Actually, I'm not asking about
24 the diagnosis. I'm assuming the validity of the

1 diagnosis. I'm asking, a person with that diagnosis, I'm
2 asking the expert whether she would be able to predict
3 how a person with a panic disorder would react under
4 those circumstances.

5 THE COURT: I'm going to allow the line of
6 questioning. If you want to make a record more, you
7 have, but I'm going to let the question be asked.

8 MS. ELCANO: First of all, she's not been
9 qualified as an expert, so --

10 THE COURT: Yeah, but, you know, all of these
11 people that are doing the diagnoses and all of that,
12 those are opinions that they're giving based upon their
13 expertise. So even though I haven't said, "You're an
14 expert," you guys are asking questions of these witnesses
15 that only an expert in what they do can answer.

16 So she's a marriage and family counselor, and
17 a diagnosis is an opinion that an expert gives in
18 marriage and family counseling. So when you say she
19 hasn't been qualified as an expert, as a practical matter
20 I can't make anybody an expert.

21 That business about "I would like you to
22 declare this witness an expert," I can't make somebody an
23 expert. They either are or aren't, and if they aren't,
24 then they can't -- they can't answer opinion questions.

1 If they are an expert, they can, and in this case she's
2 answering questions that are opinions based upon her
3 education and experience, so she can so opine as to
4 whether or not circumstances going on in her life -- and
5 like I say, some of this stuff is almost intuitive.

6 I would imagine, again -- and I've already
7 said it once -- if you're pregnant, getting evicted, you
8 don't need to be a marriage and family counselor to
9 expect that's going to cause you anxiety. If your kids
10 have been taken away from you, you don't have to be an
11 expert to understand that that's going to cause you
12 depression.

13 So go ahead, answer the question based upon
14 your education as a marriage and family counselor.

15 MR. ELKINS: Thank you, Judge. May I just
16 restate the question?

17 THE COURT: Go ahead.

18 MR. ELKINS: Thank you.

19 BY MR. ELKINS:

20 Q Her diagnosis is panic disorder; correct?

21 A Yes.

22 Q How are the circumstances that I just
23 described likely to affect a person with panic disorder
24 is my question.

1 A I think because of the diagnosis that's in
2 place, it makes her more vulnerable to stress, and so
3 those circumstances could exacerbate her anxiety, yes.

4 Q And would it make it harder for her to do
5 daily tasks?

6 A Yes, that could affect her functioning.

7 Q It would be harder for her to focus?

8 MS. ELCANO: Your Honor, I'm just going to
9 put a speculation objection to this whole line of
10 questioning for the record.

11 BY MR. ELKINS:

12 Q Would it be more difficult for her with this
13 disorder, under those circumstances, to focus than the
14 average person?

15 A Yes.

16 Q And would it be fair to say it could also
17 lead to difficulties keeping appointments?

18 A I mean, I think that's a complex -- there's
19 numerous factors that could contribute to her
20 follow-through, and that could be one of them, yes.

21 Q Would you say it would be a significant
22 factor?

23 A I think that question is hard to answer
24 because I wasn't sure at the time -- when the

1 rescheduling was going on, I'm not sure what was really
2 going on with Jackie.

3 Q I understand, but I'm just -- also, I'm
4 actually asking you sort of a general question.

5 A A person with panic diagnosis, panic
6 disorder, could make them do things like miss
7 appointments, not be able to focus, have a hard time with
8 daily tasks; is that right?

9 A I think it could contribute, yes.

10 Q And final question.

11 If that were the case, would you at that
12 point recommend an assessment for psychiatric-medical
13 intervention?

14 A Yes.

15 MR. ELKINS: No further questions.

16 THE COURT: Would it be accurate to say
17 you're uncomfortable in some of the answers you're giving
18 because you don't have enough information?

19 THE WITNESS: Yes.

20 THE COURT: Okay. Go ahead.

21

22 REDIRECT EXAMINATION

23 BY MS. ELCANO:

24 Q Could you please turn to the very last page

1 of your evaluation. So that's Exhibit AA, apple apple.

2 What did you note about Ms. Guerrero's
3 current levels of anxiety?

4 A I stated that she was experiencing normal
5 levels of anxiety considering life stressors which could
6 be decreased with the support of therapy.

7 Q And how would you describe situational
8 anxiety?

9 A Situational anxiety is usually triggered by a
10 specific thing, so it could be driving, for example.
11 That's a specific trigger that triggers the anxiety.

12 Q And you were just testifying regarding panic
13 disorders and were asked a question regarding whether or
14 not panic disorders could be exacerbated, basically, by
15 eviction and pregnancy and whether or not that could
16 contribute to a person not attending appointments or
17 follow-through with appointments.

18 Are there other things that could contribute
19 to a person not following through with appointments?

20 A Yes.

21 Q You, I believe, identified this as kind of a
22 tentative evaluation. I can't quite remember the word
23 you used.

24 A Provisional.

1 Q What was your goal in continuing the therapy
2 with Ms. Guerrero?

3 A Well, my goal was to provide individual
4 therapy to kind of increase her adaptive coping strategy
5 and to further assess treatment services.

6 Q Okay. And in your experience, when you
7 create an initial evaluation and you continue to see a
8 patient, does that evaluation change?

9 A It can.

10 Q And why would it change, typically?

11 A If you have -- sometimes -- sometimes
12 symptoms can change and so a different diagnosis would be
13 more appropriate, and so I will often change the
14 diagnosis during the course of treatment.

15 MS. ELCANO: I have no further questions.
16 Thank you.

17 THE WITNESS: Thank you.

18 THE COURT: Recross?

19 MR. ELKINS: No further questions.

20 THE COURT: Is this witness permanently
21 excused, then?

22 MS. ELCANO: I would request she is excused,
23 Your Honor. We have no further questions.

24 THE COURT: You may be excused from this

1 proceeding.

2 MS. ELCANO: Your Honor, if I could just pop
3 out and see who's there. I apologize.

4 THE COURT: Go ahead.

5 (A discussion was held off the record.)

6 (A recess was taken.)

7

8 JULIUS ROGINA, Ph.D.,

9 having been first duly sworn,

10 was examined and testified as follows:

11

12 DIRECT EXAMINATION

13 BY MS. ELCANO:

14 Q Good afternoon, Dr. Rogina.

15 Could you please state your name for the
16 Court?

17 A My name is Julius Rogina.

18 Q And could you spell your name?

19 A J-u-l-i-u-s R-o-g-i-n-a.

20 Q Dr Rogina, what is your current occupation?

21 A I'm a clinical psychologist, and I practice
22 both clinical and forensic.

23 Q And approximately how long have you been a
24 licensed clinical psychologist?

1 A About 30 years.

2 Q And can you please describe your -- are you
3 in private practice or employed by --

4 A At this time I'm in private practice, yes.

5 Q And can you please describe your practice to
6 the Court briefly, the types of patients you see, how
7 often?

8 A As I'm getting older, I work from 10:00 to
9 5:00, so maybe 50 percent of my load is individual
10 therapy and another 50 percent is evaluations of various
11 kinds.

12 Q And may I ask, if there's anything open in
13 front of you, that you just close it, or if you have any
14 files or anything that you brought, that you just set
15 them down so they're not in front of you. Thank you.

16 THE COURT: Is his report --

17 MR. ELKINS: It's stipulated, Judge.

18 MS. ELCANO: It's stipulated.

19 THE COURT: So he can look at that.

20 MS. ELCANO: I just wasn't sure what he
21 brought personally. I just would request it be put away.

22 I believe we have stipulated he is an expert
23 in the field of psychology, Your Honor.

24 MR. ELKINS: Yes, Judge.

1 BY MS. ELCANO:

2 Q And, I'm sorry, Dr Rogina. You indicated
3 that 50 percent of your practice is dedicated to
4 individual therapy, and what was the other percentage?

5 A Evaluations.

6 Q What kind of evaluations?

7 A Parental capacities, competence to stand
8 trial, criminal responsibility.

9 Q And do you complete psychological
10 evaluations?

11 A Yes.

12 Q And can you please describe to the Court,
13 what is a psychological evaluation?

14 A A psychological evaluation is an evaluation
15 where a psychologist looks at various domains of the
16 client: Functioning, how they handle their life, how
17 they relate to others, and how they function in the
18 community. And it has a number of domains that we need
19 to look at with offering opinion, conclusions,
20 suggestions.

21 Q And what steps do you take, typically, to
22 complete a psychological evaluation?

23 A Psychological evaluation usually is initiated
24 by someone who has referred a client to me with specific

1 referral questions. As I review that, then I or my
2 office makes an appointment with a client, we schedule an
3 initial visit, and then during that visit I decide where
4 I need to go in terms of what kind of instruments I need
5 to use to render to the best of my ability a clinical
6 opinion.

7 Q Who, typically, do you interview when
8 completing a psychological evaluation?

9 A Mostly it is the client herself or himself.
10 Sometimes I need collateral information, and that could
11 be a family member or Social Services, a social worker or
12 primary care physician.

13 Q I see. Approximately how long are your
14 interviews with the people that you are -- or the person
15 you are evaluating?

16 A The initial interview is about three -- two
17 and a half to three hours.

18 Q And are there subsequent interviews
19 typically?

20 A Correct.

21 Q And how long, approximately, are those?

22 A It depends how quickly you move through the
23 steps, but first I want to understand if the client
24 himself is aware why they are here, for what purpose.

1 It's not a treatment, it's evaluation, so it's very
2 crucial to make it clear why they're here, for the
3 purpose of evaluation.

4 The second step is getting a sense what kind
5 of understanding they have in terms of the problems that
6 are brought up during the evaluation, and then I move
7 into social history. When I got these data, by this time
8 I'm kind of thinking where I need to go in terms of
9 testing or psychological instruments I want to use.

10 And so that might be second or third meeting,
11 but the first meeting is mental status, getting a sense
12 of a client, their understanding, their understanding of
13 the limitations of confidentiality, and getting a global
14 sense of where we need to go in order to me to render an
15 opinion.

16 Q What specific areas are evaluated when
17 completing a psychological evaluation?

18 A In general, I want to look at cognitive
19 functioning of the person; I want to look at emotional
20 functioning of the person; I want to look at executive
21 functioning of a person, whether or not they can initiate
22 the task and complete it, and looking at their
23 personality structure and long-term functioning; and,
24 finally, I am looking at if there is some kind of

1 remediation, that things can change, because I need to
2 know in my opinion what the possibilities are if
3 something can change.

4 Q What does cognitive functioning cover?

5 A Cognitive functioning covers domains of
6 cognition that includes verbal abilities, perception
7 abilities, processing skills, which is -- there are a
8 number of instruments that nicely pull that together and
9 give me data on what level the client is functioning.

10 Q What would emotional functioning cover?

11 A Emotional functioning has to do with
12 emotional regulation. So all of us have emotions. It
13 depends how we regulate them. Some people have
14 difficulties. They cannot regulate it and just (audible
15 sound), they explode, and so I need to know why is this
16 happening, and so I use some instrument to help me
17 determine that.

18 Q And then you discussed executive functioning.
19 What does executive functioning address?

20 A Executive functioning. Basically, like, for
21 all of us, I'm given a task, I plan to execute a task, to
22 bring it to completion, and, of course, if there's no
23 flow of completing the task, we think of some
24 dysfunction.

1 Q And when you -- and I apologize if I just
2 wasn't quite understanding this -- but when you talk
3 about change, what are you referencing when you're
4 talking about change or the ability to change?

5 A If the referring question is asking
6 specifically whether or not this particular person could
7 stand trial, let's say, can that person be treated to
8 competence to stand trial.

9 Q I see, okay.

10 A Or in other situations it's always anchored
11 in the referring question.

12 Q And what conclusions or diagnoses can be
13 rendered from the completion of a psychological
14 evaluation?

15 A Would you kindly repeat that?

16 Q What conclusions or diagnoses can be
17 determined or made from the completion of a psychological
18 evaluation?

19 A So diagnostic impressions suggest
20 impressions. I know psychological evaluation is
21 probability statements in the direction. It's not like a
22 blood test. So the diagnosis is very similar in that
23 way, which means that it helps the clinician to gather
24 his thinking around the clusters that are universally

1 accepted in the professional community.

2 Q And are treatment recommendations typically
3 made based on the diagnoses when you complete a
4 psychological evaluation?

5 A Recommendations are made on the entire
6 psychological report, so it's the diagnosis and the
7 problems that we delineated earlier: The daily
8 functioning, employment, data from the instruments, all
9 of that helps the clinician to formulate the opinion and
10 recommendations.

11 Q Could you please describe to the Court what a
12 mental illness is?

13 A Most of us agree that mental illness is very
14 debilitating. Now, in what way is it debilitating? That
15 the person is not running with his or -- her or his group
16 of people, which means they're not able to function at
17 the level that usually adults of that age and gender and
18 socioeconomic status are functioning, so it has a
19 deviation.

20 Strictly speaking, mental illness is
21 debilitating the person to take care of one's self, to
22 function in the community on a reasonable level, and take
23 care of others.

24 Q And can you please describe to the Court what

1 an emotional illness is?

2 A Emotional illness is part of mental
3 dysfunctions cluster, so it has to do with moods and
4 emotions. So if somebody, as I said earlier, is not able
5 to regulate moods and these explosive things, well, we
6 think about, well, it has to do with mood regulation
7 disorder.

8 So what are moods? Well, it's kind of
9 complicated. It's part of neurobiology, part of
10 personality, and part of situation.

11 Q Dr. Rogina, did you complete a psychological
12 evaluation for Jacqueline Guerrero?

13 A I did.

14 Q And when, approximately, did you do so?

15 A She came to my office sometime in December of
16 2015. I dictated the report early January.

17 THE COURT: What year was that?

18 THE WITNESS: 2015.

19 MR. ELKINS: Excuse me, Judge. I'm sorry to
20 interrupt.

21 You created your report when?

22 MS. ELCANO: I'm sorry. If there's a
23 question --

24 MR. ELKINS: I just don't want there to be

1 confusion.

2 THE COURT: Just the dates. He said -- and
3 we'll get him to repeat -- what dates --

4 BY MS. ELCANO:

5 Q If you could take the black binder in front
6 of you and open it to Exhibit BB, so it it's boy boy.
7 It's at the very end.

8 A Did you say "E"?

9 Q No, B as in boy; boy boy. There's lots of
10 them. Sorry.

11 Do you recognize that document?

12 A Excuse me?

13 Q Do you recognize that document?

14 A Yes.

15 Q And what is that document?

16 A This is my psychological evaluation,
17 independent psychological evaluation of Jacqueline
18 Guerrero for Washoe County Department of Social Services.

19 Q And it has a date kind of three-quarters of
20 the way down that's identified as "DOE."

21 What does "DOE" stand for?

22 A Date of evaluation.

23 Q And what date is there?

24 A It is 12/5/2014.

1 Q And what is the date of report?

2 A The date of report is January 4, 2015.

3 Q Thank you.

4 And who referred Ms. Guerrero to you for the
5 completion of an evaluation?

6 A She was referred by Malia Seronio. I suppose
7 that's her caseworker from Washoe County Department of
8 Social Services.

9 Q Thank you. And why was Ms. Guerrero referred
10 to you for the completion of a psychological evaluation?

11 A So in her referral question on page No. 2, I
12 quote why she was referred.

13 Q Can you just briefly describe that to the
14 Court?

15 A That in the past Jacqueline was accessed for
16 depression and anxiety and struggled with panic attacks,
17 and now they wanted to know -- the Social Services wanted
18 to know and understand how her cognitive mental health
19 concerns may impact her ability to parent her children.

20 Q And what assessment procedures were
21 implemented to evaluate Ms. Guerrero?

22 A I'm not sure if everybody is aware, but I was
23 not able to procure psychological testing because she
24 never returned. We made about four attempts for her to

1 come back to complete, but she didn't show up.

2 Q So how many times did you meet with
3 Ms. Guerrero?

4 A One time.

5 Q And approximately how long was that meeting
6 with Ms. Guerrero?

7 A Approximately three hours.

8 Q And what occurred during that meeting?

9 A So during that meeting we did mental status
10 exam, we did -- I performed a trail, comprehensive Trail
11 Making Test, gathered social history, I gathered her
12 understanding of the problems and just got a sense of her
13 functioning in the world.

14 Q And what presenting problems did Ms. Guerrero
15 identify to you?

16 A She -- if you look at page 2, she was aware
17 that she does have anxiety disorder issue. She was
18 talking about medical issues that she has. She was
19 talking about being unemployed and that her boyfriend
20 supports her, and she was very concerned about her four
21 children who were in the foster care.

22 Q Thank you.

23 When you met with Ms. Guerrero, where did
24 this meeting occur?

1 A It occurred in my office on Ridge Street.

2 Q During your interview with Ms. Guerrero, did
3 she demonstrate any cognitive delays or difficulties
4 communicating with you or understanding you?

5 A There was no impression of severe cognitive
6 impairments, yet in her responding there was slowness.
7 Processing to me came as a question that I needed to
8 chase by administering Wechsler Adult Intelligence Scale,
9 but we never did that.

10 Q And why didn't you do that?

11 A Because she didn't show up.

12 Q Thank you.

13 How would you describe Ms. Guerrero's level
14 of engagement during the one meeting you had with her?

15 A Well, she was personable and friendly. There
16 was no doubt in my mind that she cared for her children,
17 that she wanted to be with them. She was, during that
18 first meeting, cooperative to the degree that she was
19 responding to questioning in a logical, rational, however
20 disorganized way.

21 Q And I'm sorry. I was jumping around a little
22 bit.

23 If I went back to the biographical profile
24 you created in your report, what information did

1 Ms. Guerrero report regarding her employment history?

2 A Well, if you look at the second paragraph
3 there, she said, "I want to talk about it. I can only
4 tell you it was not pretty, but it was okay." So that's
5 as much as I got.

6 Q I'm sorry. Where were you referencing?

7 A Excuse me?

8 Q Where were you referencing right there?

9 A It's page 3, Biographical Profile, paragraph
10 2.

11 Q That was the response regarding employment
12 history, where she had worked?

13 A Just growing up.

14 Q Oh, okay. In regards to her current
15 employment situation, what information did she provide?

16 A If you go a little bit further down, I
17 remember she said she was unemployed and that her
18 boyfriend was supporting her, and then she talked
19 about that she did hold several jobs on a very limited
20 basis.

21 Q And did Ms. Guerrero provide any information
22 regarding whether or not she was fired from jobs or quit
23 her jobs or --

24 A What I recall in one employment, she quit

1 because money was missing from the cashier, if I recall
2 correctly, and she didn't want to go, which is not
3 unusual for people with anxiety, to just leave.

4 Q And on page 4, the last paragraph right
5 before Behavioral Observations, what did you note
6 regarding her career and jobs?

7 A Well, it was spotty career. There was no
8 vocational trend in her reporting. She was basically
9 making ends meet and depending on somebody to support
10 her.

11 Q And is it accurate to say that she reported
12 to you, "I always quit jobs I have," as you noted in your
13 report?

14 A You can show me. If I said that, then it's
15 true.

16 Q Right below Behavioral Observations.

17 A Okay.

18 Q On page 4.

19 A I'm just looking. So where are you at?

20 Q The paragraph right above Behavioral
21 Observations.

22 A Okay. I'm not able to find it.

23 Right, I see the observation, but --

24 Q That paragraph that starts with "The client

1 states," right above Behavioral Observations.

2 A Oh, I see, yes.

3 "I worked with a number of agencies cleaning
4 rooms for three months. I have never developed a career.
5 I always quit jobs I have," quoting her.

6 Q Thank you.

7 And what behavioral observations did you make
8 of Ms. Guerrero throughout this evaluation?

9 A As you read that section, she presented on
10 time; she told me her height and her weight; she was
11 concerned that she might have an eating disorder; she
12 talked about having several tattoos; she was wearing
13 glasses; and it was very clear to her why she was there,
14 for what purpose.

15 Q And on page 5 of your report you go into a
16 mental status examination.

17 What was that mental status examination?

18 A Mental status examination has, as you can
19 see, different sections, so we look, again, at appearance
20 and behavior. As I said, she was intense, at times
21 irritable, but she was adequately cooperative and
22 friendly to proceed and gave me enough data.

23 Her speech, she is bilingual. She said she's
24 much better with English, which made me more comfortable

1 that I am hearing her correctly and we're not missing
2 each other.

3 Her affect and mood -- affect was appropriate
4 for situation. When she talked about her mood, she said,
5 "I really -- it really depends on situations. Today I
6 feel okay. I'm thankful for another day. I also feel
7 stressed out being here because I decided to move to a
8 shelter." There was some altercation between her and her
9 boyfriend.

10 So we look at speech, what is the quality of
11 that speech, and to me that would appear pretty normal.
12 The total process is, in verbalizations, there was
13 repetitiveness, what we call rumination, indecisiveness,
14 ambiguity, some disorganization, which is common with
15 anxiety disorders. She wanted me to really know that she
16 cares about her children.

17 And then we have orientation. She was
18 orientated to four spheres. There were no perceptual
19 problems that I was able to observe. She talked about
20 her sleep as being restless, which, as you know,
21 disturbed sleep has a number of causes, and I would like
22 to chase that more to understand why she has restless
23 sleep. Is it anxiety, is it mood disorder or something
24 else?

1 And then attention and concentration, I
2 wanted to really pursue that with psychological
3 instruments, but that never happened.

4 Q And to assess -- I'm sorry.

5 You also said you administered a
6 comprehensive Trail Making Test?

7 A Right.

8 Q Can you please describe to the Court what
9 that is?

10 A Trail Making Test is an instrument. It's a
11 basic neurocognitive instrument that has five trails.
12 The first trail is quite simple and the fifth trail is
13 very complicated, and you can see reasoning behind it.
14 When she came to Trail 5, which has to do with
15 alternating between alphabet and numbers, she couldn't do
16 that.

17 Q How did she test generally on this test?

18 A It's helpful to understand how a person
19 executes a problem and resolves it, in other words, how
20 they plan it, how they look ahead in their planning and
21 structure themselves.

22 Q And was Ms. Guerrero in the average range on
23 this?

24 A It was a moderate -- a moderately impaired

1 range.

2 Q What does that mean?

3 A If the T score is 100, the mean is 50, so she
4 would be below the mean.

5 Q How would that impact Ms. Guerrero generally
6 or what does that tell you about her?

7 A If we just look at the numbers, it would make
8 you think that this person has a very difficult time
9 taking care of herself and would have a very difficult
10 time taking care of anybody else.

11 Q And then you also completed -- pardon me.
12 Were any other tests administered?

13 A That's all.

14 Q That's all. Okay.

15 What were your diagnostic impressions based
16 on administering the Trail Making Test as well as your
17 interview with Ms. Guerrero?

18 A The Trail Making Test suggested to me that we
19 are dealing with some neurocognitive disorder. Now, is
20 that neurocognitive disorder impaired by emotional
21 dysregulation and anxiety? I could not pursue that
22 enough.

23 Q What diagnoses, based on a DSM-5 scale, did
24 you make?

1 MR. ELKINS: Objection, Judge. DSM-5 is no
2 longer recognized.

3 MS. ELCANO: Your Honor, this was the scale
4 that was used at the time of rendering this opinion.

5 THE COURT: That's fine. I'll allow the
6 question.

7 THE WITNESS: DSM-5 doesn't have the axis, so
8 we start with medical, and then we do the psychiatric,
9 personality, and that's it.

10 BY MS. ELCANO:

11 Q What diagnoses did you make in regards to
12 Ms. Guerrero?

13 A Well, it was very clear that she suffers from
14 depression. To what degree, it doesn't seem to be one of
15 those severe depressions that she becomes suicidal,
16 threatening suicide, and needs to be treated inpatient,
17 because she said that she was never admitted to a
18 psychiatric hospital for treatment.

19 So I opted to give her the pervasive and
20 persistent depressive disorder. In other words, it
21 includes criticalness of herself, a lot of organizing
22 life, seeing things through dark glasses and so on.

23 The second diagnosis was the anxiety
24 disorder, and I opted for generalized because it looks

1 like it's across the spectrum, and then from time to time
2 the panic disorder pops up. It is not consistent, but
3 she talked about that.

4 And then unspecified neurocognitive disorder.
5 The more salient feature that I concluded was that she
6 has very severe avoidant personality disorder. I mean,
7 imagine, we called her -- the office called her numerous
8 times. She makes an appointment and never shows up.

9 Q Based on these diagnoses, is it your opinion
10 that Ms. Guerrero suffers from a mental illness?

11 A I concluded she suffers from severe mental
12 illness when you put all of them together.

13 Q And -- I'm sorry, I didn't mean --

14 A In other words, what that means to me is that
15 she has hard ability to function, taking care of herself,
16 she needs support of others, she functions at a low
17 level.

18 Q And is it your opinion that Ms. Guerrero
19 suffers from an emotional illness?

20 A She does. She has a depressive disorder.

21 Q And how does that impact her on a daily
22 basis?

23 A That's what I wanted to pursue more in terms
24 of testing, how severe that is. Since we only met one

1 time, I didn't get a clear picture exactly, but since she
2 was referred from Social Services, I know it was anchored
3 in her ability to take care of her children.

4 Q What recommendations did you make to
5 Ms. Guerrero based upon the diagnoses that you rendered?

6 A Well, if you look at the recommendations, I
7 recommended that if the Social Services would consider
8 reunification, that she must undergo parental capacity
9 evaluation, which is more extensive, and of course she
10 would have to cooperate for that.

11 Then I recommended that she be referred for
12 psychiatric services. I am almost certain that a
13 low-grade, newer antidepressant could be very helpful in
14 her case. Individual therapy would afford her to develop
15 skills, particularly cognitive behavioral skills, and we
16 have some excellent skills now that would be very
17 helpful.

18 I in particular recommended dialectical
19 behavioral therapy because it is very specific skill
20 training about mood disorder and reactivity. And then
21 the most difficult part is, because it's engrained in her
22 level of functioning, the avoidant personality disorder,
23 and I still believe, if you can join a group as well as
24 working with a qualified clinician, that some --

1 something could change there.

2 Q Dr Rogina, you said you met with Ms. Guerrero
3 once. Do you feel that additional testing could impact
4 these diagnoses that you rendered?

5 A I'm not sure it would impact the diagnosis
6 but would certainly give me larger base of data that I
7 can talk in the courtroom with more evidence-based stuff
8 from the testing, which I don't have.

9 MS. ELCANO: I have no further questions,
10 Your Honor. Thank you.

11 THE COURT: Mr. Elkins.

12

13 CROSS-EXAMINATION

14 BY MR. ELKINS:

15 Q Good afternoon, Dr Rogina. How are you?

16 A Fine.

17 THE COURT: Just to provide encouragement,
18 we'll take a break when we're done with this witness.

19 MR. ELKINS: I gleaned that, Judge.

20 BY MR. ELKINS:

21 Q Dr Rogina, would you say that the procedure
22 that you used in this case to evaluate Ms. Guerrero was
23 optimal?

24 A It was optimal, did you say?

1 Q The procedure, yes.

2 A The procedure I wanted to use would be
3 optimal.

4 Q So this procedure was less than optimal; is
5 that right?

6 A Because we didn't -- yes.

7 Q That, in fact, you think your confidence in
8 your final opinion as to her diagnosis --

9 A -- is limited.

10 Q You have limited confidence; is that correct?

11 A Right. I have confidence to what I said, but
12 the data on which I base are limited.

13 Q So it could conceivably change had you been
14 able to complete the evaluation in the manner you usually
15 do; is that right?

16 A Probably. I don't know. I cannot answer
17 that question.

18 Q Dr Rogina, did I hear you say that you knew
19 that her issues were anchored in her ability to care for
20 her children because she was referred by Children's
21 Services?

22 A Could you be kind to repeat that?

23 Q Sure. I thought I heard you say that you
24 knew her issues were anchored in her ability to care for

1 her children because she was referred by Children's
2 Services?

3 A Correct.

4 Q Is it possible, Dr. Rogina, that her children
5 could be in foster care for reasons other than her
6 ability to care for them?

7 A I have never received a referral from Social
8 Services for psychological evaluation that was for some
9 other reason.

10 Q Okay. So you assumed that that was --

11 A Correct.

12 Q -- the case.

13 So did you take a history about the reasons
14 why her children were in foster care?

15 A No. I did not perform parental capacity.

16 Q No, no. That's not my question.

17 Did you take a history about the reasons why
18 her children were in foster care?

19 A No.

20 Q Okay. The basis for your diagnosis of
21 avoidant personality disorder had to do with the fact
22 that your office could not schedule her to come back; is
23 that correct?

24 A Partly.

1 Q During your interview did she appear avoidant
2 to you?

3 A Yes.

4 Q Okay. And what do you mean by "avoidant"?

5 A By avoidance, I mean, if I would ask a
6 question, "Tell me about this and this," she would say,
7 "I don't want to talk about it."

8 Q And that specifically had to do with her
9 childhood history; correct?

10 A Yes.

11 Q Could that be based in trauma?

12 A Maybe.

13 Q Well, didn't she say it wasn't pretty?

14 A She did.

15 Q What did that indicate to you?

16 A I don't guess.

17 Q It meant it wasn't pretty, I guess.

18 I believe you testified that the trail test
19 outcome could have been attributable to anxiety, but you
20 weren't certain because you weren't able to do further
21 testing; is that right?

22 A Could be, yes.

23 Q Do you know Dr. Suzanne Aberasturi?

24 A Sounds familiar.

1 Q She's a neuropsychologist. Are you familiar
2 with her?

3 A I've heard of her.

4 Q Have you ever made any referrals to her?

5 A Have I made a referral to her, no.

6 Q But a neuropsychological is something you
7 thought would be appropriate here; is that correct?

8 A I did neuropsychological testing.

9 Q No, no, I didn't say you did. I'm sorry. I
10 apologize.

11 I thought I heard you say that there could be
12 a neurobiological component. Correct?

13 A Neurocognitive, right.

14 Q And so it would be appropriate, would it not,
15 to have a neuropsychological evaluation?

16 A That's true.

17 Q And is it fair to say that you would be more
18 confident in an evaluation that used a battery of tests
19 that were appropriate tests; correct?

20 A It would give me lots of data.

21 Q Okay. So, for example, the California Verbal
22 Learning Test, would that be appropriate?

23 A Very much so.

24 Q The Wechsler Abbreviated Scale of

1 Intelligence-II?

2 A Wechsler is much better.

3 Q And -IV?

4 A That's right.

5 Q The Rey Complex Figure Test and Recognition

6 Trial is similar to what you did; is that right?

7 A Very good.

8 Q The Boston Naming Test?

9 A Very nice.

10 Q The grooved pegboard?

11 A Yes.

12 Q One of my favorites.

13 And the Wisconsin Card SORTING test?

14 A We currently use, uh-huh.

15 Q All of those are instruments that you

16 recognize as being valid instruments?

17 A Valid and excellent instruments for

18 neuropsychological evaluation.

19 Q And they would be appropriate to further

20 explore Ms. Guerrero's condition?

21 A Yes.

22 Q And if you had been able to do those tests,

23 would you have had more confidence in your diagnosis?

24 A As I said, yes.

1 Q Okay. You recommended that Ms. Guerrero
2 receive a psychiatric consultation for medication;
3 correct?

4 A Yes.

5 Q And that was to address her anxiety and
6 depression; correct?

7 A Yes.

8 Q And you also recommended dialectical
9 behavioral therapy; correct?

10 A Yes.

11 Q Did you give those recommendations to the
12 person you were -- you mentioned, Ms. Seronio?

13 A Yes. I mailed the report to them.

14 Q And when did you do that, Doctor?

15 A Soon after the report was typed.

16 Q In January of this year?

17 A January probably 10th.

18 Q Given her presentation, would it be fair to
19 say that therapy would be more likely to succeed if she
20 first received a medication consultation?

21 A Very true.

22 MR. ELKINS: No further questions. Thank
23 you.

24 THE COURT: All these tests he's talking

1 about, does it make any difference who gives the test in
2 terms of their usefulness?

3 THE WITNESS: Usually these instruments are
4 specifically geared to neuropsychological assessments,
5 somebody with head injury. For whatever reason most of
6 us clinical psychologists, we would use some of them in
7 order to enlighten ourselves, and then we would refer to
8 a neuropsychologist for this kind of testing.

9 THE COURT: But if someone gave these tests,
10 could you use the tests that they gave for your purposes?

11 THE WITNESS: I could.

12 THE COURT: So, I mean, we've had testimony
13 that Dr. Aberasturi gave the tests, and so is it
14 necessary that you give them yourself to use them, or is
15 it okay if someone else gives them? I mean, these are
16 just objective tests. I suppose some of the stuff could
17 be subjective. Do you see what I'm getting at? If the
18 test was given by Dr. Aberasturi, could you go to her
19 file and look at the results?

20 THE WITNESS: That would be very helpful, but
21 the question is, for what purpose would I do that?

22 THE COURT: My point is that you wanted more
23 tests that you didn't get.

24 THE WITNESS: Correct.

1 THE COURT: If they had already been given,
2 could you have used the ones that were given by somebody
3 else?

4 THE WITNESS: If I had it, I would certainly
5 incorporate that as a review of data.

6 THE COURT: Does it make any difference -- I
7 guess -- say you wanted -- I can't remember any of the
8 tests now. If the tests were given by Dr. Aberasturi,
9 does it make any difference that she gave the tests in
10 terms of their usefulness to you versus you having --

11 MR. ELKINS: Judge, do you want the exhibit?

12 MS. ELCANO: Can I at least know what's being
13 given to him?

14 THE COURT: That's fine. He --

15 MS. ELCANO: Dr. Aberasturi's report is
16 Exhibit AA, if you want to refer to it.

17 THE COURT: But I don't know if she -- he
18 talked about tests. You see what I'm getting at?

19 MS. ELCANO: Is what you're asking, is
20 administering and observing the patient while they
21 undergo the test versus looking at test results, could
22 you just look at test results administered by someone
23 else to assist you or provide that information, or do you
24 have to be there and administer the test and observe what

1 happens?

2 THE WITNESS: I hear the question on two
3 levels. Level one is how the system works. So the way
4 it works is, I get the referral from Social Services for
5 independent psychological evaluation, which is the
6 starting. Now, sometimes, in my conclusions, I would say
7 this person is to be referred for more intensive
8 neuropsychological testing. In this instance I did not
9 determine that because I didn't see the whole picture. I
10 didn't have enough testing myself.

11

12 REDIRECT EXAMINATION

13 BY MS. ELCANO:

14 Q And I think what the judge was trying to ask
15 you is, if you were to find out that someone else had
16 completed these additional tests --

17 A I would want to see for sure, yes.

18 Q -- and you looked at the results, would that
19 be sufficient, or would you have to administer the tests
20 independently on your own?

21 That's correct, Your Honor?

22 THE COURT: Yes.

23 THE WITNESS: Some of them are stable across
24 the time and some of them are not, depending on recovery

1 if it's head injury, so we elect to readminister to see
2 how much a person is improving. So if this was
3 administered, let's say, a year ago, would it be
4 appropriate to repeat it? Of course.

5 BY MS. ELCANO:

6 Q May I ask, what DSM module is being used
7 currently?

8 A DSM-5.

9 Q -5. And your diagnoses in this particular
10 case were DSM-5 diagnoses; correct?

11 A Correct.

12 Q There was just an objection to reference to
13 the DSM, and I want to make it very clear that the
14 current DSM was used.

15 MR. ELKINS: Excuse me. This is argument,
16 Judge.

17 THE COURT: That's fine.

18 THE WITNESS: If I can just put two cents in.
19 We're supposed to start using DSM-5 this fall, so --

20 THE COURT: It doesn't always change, does
21 it, from one to the next?

22 THE WITNESS: Right. Maybe a different name,
23 but still we're in the same ballpark.

24 THE COURT: Same thing, yeah. I think I

1 started out with -I back when I started back in '78.

2 THE WITNESS: It was helpful, like Axis V,
3 global level of functioning, out of 100, we would say
4 this person functions at 30 as opposed to somebody who
5 functions at 90. It would give you better reading of
6 what the person is talking about. We don't have that
7 anymore.

8 MS. ELCANO: And, Your Honor, I misspoke.
9 Dr. Aberasturi's report is CC, Charlie Charlie, not AA.

10 THE COURT: So he wasn't looking at Charlie
11 Charlie while we were talking?

12 MS. ELCANO: No.

13 THE COURT: I was wondering why I couldn't
14 find that.

15 MS. ELCANO: I'm sorry. I referenced the
16 wrong one.

17 BY MS. ELCANO:

18 Q Dr Rogina, could you turn to No. 7, page 8 of
19 8, your seventh recommendation?

20 A Yes.

21 Q And can you please tell the Court what that
22 says?

23 A What I mean by this is, I was hoping that as
24 they read that, that Social Services would refer to

1 individual therapy, group therapy, to dialectical
2 behavioral therapy, psychiatric evaluations, hopefully
3 she would be put on some medicine, and then they would
4 receive some kind of information how she's meeting target
5 goals of treatment. That's what I was hoping for?

6 Q And why did you think that was important?

7 A I was hoping that then we can judge whether
8 or not she's improving in a positive direction or
9 decompensating in a negative direction.

10 Q Dr Rogina, if you were informed that an
11 individual was diagnosed with a general anxiety disorder
12 with panic attacks, obsessive compulsive disorder,
13 dependent personality disorder, post-traumatic stress,
14 and attention deficit hyperactivity disorder, based on
15 those diagnoses, could you indicate whether or not the
16 person suffered from mental illnesses?

17 A I would be able to say there is serious
18 mental illness going on.

19 Q And would you be able to answer whether or
20 not a person was suffering from emotional illness?

21 A So what did you have? PTSD, anxiety
22 disorder --

23 Q General anxiety disorder with panic attacks,
24 obsessive compulsive disorder, dependent personality

1 disorder, and ADHD, mild.

2 A ADHD, as we used to call it, is a minor brain
3 dysfunction, the PTSD sometimes has a deep component of
4 depression, mood disorder, but the cluster of the stuff
5 that you read is mostly within the anxiety. That
6 includes generalized anxiety, panic disorders, and PTSD.

7 Q Would that rise to a level of an
8 emotional -- sorry, I'm losing my train of
9 thought -- emotional illness?

10 A Yes. Now, we use -- emotional illness is
11 used in a global sense. We divided mood disorders and
12 anxiety disorders because we treat them differently. It
13 has to do with different biochemicals in the brain.

14 Q You originally testified, in regards to
15 mental illnesses, concern regarding a person caring for
16 themselves as well as others.

17 Given Ms. Guerrero's diagnoses, were you
18 concerned about her ability to care for others?

19 MR. ELKINS: Objection. I don't know that
20 that's a clinical opinion, Judge.

21 THE COURT: Well, ask him.

22 Is that a clinical opinion?

23 THE WITNESS: Sorry, Judge. I didn't hear
24 you.

1 THE COURT: Is that a clinical opinion that
2 she's asking for? I don't even know what that means.

3 BY MS. ELCANO:

4 Q In your opinion were you concerned -- you
5 testified you were concerned of Ms. Guerrero's ability to
6 care for herself.

7 Were you concerned, in your opinion, for
8 Ms. Guerrero's ability to care for others?

9 A The way I conceptualize a psychological
10 evaluation is this: I'm concerned about this person, how
11 she functions and cares for self. Parental capacity
12 includes both.

13 Q So you didn't -- did you --

14 A I didn't do a parental capacity.

15 MS. ELCANO: Fair enough. Fair enough.

16 I have no further questions, Dr Rogina.

17 Thank you.

18 THE COURT: Mr. Elkins.

19 MR. ELKINS: Briefly.

20 THE COURT: I never like that, when they
21 start out with "briefly." It usually means about 20 or
22 30 minutes.

23 /////

24 /////

RECROSS-EXAMINATION

BY MR. ELKINS:

Q Dr Rogina, Recommendation 2, you state "Jacqueline Guerrero" -- and she says "Guerrera" -- must be referred to psychiatric services." Correct?

A Correct.

Q Now, how long have you been a Doctor of Psychology?

A Thirty-six years.

Q When you write recommendations, are you careful about words you use?

A Very much so.

Q So the word "must," I assume, carries a meaning?

A I would hope so.

Q And what did you mean by "must"?

A That Social Services, to attend to the needs of these kind, must refer her for psychiatric evaluation.

Q For the purposes of doing what?

A To be evaluated, number one, and whether or not she would profit -- not everyone profits from medications.

Q But for the purposes of determining whether she could benefit from medication?

1 A Yes.

2 Q Dr Rogina, given this diagnosis and that
3 recommendation and also -- let me just clarify.
4 You also recommended specifically dialectical
5 behavioral therapy; correct?

6 A Correct.

7 Q Is that a particular kind of therapy?

8 A Correct.

9 Q Not everyone can do that?

10 A Correct.

11 Q Are you familiar with that therapy?

12 A Very much so. I use parts of it myself with
13 my patients.

14 Q Is it fair to say, Doctor, that someone doing
15 that needs a great deal of experience to be effective at
16 it?

17 A With the dialectical behavioral therapy?

18 Q Yes.

19 A Well, now we have very structured trainings
20 and we have groups with Nevada Mental Health people who
21 are in training or have completed the training, so there
22 are resources around.

23 Q Would you say that taking an online course
24 would be sufficient for someone to go out and do

1 dialectical behavioral therapy without actually being
2 supervised?

3 A I am not very fond of online trainings
4 anyway. Limited given that now we have in vivo
5 classrooms and things like that.

6 Q Because they're not interactive?

7 A Well, in vivo is interactive.

8 Q What's if it's not interactive?

9 A I have more problem with that.

10 Q So, Doctor, given your diagnosis, would you
11 say that there were additional services that could be
12 provided to Ms. Guerrero? Medication, which should come
13 first; correct?

14 A Correct.

15 Q Dialectical behavioral therapy, which could
16 have -- could bring about an adjustment that would assist
17 her?

18 A That was my hope.

19 MR. ELKINS: No further questions.

20 THE COURT: You know, in this case why -- and
21 I don't expect anybody to answer it, but we have
22 Aberasturi do all these tests. Why wouldn't this
23 professional have been given access to those tests?

24 MR. ELKINS: They occurred subsequently,

1 Judge, within a month after Dr Rogina's.

2 THE COURT: Okay.

3 MS. ELCANO: People have been taken out of
4 order to accommodate scheduling, but --

5 THE COURT: Even so, why not -- I mean, he
6 saw her, Aberasturi saw her, and it doesn't seem like
7 anybody is talking to each other. Same thing with the
8 other people. I mean, the one lady with the long name,
9 she's trained to do the dialectical behavioral therapy.

10 MS. ELCANO: Amanda Buttacavoli. Dialectical
11 behavioral therapy.

12 THE COURT: And were you aware -- didn't
13 she -- wasn't she referred to her for that purpose, and
14 why wouldn't he have known that when he was talking to
15 her?

16 MS. ELCANO: I believe -- I don't know why,
17 Your Honor.

18 THE COURT: Does that happen a lot, where
19 other people are treating and you're not finding out
20 about it?

21 (Witness nods head.)

22 THE COURT: So that happens a lot?

23 THE WITNESS: There is some -- I can only
24 tell you what I know about how the system works. So I

1 get a referral, I complete my stuff, I send it to Social
2 Services, and that's where I end. But I'm glad that
3 you're suggesting that some kind of a conversation needs
4 to occur for the benefit of the client.

5 THE COURT: Well, you know -- and I could see
6 because of -- I don't know if it's HIPAA that affects
7 this or not. I know with medical records it's a hard
8 time, but it seems like there's -- I've heard a bunch of
9 people with bachelor's and master's degrees and
10 counseling have met with her, but it doesn't sound like
11 anybody knew what anybody else was doing.

12 MS. ELCANO: Your Honor, we need releases, or
13 Social Services does, in order to release information.

14 MR. ELKINS: Judge, that's a red herring.
15 Every person that --

16 MS. ELCANO: I'm sorry. I was speaking.

17 THE COURT: Go ahead and finish, and then you
18 can talk.

19 MS. ELCANO: We need releases to release
20 information. As I think the testimony has shown, when an
21 individual goes in for an evaluation, they are asked for
22 a history. This information could have been provided by
23 the individual getting treated. We do try to -- Social
24 Services tries to always provide that information to

1 individuals as we can. However, if we don't have
2 releases, we cannot provide that information.

3 THE COURT: You don't think she would have
4 been given releases if she was asked for them?

5 MS. ELCANO: I don't want to testify. I'm
6 just telling you the process.

7 THE COURT: You're representing the agency
8 here, and I have a real concern, and it's a question that
9 I think needs to be answered in these proceedings, why a
10 lot of this is -- you know, you've got three or four
11 different governmental entities that are working with her
12 for housing, for mental health, for --

13 MR. ELKINS: Welfare.

14 THE COURT: -- utility waivers, welfare.

15 Wouldn't it be a lot more effective if
16 everybody knew what everybody else was doing?

17 MS. ELCANO: Your Honor, our agency does its
18 very best to communicate these things. There were a lot
19 of services in place in this particular case.

20 THE COURT: I see that, but --

21 MS. ELCANO: I do think that the vouchers --

22 THE COURT: I doubt I'd be able to effect any
23 change. I've been dealing with Social Services for 45,
24 maybe damned near 50 years, and it doesn't seem to have

1 changed much.

2 MS. ELCANO: Our vouchers indicate why a
3 person is being referred to a particular individual, so
4 our voucher could --

5 THE COURT: Was Aberasturi aware he had seen
6 her?

7 MS. ELCANO: I don't know.

8 THE COURT: So you've got two different
9 psychologists --

10 THE WITNESS: If I can say a few words here.
11 I'm really impressed how -- I think it's the caseworker
12 who got the information as much as they have, and
13 sometimes I receive a package of substance abuse
14 evaluation or whatever evaluation, which is very helpful.

15 In this case I didn't have any other
16 information. My impression was that this was just
17 starting to happen, the evaluations, and my impression is
18 it is the caseworker who is -- I'm quite impressed the
19 way they are skilled to do that.

20 MS. ELCANO: And at the time there was only
21 one evaluation, which had been done back in June of 2013.

22 THE COURT: See, and I can't help thinking
23 sometimes that this HIPAA business gets in the way of
24 communicating between different agencies, so I can

1 understand the need for confidentiality, but sometimes
2 it's a hindrance and, you know, who cares.

3 And I've tried this. When the doctors come
4 in and say, "Do you care if we share," you can show my
5 medical records to anybody you want to, I don't care, and
6 sometimes I don't even want to -- you know, it's the
7 same thing if you -- they want informed consents, and I
8 don't want to be informed of what you're going to do to
9 me, just do it, and you can't do that.

10 But in this case it seems like it's
11 disjointed in the way -- so I just make that observation.

12 MR. ELKINS: Well, Judge, you can ask the
13 caseworkers, but whenever any referral is made, when a
14 voucher is sent, Social Services sends the voucher, they
15 get a release, and so all that information flows back to
16 Social Services.

17 THE COURT: Okay. Just an observation I'm
18 making. Thank you.

19 Is this witness excused permanently?

20 MS. ELCANO: Yes, Your Honor. Thank you.

21 MR. ELKINS: No further questions.

22 THE COURT: Thank you, Doctor.

23 We're going to take a break here, but I make
24 these observations during the course of a case sometimes

1 so that -- it's things I'm thinking and the parties can
2 address it.

3 But this is a close case, there's no doubt
4 about it, and I just get the impression that, you know,
5 she's not far or wasn't, potentially, from achieving what
6 we wanted, and she didn't, at least from what I've seen
7 so far. And I haven't seen the defense, and some of it
8 is, no doubt, her failure to follow through, and I'm
9 continually hearing that.

10 And this is all -- and I'll make an
11 observation in my mind about these kinds of cases. I've
12 spent 38 years as a lawyer and 3 years before that as a
13 welfare hearings officer, and I have caused lots of
14 people pain in my career as a lawyer, either as a
15 prosecutor or defense attorney or as a judge, and most of
16 them did something wrong that they deserved the pain I
17 caused them. In this case, if I cause her pain, that's
18 not necessarily the case, so -- and I'm concerned about
19 that. But we'll be in recess.

20 (A recess was taken.)

21 THE COURT: This is FV14-03897 in the matter
22 of the parental rights as to the Taylor children as
23 alleged in the petition. The parties are present with
24 their clients.

1 I was going to say, you know, I make comments
2 in cases where it's a bench trial because I'm the finder
3 of fact, and I've found it helpful sometimes to make
4 observations about my reaction to evidence. I did that
5 just before we left for the last break. I will add to
6 what I said.

7 I am not unmindful of ASFA, which the
8 rationale behind it is that we want children to have
9 permanency, so sometimes -- and there is a presumption in
10 this case because the children have been out 28 months,
11 and I'm not going to ignore that presumption and
12 generally agree with the concept behind -- whether I
13 agree with it or not, it's the law -- that children need
14 permanency.

15 So don't become inordinately fixated on my
16 comments that I made when we left. Children need
17 permanency, and I certainly haven't made up my mind on
18 this case by any stretch.

19 MR. ELKINS: And we appreciate that.

20 And having practiced in this area for a
21 minute, obviously where the complicated dynamics of
22 families is concerned, obviously, it's better, for what
23 it's worth in my personal view, if people can work things
24 out among themselves.

1 THE COURT: These are from my mind -- and
2 keep in mind, in Carson City we hear probably, in terms
3 of complexity, probably the most difficult cases in the
4 state. I mean, almost every issued referendum case that
5 has been recited in the last 20 years, I'm the judge that
6 decided it. So it was kind of a joke at the judges
7 conference that I was -- and most of the cases of
8 statewide significance are decided in Carson City.

9 And so, you know, I've heard some
10 pretty -- but these, in terms of the difficulty in making
11 these decisions, is about as difficult as it gets in my
12 mind.

13 MS. ELCANO: I think Mr. Elkins was
14 indicating prior that we have been discussing a possible
15 settlement.

16 THE COURT: I don't know if -- where you're
17 at, if you want to try to use the rest of the afternoon
18 or what you want to do.

19 MR. ELKINS: Well, how many more witnesses do
20 you have, Tyler?

21 MS. ELCANO: I have, I believe, four. My
22 only hiccup is one of them has an interpreter.

23 THE COURT: Well, it's only Wednesday and you
24 said Thursday, so if you get it done by tomorrow, that's

1 fine.

2 Will we be able to get the four witnesses
3 done by tomorrow for sure?

4 MS. ELCANO: I think so. My -- I just have
5 to ensure that I can have an interpreter because I had
6 scheduled one for this afternoon, specifically hoping to
7 get through the adoptive mother's testimony.

8 MR. ELKINS: The foster mother.

9 In any event, may I have a minute?

10 THE COURT: If you guys can get this
11 resolved, that would be a way better --

12 MS. ELCANO: I think we're all in support of
13 that, Your Honor.

14 MR. ELKINS: It's always been my
15 philosophy --

16 THE COURT: It would be helpful for you guys
17 to take whatever time we have left --

18 MR. ELKINS: It's always been my philosophy
19 in family cases, but, again, my client obviously -- and
20 I'm not -- I want to be clear, too. I mean, we are here
21 because our position is legally, we think, correct.
22 Otherwise we wouldn't be here.

23 THE COURT: I haven't heard one of these
24 cases that shouldn't been heard, I think.

1 MR. ELKINS: So I don't want to mislead
2 anybody about that and our intentions, but we know we're
3 dealing with little kids, and my client more than anyone
4 else because they're her little kids. So if we can find
5 a way to resolve this that we all agree is best for the
6 children, then that's what we will do.

7 Obviously, Judge, nothing that's been said
8 here will prejudice my client ultimately, I'm sure, with
9 this Court.

10 THE COURT: I have not made my mind up on
11 this case, and I won't until I've heard all the evidence.
12 I found that to be the case in these cases. These are
13 not easy cases, and I haven't heard one that shouldn't
14 probably have been heard.

15 MS. ELCANO: These aren't easy cases for
16 anybody involved, Your Honor.

17 THE COURT: Do you guys want -- do you want
18 to work on a possible settlement for a while?

19 MR. ELKINS: I don't know, Judge. I need a
20 minute with my client.

21 THE COURT: Let's be in recess, then, for
22 now. Ten minutes. Okay? And, you know, we're getting
23 very close to -- she needs to get to the shelter by 5:00,
24 so do we want to just recess for the afternoon?

1 MR. ELKINS: I'm just -- I have witnesses
2 coming tomorrow, that I'd like to put on.

3 THE COURT: We can start earlier. I say
4 that --

5 MR. ELKINS: Probably not earlier than 8:30.

6 THE COURT: I'm getting here at 8:00.

7 MR. ELKINS: Do you want me to be awake,
8 Judge?

9 THE COURT: I don't have that dog, so, you
10 know, I would like to sleep past 4:00. I didn't sleep
11 past 4:00 this morning. That dog's got me trained now.

12 MR. ELKINS: If you give me just a few
13 minutes with my client, if we're going to proceed, I
14 think we should proceed.

15 (A recess was taken.)

16 MR. ELKINS: Judge, we're ready to proceed.

17 THE COURT: So the witness you're going to
18 call is maybe 20 minutes or --

19 MS. ELCANO: No. She has an interpreter,
20 Your Honor.

21 THE COURT: Okay. Because you have to quit
22 at 4:30, but go ahead.

23 MS. ELCANO: Sandra Matute, Your Honor.

24 /////

1 SANDRA MATUTE,
2 having been first duly sworn through the interpreter,
3 was examined and testified as follows:
4
5 (The following testimony was interpreted by
6 an English-Spanish interpreter.)
7
8 DIRECT EXAMINATION
9
10 BY MS. ELCANO:
11
12 Q Good afternoon, Ms. Matute.
13
14 Could you state and spell your name for the
15 Court?
16
17 A Spell out my name and my last name?
18
19 Q Please.
20
21 A S-a-n-d-r-a, Sandra, M-a-t-u-t-e, Matute.
22
23 Q Thank you.
24
25 Are you married, Ms. Matute?
26
27 A No.
28
29 Q Do you have any biological children?
30
31 A Yes.
32
33 Q How many?
34
35 A Three.
36
37 Q And how old are each of your children?
38
39 A 7, 8, and 21.
40
41 Q And do all three of your children live with

1 you?

2 A Two of them.

3 Q And how old are the children that live with

4 you?

5 A They are 8 and 7.

6 Q If you're comfortable, would you give me

7 their names? You don't have to if you don't want them on

8 the record.

9 A Oh, no. That's fine.

10 Q What are their names?

11 A Jaer is 8 and Anthony is 7.

12 Q What do you do for a living, Ms. Matute?

13 A I have a daycare at my house.

14 Q Approximately how many children do you

15 baby-sit?

16 A In my daycare?

17 Q Yes.

18 A Three to four.

19 Q And how often do you have daycare at your

20 house?

21 A Weekly, normally would be like maybe two in

22 the morning and two in the afternoon.

23 Q And where were you employed prior to having

24 your daycare?

1 A Reno Target.

2 Q And prior to Reno Target?

3 A IGT.

4 Q Thank you.

5 Aside from your daycare, do you have any

6 other source of income?

7 A Yes. My ex-husband gives me child support.

8 Q Have you ever not paid your bills?

9 A No.

10 Q Have you ever been criminally charged with a

11 crime?

12 A No.

13 Q Have you ever been convicted of a crime?

14 A No.

15 Q Do you use illegal drugs?

16 A No.

17 Q Have you ever used illegal drugs?

18 A No.

19 Q Do you drink alcohol?

20 A No.

21 Q Have you ever had mental health issues?

22 A No.

23 Q Do you go to church?

24 A Yes.

1 Q What is the name of the church you go to?
2 A San Pedro Canisius.
3 Q And how often do you go to church?
4 A Two to three times a month.
5 Q And have you ever taken Roberto, Kayleigh or
6 Nathan with you, or Ethan?
7 A Yes.
8 Q And in what city do you presently reside?
9 A Sun Valley.
10 Q Would you consider the neighborhood where you
11 reside safe?
12 A Yes.
13 Q Are there other families on your block with
14 children?
15 A Yes.
16 Q Are you close to schools?
17 A Yes.
18 Q And parks?
19 A Yes.
20 Q And I'm sorry. If I'm going too quickly or
21 interfering, please just tell me.
22 Can you please describe your home for the
23 Court?
24 A For the judge?

1 Q Yes, for the Court. For everybody.

2 A It's in a trailer. It's around 1,675 feet.

3 There are three rooms and two bedrooms, and a yard, a big
4 yard.

5 Q I'm sorry. How many bedrooms?

6 A Three.

7 Q And how many bathrooms?

8 A Two.

9 Q Explain to me how -- where all of the
10 children sleep.

11 A Roberto shares a room with my two kids,
12 Anthony and Jaer, and Kayleigh has the second room which
13 she shares with her two little brothers, Nathan and
14 Ethan.

15 Q And the room where Jaer, Anthony, and Roberto
16 are, can you describe that for me?

17 A There's two bunk beds. One of the bunk beds
18 has a dressing table included, and then there's two other
19 individual dressing tables, and then there's a closet
20 with another dressing table with a chest of drawers.

21 Q And can you please describe Kayleigh, Nathan,
22 and Ethan's room?

23 A There is one bunk bed, Nathan sleeps on the
24 bottom bed, and then there's a small individual bed for

1 Kayleigh, and then there's a crib for Ethan. Then
2 there's a big dressing table, and then there's a closet
3 with a big dressing table.

4 Q Thank you.

5 Ms. Matute, are you a licensed foster parent?

6 A Yes.

7 Q Are you a foster parent contracted with
8 Washoe County Department of Social Services?

9 A Yes.

10 Q Did you undergo any training to become a
11 foster parent?

12 A Yes.

13 Q When, approximately?

14 A In 2007.

15 Q And how long, approximately, is the training?

16 A Approximately 26 to 27 hours.

17 Q Can you briefly describe the training?

18 A Well, the training is to be able to work with
19 kids and young people in an efficient manner, to work
20 with kids who suffer trauma and loss, like the separation
21 from their parents. So the objective, really, is just to
22 be able to work with kids in an efficient manner.

23 Q Why did you become a foster parent,
24 Ms. Matute?

1 A Well, I like kids, and when I found out that
2 there are kids who need protection and love, well, that
3 motivated me to give a little of what I have to give.

4 Q How long have you been a licensed foster
5 parent?

6 A Approximately five and a half years to six.

7 Q Approximately how many children have you
8 cared for since you became licensed?

9 A Approximately 14 children.

10 Q Have you adopted any other children?

11 A No.

12 Q And why not?

13 A I wanted to adopt a baby that I took care of
14 from zero to two years, but the little baby had family,
15 he had other brothers and sisters in another foster home,
16 and they needed to be adopted together.

17 Q And what obligations do you have as a foster
18 parent?

19 A Well, take care of them, protect the kids,
20 give -- satisfy all their needs, physical and emotional,
21 just all the basic stuff, take them to school, feed them,
22 bathe them. Just everything that a mom, a good mom would
23 do.

24 Q Are Roberto, Kayleigh, Nathan, and Ethan

1 currently placed in your home?

2 A Yes.

3 Q And when were Roberto, Kayleigh, and Nathan
4 placed with you?

5 A This was in 2013, May of 2013.

6 Q And when was Ethan placed in your care?

7 A That was in September of 2014.

8 Q So approximately how many months have you
9 been providing care to Roberto, Kayleigh, and Nathan?

10 A Approximately two years.

11 Q And how long have you cared for Ethan?

12 A Approximately 11 months.

13 Q Has Roberto, Kayleigh, Nathan or Ethan ever
14 been removed from your care since they were initially
15 placed with you?

16 A No.

17 Q And how old is Roberto?

18 A He's eight.

19 Q And how old is Kayleigh?

20 A She's five.

21 Q And how old is Nathan?

22 A Four years.

23 Q And Ethan?

24 A Ethan is 20 months old.

1 Q And what grade is Roberto in?

2 A In second grade.

3 Q And what grade is Kayleigh in?

4 A She's in kindergarten.

5 Q Is Nathan in school?

6 A Yes.

7 Q What kind of school does he do?

8 A Pre-K.

9 Q Do Jaer and Anthony go to the same school as

10 Roberto, Kayleigh, and Nathan?

11 A No.

12 Q And why not?

13 A Jaer and Anthony are at the school where they

14 originally started out when I was living in a different

15 house, and they have not wanted to move schools.

16 Q So you have to get Jaer and Anthony to a

17 different school each morning than Nathan, Kayleigh, and

18 Roberto?

19 A Yes.

20 Q How do you do that?

21 A The schools are real close to my house and

22 they're also really close to each other.

23 Q And where do Nathan, Roberto, and Kayleigh go

24 to school?

1 A (In English) Esther Bennett.

2 Q Esther Bennett, did I hear that right?

3 A (In English) Yes.

4 Q And to your knowledge where did Roberto,

5 Kayleigh, and Nathan live prior to being placed in your

6 home?

7 A At Kids Garden.

8 Q Could it also be Kids Cottage?

9 A Yes.

10 Q And where was Ethan living immediately before

11 he was placed in your home?

12 A With his mom.

13 Q Did you meet Ethan prior to being placed in

14 your home?

15 A Yes.

16 Q How?

17 A The day he was born I went to see him at the

18 hospital, and I also took care of him when his mom had

19 things to do.

20 Q Please describe how Roberto reacted to the

21 transition into your home.

22 A He was really happy. He didn't want to live

23 in Kids Garden, so he was just really happy when he came

24 home.

1 Q And how did Kayleigh transition into your
2 home?

3 A She was really happy. She went running
4 through the house as if she already knew it.

5 Q And how did Nathan transition into your home?

6 A The same as Kayleigh.

7 Q And Ethan?

8 A Well, with Ethan it was the same. He already
9 knew me, so there was not really any transition. It was
10 as if he was in his own home.

11 Q Does Roberto have any identified special
12 needs?

13 A Well, he goes to therapy, counseling.

14 Q To clarify, was that therapy and counseling?

15 A Yeah, counseling.

16 Q Okay. And does Roberto receive any therapy
17 or treatment for any delays?

18 A Just at the school.

19 Q What are those delays?

20 A In his speech.

21 Q Does Kayleigh have any identified special
22 needs?

23 A Yes.

24 Q What are those?

1 A Also speech.

2 Q And what, if any, identified special needs
3 does Nathan have?

4 A Nathan also has speech.

5 Q Are there any identified special needs for
6 Nathan at this time?

7 A Yes. Speech and his motor skills.

8 THE COURT: Are we going to even get close to
9 being done?

10 MS. ELCANO: Oh, no.

11 THE COURT: Well, I think we should probably
12 take a break then so that she can get to the shelter.

13 MR. ELKINS: Okay. We appreciate that,
14 Judge, because, you know, they fill up.

15 THE COURT: Well, I don't know, but if she
16 says she needs to be there by 5:00 --

17 MR. ELKINS: Right. She actually called
18 them -- yes.

19 THE COURT: Okay. Would it do any good if I
20 made an order otherwise?

21 MR. ELKINS: No, I don't think so. I don't
22 think they're before the Court, Judge.

23 THE COURT: Let's be in recess.

24 (Proceedings adjourned at 4:35 p.m.)

1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.

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I, PEGGY B. HOOGS, Certified Court Reporter
in and for the State of Nevada, do hereby certify:

That the foregoing proceedings were taken by
me at the time and place therein set forth; that the
proceedings were recorded stenographically by me and
thereafter transcribed via computer under my supervision;
that the foregoing is a full, true and correct
transcription of the proceedings to the best of my
knowledge, skill and ability.

I further certify that I am not a relative
nor an employee of any attorney or any of the parties,
nor am I financially or otherwise interested in this
action.

I declare under penalty of perjury under the
laws of the State of Nevada that the foregoing statements
are true and correct.

Dated this 17th day of September, 2015.

Peggy B. Hoogs

Peggy B. Hoogs, CCR #160, RDR

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 FOUR

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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 3

20 Wednesday, September 2, 2015

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24 Reported By: PEGGY B. HOOGS, CCR 160, RDR, CRR

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MALIA SERONIO
ROCIO LOPEZ

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RENO, NEVADA; TUESDAY, SEPTEMBER 1, 2015; 8:33 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 are four children as alleged in the petition. The parties are present with their counsel.

Are you ready to proceed, Ms. Elcano?

MS. ELCANO: Yes, Your Honor. I believe Ms. Lopez was on the stand and ready to be cross-examined.

THE COURT: If you can come back up, I'll remind you that you're still under oath.

MR. ELKINS: May I inquire, Judge?

THE COURT: Yes. You're on cross.

MR. ELKINS: Thank you.

I may have to beg the Court's indulgence at certain points this morning depending on how it goes. There are quite a few documents here, and depending on the testimony, I may have to fish something out of there. I will try to be as efficient as I can about that.

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

CROSS-EXAMINATION

BY MR. ELKINS:

Q Good morning, Ms. Lopez. How are you?

A Good morning.

Q You testified yesterday that this case was randomly assigned to something called the SAFE-FC program; is that correct?

A That's correct.

Q And the SAFE-FC program, if I understand you correctly, requires the client to meet with two workers weekly; is that right?

A Yes.

Q So the Cabinet worker and you?

A Yes.

Q And I believe that you testified yesterday that for the first four months Ms. Guerrero was very good about that; is that correct?

A That's -- yes. Yes.

Q Other clients on other tracks, not the SAFE-FC, meet with their caseworkers how often?

1 A Depends on the social worker and the client.

2 MS. ELCANO: Your Honor, I'd just like to
3 clarify. When the term "caseworker" is used, Social
4 Services has caseworkers, Children's Cabinet has
5 caseworkers. So if we are using it in plural, are we
6 talking about Social Services? Are we talking about
7 Children's Cabinet?

8 MR. ELKINS: I'll try to be more specific,
9 Judge.

10 BY MR. ELKINS:

11 Q You are a caseworker; correct?

12 A I'm a social worker.

13 Q You're not considered a caseworker?

14 A No.

15 Q Okay. Sorry.

16 THE COURT: So what do they call the
17 Children's Cabinet people?

18 THE WITNESS: They're case managers.

19 BY MR. ELKINS:

20 Q So nobody is a caseworker?

21 A Well, there are caseworkers in Social
22 Services. Sorry. When you don't have a title of social
23 worker, you're considered a case manager.

24 Q Okay. You're a social worker. There are

1 also case managers at Social Services.

2 Let me ask you this: Are all of your cases
3 or were all of your cases during this period of time
4 SAFE-FC cases?

5 A No.

6 Q Okay. That makes it easier, then.

7 So you had other cases that were not SAFE-FC
8 cases; correct?

9 A That's correct.

10 Q So how often did you meet with those clients?

11 MS. ELCANO: Your Honor, I mean, I think we
12 can ask generally how often in a non-SAFE-FC case, but if
13 we're talking about other clients, I don't think that's
14 appropriate in this particular proceeding, and I think it
15 would be confidential as well.

16 MR. ELKINS: I'm not asking about anyone in
17 particular, Judge.

18 THE COURT: No. That's what I took that to
19 mean also. Go ahead.

20 BY MR. ELKINS:

21 Q Your non-SAFE-FC clients, how often did you
22 meet with them?

23 A Again, it depended on the client, the
24 situation.

1 Q Was there a minimum requirement for meeting
2 non-SAFE-FC clients?

3 A No.

4 Q So you're not required to meet with them like
5 once a month?

6 A Not really, no. We're required to meet with
7 them frequently, but there isn't --

8 Q Okay. So, then, this structure, as it were,
9 about meeting weekly with you and the Children's Cabinet
10 worker is a function of this being a SAFE-FC case;
11 correct?

12 A Correct.

13 Q In addition to these meetings weekly, there
14 are other requirements in the SAFE-FC program in terms of
15 meetings.

16 What were those?

17 A There are team meetings every three months.

18 Q Anything else?

19 A Well, on my part, yes. Staffings with my
20 supervisor.

21 Q Okay. That was monthly?

22 A No. Initially it's a couple times a week,
23 and then it goes to once a week, and then it goes to once
24 a month.

1 Q So depending on the luck of the draw as it
2 were, a parent either is expected to come to eight
3 meetings a month or maybe none, depending on if it's a
4 SAFE-FC case or not; right?

5 A Correct.

6 Q And I believe you testified Ms. Guerrero was
7 good about the first four months, so that would have been
8 about, including you and the Children's Cabinet, about 32
9 meetings; correct?

10 A Correct.

11 Q You testified that you had a number of
12 trainings as a social worker for eight years and eight
13 months.

14 A Yes.

15 Q Were you ever trained in the use of Section 8
16 or Reno Housing Authority vouchers?

17 A No.

18 Q Were you ever trained in the rules of TANF?

19 A I've been to a training. I don't know if I
20 can recall everything.

21 Q So when was that training; do you know?

22 A I don't remember.

23 Q Do you remember the substance of the
24 training?

1 A It was about welfare, welfare services.

2 Q Was it about eligibility? Was it about
3 levels of benefits?

4 A It would have been about everything.

5 Q So, then, for example, were you aware of the
6 effect of children being in foster care on parents' TANF
7 benefits?

8 A Yes.

9 Q And were you aware that after the children
10 were in care for six months, the benefits are reduced by
11 about half?

12 A Yes.

13 Q In that case that would have been about
14 October of 2013 in this case?

15 A Sure.

16 Q Your understanding of the cause for removal
17 here was that the parents could not meet the children's
18 basic needs essentially for shelter; is that right?

19 A Right.

20 Q And then there was an issue about Nathan
21 going to school. No. Roberto. I'm sorry. Roberto
22 going to school.

23 A Yes.

24 Q And how old was Robert or Roberto at that

1 time?

2 A I believe he was about five.

3 Q And as a social worker in Nevada for eight
4 years and eight months, are you familiar with the
5 requirements, educational requirements, of when children
6 must go to school?

7 A Yes.

8 Q At what age must children attend school?

9 A Six.

10 Q So at that time Roberto was not required to
11 go to school by law; correct?

12 MS. ELCANO: Objection. Calls for a legal
13 conclusion.

14 THE COURT: Well, based on her understanding
15 was he required to go to --

16 THE WITNESS: No, not at five.

17 MR. ELKINS: Okay. Thank you.

18 BY MR. ELKINS:

19 Q In fact, getting back -- I'm sorry.
20 Backtracking a little bit, in terms of benefits,
21 throughout the life of the case you had communication
22 with an employee of the Nevada Welfare Department;
23 correct?

24 A Correct.

1 Q And who was that?

2 A Ms. Sara Lowrey.

3 Q And she was the case manager, as you
4 understood it, assigned to the Guerrero TANF case?

5 A Yes.

6 Q When you first met Ms. Guerrero, that was in
7 early May of 2013; is that correct?

8 A Yes.

9 Q And at your first meeting, didn't she tell
10 you she was excited to announce she had an apartment?

11 A Right.

12 Q And I believe that she asked you to come and
13 see the apartment?

14 A She asked me to go see it, but I don't think
15 it was ready yet.

16 Q But at some point within a couple weeks of
17 that date they occupied that apartment; is that your
18 understanding?

19 A Yes.

20 Q And you did eventually go to see her?

21 A Yes.

22 Q Okay.

23 MS. ELCANO: Could we clarify which apartment
24 just because there have been so many homes throughout

1 this case?

2 MR. ELKINS: The apartment they occupied on
3 May 1st or thereabouts of 2013.

4 BY MR. ELKINS:

5 Q That was the Linden Street apartment.

6 A Yes.

7 Q It was a one-bedroom apartment?

8 A Yes, it was a one-bedroom apartment.

9 Q Do you know approximately the dimensions?

10 A No.

11 Q Was it as big as this room?

12 A Probably smaller than this room.

13 Q And they remained in that apartment, did they
14 not, from May of 2013 all the way through the end of the
15 year?

16 A Correct.

17 Q When Ms. Guerrero first met with you and they
18 talked about the apartment, did she ask the agency for
19 some assistance financially in terms of securing the
20 apartment?

21 A Not initially, I don't think she did.

22 Q Well, do you recall her asking or mentioning
23 that they had an arrears in their utility from their last
24 apartment and asking for assistance?

1 A I'm sorry. Arrears, what's --
2 Q They owed money on their power bill; correct?
3 A Yes.
4 Q Do you recall the amount, approximately?
5 A Maybe 200. I don't really remember.
6 Q All right. 200 or less?
7 A I don't remember.
8 Q All right. It wasn't a substantial amount of
9 money, was it?
10 MS. ELCANO: Objection. She doesn't recall
11 the amount.
12 MR. ELKINS: I'll withdraw the question,
13 Judge.
14 BY MR. ELKINS:
15 Q Did the agency ask -- well, let me just back
16 up a little more.
17 You testified that as the social worker and
18 working with Children's Cabinet, you can request services
19 from Children's Cabinet for the family; correct?
20 A Correct.
21 Q And you said depending on the case, that
22 includes financial assistance; correct?
23 A Correct.
24 Q Did you ask the Children's Cabinet to provide

1 financial assistance to pay whatever amount of money the
2 family had outstanding on their prior utility bill?

3 A No.

4 Q Even though you did understand that that was
5 an impediment to them getting the apartment; correct?

6 A Correct.

7 Q But by whatever means they managed to secure
8 the apartment and move in; correct?

9 A Correct.

10 Q Okay. One of the goals or tasks in the case
11 plan was to manage a budget; is that right?

12 A Correct.

13 Q And you were trained in terms of TANF
14 benefits? You've already testified to that.

15 A Uh-huh, yes.

16 Q Do you recall the benefit level that the
17 parents received in May of 2013?

18 A It was a little over \$500.

19 Q Would 513 sound about right?

20 A Sure.

21 Q Do you know how much the rent on the
22 apartment was?

23 A I don't recall.

24 Q Even though you don't recall the specific

1 amount, do you recall the approximate amount since you
2 helped them with the budget?

3 A I just know it was less than 513.

4 Q Do you recall how much less?

5 A (Witness shakes head.)

6 Q Do you recall, assisting them with the
7 budget, how much money they had left over after rent?

8 A No. I did not do the budget. I requested
9 the Children's Cabinet do it.

10 Q Was it your understanding from speaking to
11 the parents that the rent took up most of their TANF?

12 MS. ELCANO: Objection. Calls for hearsay.

13 BY MR. ELKINS:

14 Q Just from speaking to Ms. Guerrero?

15 A We didn't talk about the budget at that time.

16 Q Did you ever talk about the amount of the
17 rent?

18 A Yes. We talked about the amount of the rent,
19 but we didn't talk about a budget.

20 Q In talking about the amount of the rent, was
21 it your understanding that it took up most of the TANF
22 benefits?

23 A Yes, most.

24 Q And by that I mean the \$513.

1 A Correct.

2 Q You testified, I believe, that Ms. Guerrero
3 at some point had a Section 8 voucher?

4 A Yes.

5 Q If I recall correctly, your testimony was
6 that one of the concerns that the agency had in terms of
7 her motivation was her failure to employ the Section 8
8 voucher, to use it; is that right?

9 A Correct.

10 Q Do you know how the Section 8 voucher program
11 works?

12 A No.

13 Q Do you know what impediments there are to
14 using a Section 8 voucher?

15 A No.

16 Q Did you believe that if you had a Section 8
17 voucher, that guaranteed you an apartment?

18 A No. She had to look for one.

19 Q Yes. But did you believe that if you found
20 an apartment and had a Section 8 voucher, that's all you
21 needed to secure an apartment?

22 A No.

23 Q So it's your understanding there are other
24 things that were required?

1 A That's correct.

2 Q Among those things is good credit, isn't it?

3 A I don't know.

4 Q Okay. Do you know whether or not a prior
5 eviction affects your ability to use a Section 8 voucher?

6 A I don't know.

7 THE COURT: Who assists them with this?
8 You're the worker or you're -- who assists them in this
9 housing? Is there someone that does know about Section 8
10 in the system?

11 THE WITNESS: When they get Section 8, then
12 they can get assistance from the Section 8 housing
13 workers there who approved her application in finding an
14 apartment or getting at least the guidance as to where to
15 go.

16 THE COURT: I don't mean to interrupt you.

17 THE WITNESS: At least that's what I
18 understand.

19 BY MR. ELKINS:

20 Q What's your understanding based on?

21 A On information -- on phone calls I've had
22 with Section 8 housing representatives.

23 Q Okay. That's fine.

24 THE COURT: So, then, you give them a

1 voucher, and they go to Section 8 and find out what --

2 THE WITNESS: No, no, no. Section 8 is
3 completely separate from us. So they go to Section 8,
4 they request -- they fill out an application, and if they
5 get approved, they're usually put on a waiting list
6 because there's many people there. Once their name pops
7 up, then they are informed and they can either get
8 housing or get an apartment -- a house, an apartment.

9 From conversations I've had, I understand
10 that there are certain requirements. You have to look
11 for your own apartment, you have to be able to pay a
12 certain amount. I think -- I don't know how much. I
13 think it's based on -- I don't even know, honestly. It's
14 based on an income, but they said that they can refer
15 people to, like, certain areas that have worked with them
16 before.

17 THE COURT: Is Section 8 a government
18 program, and if so, what government?

19 THE WITNESS: Yes, it's a government program,
20 and I don't know if it's state or federal. I don't know.

21 BY MR. ELKINS:

22 Q So the Section 8 program isn't administered
23 by your agency and, really, you have little to do with
24 it; isn't that right?

1 A Correct.

2 Q During the time that the parents had the
3 Linden Street apartment and when you were reviewing their
4 ability to meet the children's basic needs, isn't it fair
5 to say that you concluded that TANF was not sufficient to
6 meet the needs of the family?

7 A No.

8 Q You never indicated anywhere that TANF would
9 not be sufficient?

10 A Well, it was sufficient to maintain for a
11 short while, but we -- I encouraged the parents to find
12 jobs.

13 Q Yes, but that's not my question.

14 Isn't it true that you concluded that TANF
15 would not be sufficient to meet the basic needs of a
16 family this size?

17 A Yes.

18 Q So that in order to meet the children's basic
19 needs, the parents would have to do something else?

20 A Correct.

21 Q During the time that the parents lived in the
22 Linden Street apartment, did Ms. Guerrero tell you that
23 she was employed at certain times?

24 A She told me of job leads. She told me she

1 had jobs, but I don't believe she ever actually started
2 them.

3 Q Did she ever mention SK Foods?

4 A Yes, but I don't recall her starting while
5 she was at the Linden apartment.

6 Q That might have been after she gave birth to
7 Nathan?

8 A Right.

9 Q Or Ethan?

10 A Ethan, yes.

11 Q I apologize for that mistake.

12 And, in fact, speaking of Ethan, the mother,
13 Ms. Guerrero, during this period of time from May to
14 December, having nothing to do with romance, was
15 pregnant; correct?

16 A Correct.

17 Q And she became progressively more so,
18 presumably, between May and December?

19 A Well, yes.

20 THE COURT: That's usually how it goes, isn't
21 it?

22 MR. ELKINS: In my experience.

23 THE COURT: Maybe they become less pregnant
24 over time?

1 MR. ELKINS: I'm not going to go there.

2 BY MR. ELKINS:

3 Q So in your eight years and eight months as a
4 social worker assisting clients, is it your experience
5 that it's more difficult to find a job if you're
6 pregnant?

7 A I don't think I ever had a client who was
8 pregnant looking for a job.

9 Q During the course of your supervision of the
10 case, while the parents lived at the Linden Street
11 apartment, can you describe for me the progression of
12 visits?

13 A Yes. Initially we started visits outside in
14 the community. She and the foster parent would meet
15 somewhere.

16 Q Do you recall how long those visits were and
17 when they took place?

18 A I don't remember. I want to say they were
19 twice a week. One of them was on a weekend, and I don't
20 remember the length. It was pretty extended. I think it
21 was maybe six hours.

22 Q Maybe six hours?

23 A Maybe.

24 Q Okay. Is it fair to say you permitted that

1 because you didn't have any concerns about the children's
2 physical safety in the custody of their parents? Is that
3 right?

4 A That's correct.

5 Q Is it also fair to say that you didn't have
6 any concerns about Ms. Guerrero's ability to manage the
7 children during those visits?

8 A That's correct.

9 Q And then how did the visits progress?

10 A From there, I can't remember if we did three
11 or we stayed at two -- honestly, I don't remember -- but
12 there started being some issues between drop-off and
13 pick-up times.

14 Q Before that -- I'm sorry to interrupt
15 you -- did there come a time when visits were permitted
16 in the home at the Linden Street apartment?

17 A Yes, they were permitted.

18 Q And do you know approximately when that was?

19 A Maybe June. Or not June. Yeah, maybe June
20 of 2014.

21 Q And obviously --

22 A '13, sorry.

23 Q '13, gotcha.

24 And obviously before you would permit visits

1 in the Linden Street apartment, you had gone there and
2 looked at it and you had determined it was safe; correct?

3 A Correct.

4 Q And you've already said it was a one-bedroom
5 smaller than this courtroom?

6 A Right.

7 Q And there came a time when the visits
8 progressed from being in the home to being overnight?

9 A Honestly, I don't recall overnight. I don't
10 remember.

11 Q Was there a plan to have overnight visits?

12 A Possibly, yes.

13 Q Okay. And something occurred, did it not,
14 that prevented visits from continuing in the Linden
15 Street apartment?

16 A Yes.

17 Q And what was that?

18 A Their power was shut off.

19 Q So do you recall Ms. Guerrero telling you
20 what efforts they made to keep the power on?

21 A I remember her telling me they went to donate
22 plasma to get more money.

23 Q What does that mean, "donate plasma"?

24 A They go into a facility downtown -- I believe

1 it's like blood, at least that's how it's been explained
2 to me -- you go in, you donate plasma, and you get money
3 for it.

4 Q So they were donating blood in order to pay
5 the utility bill?

6 A That's what she had told me.

7 Q Did you have any reason to believe that
8 wasn't true?

9 A No.

10 Q What other efforts, to your knowledge, did
11 they make to pay the utility bill?

12 A I know initially they had submitted a
13 low-income energy application to the welfare department.

14 Q And is it your understanding that was
15 granted?

16 A No.

17 Q Do you know what other efforts they made to
18 pay the utility bill?

19 A I think they tried asking people for money,
20 like to borrow money.

21 Q So, then, I believe you testified that became
22 an obstacle to the children visiting in the apartment?

23 A Yes.

24 Q And why was that?

1 A It affected the cleanliness of the home also.
2 Basically the condition of the home, environment, became
3 unsafe due to the power.

4 Q Meaning there was no hot water?

5 A There was no hot water. It was still summer
6 so that didn't matter, but there was a lot of dirty
7 dishes, and at that time is when we started noticing the
8 home started to get a little dirty, and it was -- every
9 time I went there it was consistently dirtier.

10 Q And did Ms. Guerrero explain to you on one
11 occasion one of the problems with the dishes is she
12 didn't have hot water?

13 A That's correct.

14 Q Also became difficult to wash clothes?

15 A Correct.

16 Q And there was no power, so you couldn't --

17 A Well, the power didn't have anything to do
18 with washing the clothes.

19 Q Well, they didn't have any hot water;
20 correct?

21 A Yes. But she didn't have laundry --

22 Q A washing machine?

23 A -- a washing machine in her home.

24 Q So she'd have to go somewhere else?

1 A Yes.

2 Q So if you had the change, that's possible?

3 A Yes.

4 Q And I believe you had already testified that
5 at one point a vacuum cleaner was provided, but there was
6 no power to run it?

7 A No, no, no. We offered the vacuum cleaner
8 prior to the power turning off. We didn't purchase a
9 vacuum cleaner until the power was turned back on.

10 Q All right. And, in fact, isn't it true you
11 would go to the apartment sometimes and you would see
12 efforts to clean, like sweeping?

13 A Yes, efforts.

14 Q But they were sort of unavailing, didn't work
15 out? Didn't you say at one point the mop was so dirty
16 that it was making the floor dirty?

17 A Correct.

18 MR. ELKINS: Judge, you don't mind if I just
19 wander a little bit, do you? I'm tired of hearing the
20 floor creek.

21 THE COURT: That's fine. You can move that
22 back if you want to.

23 MR. ELKINS: I appreciate that.

24 THE COURT: You can move it out of the way,

1 too.

2 BY MR. ELKINS:

3 Q All right. So eventually, though -- let me
4 just -- I'm sorry. I'm going to try to do this in some
5 kind of logical order.

6 Getting back to the visits, because of the
7 condition of the home, they couldn't visit in the home
8 any longer, and so what did you do with the visits at
9 that point?

10 A I moved them back to the community.

11 Q Okay. And then there came a time when they
12 went back to the agency?

13 A Well, they weren't in our agency. It was
14 just the pick-up and drop-off location.

15 Q So the weekend visits stopped?

16 A Correct.

17 Q And the foster mother would bring the
18 children to the agency where the parents would meet them
19 and take them out?

20 A Correct.

21 Q Do you recall the day that Ms. Guerrero was
22 told that that arrangement was going to be made?

23 A Yes.

24 Q What was her reaction?

1 A She was upset.

2 Q How upset was she?

3 A She was crying and upset and didn't
4 understand why.

5 Q Can you describe her physical response?

6 A I just said she was crying.

7 Q I know that, but isn't it a fact she couldn't
8 catch her breath or speak?

9 A I believe, yes, that was the occasion.

10 Q So she was -- would you say she was
11 hysterical?

12 A I wouldn't -- well, yeah, she was
13 hysterically crying, yes.

14 Q In your experience as a social worker, did
15 that response seem proportionate to the event?

16 A Sure. She was upset.

17 Q Okay. Is that a common reaction for parents
18 who are told to pick their children up --

19 A Not all the time.

20 Q Speaking of that, Ms. Lopez, when you first
21 met the mother, she told you, did she not, that she had a
22 history of depression?

23 A Correct.

24 Q That she had been prescribed medication as a

1 teenager?

2 A I don't recall the medication part.

3 Q Okay. That she had been in therapy in the
4 past?

5 A I think she did tell me that, yes.

6 Q Did she mention anxiety?

7 A I don't recall mention of anxiety, but I do
8 recall the depression.

9 Q And so a psychosocial became part of your
10 case plan; correct?

11 A Correct.

12 Q Can you just tell the judge what a
13 psychosocial is?

14 A Sure. A psychosocial is an evaluation
15 completed by a marriage and family counselor, licensed
16 clinical social worker such as Ms. Buttacavoli, who was
17 here yesterday. They do -- they assess, they talk to the
18 parents, they determine if further services are needed.

19 They can look for things like need for a
20 psychological evaluation, something a little more
21 thorough, neuropsych. They can refer to parenting
22 classes, they can refer to substance abuse treatment,
23 individual therapy, whatever, based on their intake with
24 the parent, their assessment, they feel would benefit the

1 parent.

2 Q So where did you refer the mother for the
3 psychosocial?

4 A To Brianna Carter at the Children's Cabinet.

5 Q And is it your understanding that she did go
6 for the psychosocial?

7 A She did.

8 Q Also, during your --

9 THE COURT: This Brianna Carter, she's an
10 MF --

11 THE WITNESS: She's an MFT intern. At that
12 time she was an intern.

13 THE COURT: Excuse me.

14 BY MR. ELKINS:

15 Q So, Ms. Lopez, you never had the benefit,
16 prior to the 12-month period that you testified about, of
17 Dr. Aberasturi's opinion here, did you?

18 A Correct.

19 Q In fact, let's just talk about that.

20 At 12 months the services that you talked
21 about through Children's Cabinet stopped, didn't they?

22 A Correct.

23 Q So around April of 2014 no services were
24 being provided to the parent; right?

1 A Correct. Well, I wouldn't say no services.
2 I did give her --
3 Q A bus pass?
4 A No. And referrals to therapists, and we
5 talked.
6 Q But nothing that was being paid for?
7 A No.
8 Q There were times, were there not, Ms. Lopez,
9 when you were discussing counseling with my client and
10 she would say, "What I really need is a job"?
11 A Yes.
12 Q Does Social Services, Washoe County
13 Department of Social Services, your agency, have the
14 ability to assist with employment?
15 A We'd give her, like, referrals to fairs, job
16 fairs. Like I did before, like I mentioned, we would
17 talk about this is where she could go, but, no, I don't
18 have the ability to get her a job.
19 Q No, no. Did anyone, for example, actually
20 assist Ms. Guerrero to fill out an employment
21 application? Did you do that?
22 A I did not, but I have the ability to do that.
23 Q But you didn't?
24 A But I didn't do that.

1 Q But you did discuss with her generally what
2 employers are looking for and how to dress?

3 A Right.

4 Q And things like that?

5 A Correct.

6 Q But is it fair to say that during the period
7 of time when there was no power, the parents' hygiene
8 also declined?

9 A Their hygiene was throughout the case kind
10 of -- sometimes good, sometimes bad. I don't remember if
11 it was during just that time.

12 Q All right. Isn't it true that at one point
13 you told Ms. Guerrero, "You know, you're not going to get
14 a job if you're not -- if your hygiene isn't better"?

15 A No. I told her that employers look for
16 certain things, and I said that's one of them.

17 Q Did she at one point ask you for hygiene
18 products?

19 A I believe she did, and I told her if she
20 really needed some, I would go get them.

21 Q Now, there came a time, did there not, around
22 November of 2013 when the power was restored to the
23 Linden Street apartment?

24 A I'm sorry?

1 Q I'm sorry. There came a time around November
2 of 2013 when power was restored to the Linden Street
3 apartment; right?

4 A Yes.

5 Q Okay. And did Ms. Guerrero tell you how that
6 managed to happen?

7 A Yes.

8 Q And how was that?

9 A She told me that the apartment complex turned
10 it on under their name.

11 Q Because it was getting colder?

12 A Because of the weather, yes.

13 Q So now the apartment has power, and I believe
14 you testified yesterday that the condition in the
15 apartment actually improved during this period?

16 A Correct.

17 Q Can you tell me, then, Ms. Lopez, why in
18 November of 2013 the children were not able to visit with
19 their parents at the Linden Street address if they had
20 power and it was cleaner?

21 A Again, it had to do with the conflict between
22 Ms. Guerrero and the foster parent, and the foster parent
23 wasn't willing to meet anywhere besides our building.

24 Q Well, aren't their runners or other people

1 that could transport the children?

2 A These children are school age, and if we move
3 the visit to the weekends, we have no runners.

4 Q Didn't you already testify that earlier in
5 the case the parents had a weekday visit in the evening
6 with the children at their apartment?

7 A Yes.

8 Q Okay. So why weren't they permitted a
9 weekday evening visit with their children?

10 A Because, again, the foster parent was not
11 willing to transport there.

12 Q Can I ask you this: Why weren't the parents
13 permitted to pick up the children from the agency and
14 take them to the apartment during this period?

15 A I don't recall.

16 Q Do you recall, Ms. Lopez, saying that it was
17 because you weren't sure that they would have stability?

18 A I don't recall. I don't remember. Actually,
19 I remember, I remember a conversation we had. I believe
20 I told her that it was unhealthy for the children to
21 allow them to go back in the home and visit and then have
22 to pull the visits out again and then let them go back in
23 and then pull them out again. And so we talked about
24 demonstrating the stability in order for me to allow the

1 children to go visit in the home again.

2 Q Well, these are visits; correct?

3 A Correct.

4 Q We're not talking about them living there?

5 A No. Correct. But the children don't
6 understand that. A child, all they know is, I get to be
7 in the home again, and to them, that means I'm going to
8 be home soon. And so pulling them -- we had already did
9 that, and then pulling them again, that would not have
10 been healthy. All I was asking her was for several
11 months of stability so that I could allow them and move
12 forward.

13 Q So the alternative was that during November,
14 December of 2013, even though they had the Linden Street
15 apartment and it had power, they would come to the agency
16 and visit the kids?

17 A Correct.

18 Q And Ms. Guerrero was about eight months
19 pregnant in December?

20 A Correct.

21 Q And didn't she complain that it was difficult
22 to go out given her condition during that time?

23 A I wouldn't say she said to go out. She was
24 having a difficult time walking.

1 Q Okay. And, in fact, I think you testified
2 yesterday that in December -- well, late December they
3 lost the Linden Street apartment?

4 A Correct.

5 Q And the mother in January of 2015 gave birth
6 to Ethan?

7 A Correct.

8 Q Okay. And at that point in time I think
9 we've already heard -- well, let me ask you this: Ethan
10 was not assigned to you; correct?

11 A No.

12 Q But you did visit Ms. Guerrero, did you not,
13 at her father's residence?

14 A Yes.

15 Q So she went from the hospital to her father's
16 residence with the baby?

17 A Correct.

18 Q Did you ever have a conversation with her
19 father about the other children being there?

20 A Yes.

21 Q Was he willing to do that?

22 MS. ELCANO: Objection. Calls for hearsay.

23 MR. ELKINS: Well, actually, Judge, it goes,
24 it seems to me, to the agency's understanding of the

1 situation in terms of their efforts to reunite, reunify
2 the family.

3 THE COURT: I'll let it in, but it won't be
4 for the truth of the matter asserted.

5 THE WITNESS: So there was actually -- and
6 Ms. Guerrero was present during that conversation. Yes,
7 I did talk to him about whether living there was going to
8 be a permanent situation or a temporary situation.

9 BY MR. ELKINS:

10 Q Were the children on your caseload the
11 subject of that conversation?

12 A Yes. We discussed the possibility of the
13 children being able to reunify in that home if it was
14 going to be a permanent living environment.

15 Q So, Ms. Lopez, if I understand you correctly,
16 you were prepared, if the grandfather agreed, to allow
17 Ms. Guerrero and her four children to live there?

18 A Correct.

19 Q So you weren't concerned about her ability to
20 take care of the children in terms of feeding, clothing,
21 changing the baby's diapers, their basic physical needs,
22 were you?

23 A The basic parenting, no.

24 Q Okay. So your concern was the resource;

1 correct?

2 A Providing, right, residence, income.

3 Q Okay. And that was true throughout the case,
4 was it not?

5 A True.

6 Q So the kids didn't go to the grandfather's
7 house?

8 A No.

9 Q But Ms. Guerrero is living with her father at
10 the time you filed this termination of parental rights
11 petition; correct? Withdrawn. That's not true, so let
12 me do better. Sorry. I don't mean to confuse you.

13 At the time you went to court and asked the
14 Court to set a goal of termination of parental rights,
15 Ms. Guerrero was living with Ethan, the youngest, with
16 her father at that trailer; correct?

17 A I don't think she was anymore. I think we
18 went in April in front of the Court, and she was -- she
19 was living at a Fourth Street mobile home in April.

20 Q Well, actually, okay. That's fair.

21 They had moved in there in March; right?

22 A I believe it was the beginning of April.

23 Q Beginning of April, okay.

24 So you went to court on what, the 16th,

1 something like that, 17th?

2 A Yeah.

3 Q So they had been in the trailer that
4 Ms. Guerrero told you they purchased; right?

5 A Well, they hadn't purchased it.

6 Q They made a down payment on it?

7 A Correct.

8 Q So she told you that this trailer they
9 acquired on Fourth Street, and I believe you testified it
10 was in the same trailer park as the grandfather's
11 trailer?

12 A Correct.

13 Q So that's where they were living when you
14 filed or when you went to court and asked that the Court
15 set a goal of termination of parental rights?

16 A Correct.

17 Q So at the time you requested that, is it also
18 true that Ms. Kraft, by the time you made that request,
19 just chronologically, had already gone out and seen the
20 trailer?

21 A I don't know.

22 Q But you knew Ethan was there with his
23 parents; correct?

24 A I think Ms. Kraft closed her case prior to

1 them moving into that home.

2 Q Well, someone visited the trailer; correct?

3 A Ms. Tyre, but that wasn't until July.

4 Q You don't recall going to see the trailer?

5 A Oh, I did, I went to see the trailer.

6 Q So you saw the trailer?

7 A I saw the mobile home, yeah.

8 Q While I think you've testified it wasn't
9 ideal, it was adequate given the baby's age?

10 A Well, the baby, yes.

11 Q So they had this residence, and we've seen
12 photographs --

13 A Correct.

14 Q -- of that residence at the time you asked
15 the Court to set a goal of termination of parental
16 rights?

17 A Correct.

18 MS. ELCANO: Your Honor, I don't think there
19 have been pictures of the trailer residence.

20 THE WITNESS: Well, the ones that Ms. Tyre
21 took, but those were July. There is no pictures from
22 April 2014.

23 BY MR. ELKINS:

24 Q But those July photographs are of the --

1 A The mobile home, the Fourth Street mobile
2 home.

3 Q Right.

4 A It wasn't Ms. Tyre. It was Ms. Meszaros was
5 the one who took the photographs.

6 Q The one with the yellow cat, I think.

7 MS. ELCANO: Yellow cat?

8 MR. ELKINS: Cat, not cab.

9 THE WITNESS: There might have been a cat in
10 the picture.

11 MR. ELKINS: There's a yellow cat in there
12 somewhere.

13 BY MR. ELKINS:

14 Q In fact, Ms. Lopez, Ms. Guerrero was never
15 homeless from the time you took the case until you asked
16 the Court to set a goal of termination of parental
17 rights; correct?

18 A Correct.

19 MS. ELCANO: Your Honor, I apologize. I was
20 looking at my phone because I'm talking with witnesses,
21 just so -- I don't want you to think I was communicating.

22 THE COURT: Do whatever you want to as long
23 as it doesn't ring.

24 MS. ELCANO: I've got a -- a witness didn't

1 know where we were, so I was trying to clarify.

2 THE COURT: You know, as long as what you do
3 isn't disturbing the proceedings, I don't care. What I
4 want is this proceeding to proceed --

5 MS. ELCANO: Thank you.

6 THE COURT: -- to conclusion, and sometimes
7 being overly formalistic impedes that. If you haven't
8 noticed, I'm not real high on formality as long as things
9 are moving along.

10 You know, old Judge Reed, I don't know if any
11 of you ever appeared in front of him, but you had to be
12 seated at the table or at the podium, stand at the
13 podium. You couldn't get more than an arm's length away
14 from the podium. There was an imaginary line in front of
15 the podium that you couldn't go in front of. If you
16 wanted a witness to look at an exhibit, you had to have
17 the bailiff come get it, take it to the witness and show
18 him, and he used to scream at me all the time because I
19 never did any of those things.

20 His bailiff was constantly saying, "You know,
21 Judge Reed wants you to do this." So I was never a very
22 good follower of what I considered to be -- well, I
23 wandered around all over the place, so it doesn't bother
24 me if anyone else does. There are things that are

1 disruptive. As long as you don't do those, I don't care
2 what you do.

3 MR. ELKINS: I'm wandering much less than I
4 usually do.

5 THE COURT: Whatever is comfortable. Here
6 you just about can touch the walls, you can't wander a
7 long ways.

8 And then the first judge I practiced in front
9 of was old Judge Gregory, and because I spoke low, he'd
10 make me go all the way to the back of the courtroom
11 because I'd have to yell loud enough for the witness to
12 hear me and so everybody else could hear, too, which
13 caused me to raise my voice after that. So whatever
14 works and whatever gets us to the end of this.

15 MS. ELCANO: Thank you.

16 MR. ELKINS: Judge, if you just give me a
17 minute to look over my notes.

18 THE COURT: Go ahead.

19 BY MR. ELKINS:

20 Q Ms. Lopez, I believe that you testified
21 yesterday that during the life of the case you did not
22 recall the mother having a job.

23 A No, I didn't say that.

24 Q But you do recall she got a job at Motel 6?

1 A Oh, yes. I said that.

2 Q And didn't she also get a job at La Quinta?
3 Q-u-i-n-t-a, I believe it is.

4 A She told me she had gotten a job, yeah.

5 Q Can I ask you this: In terms of motivation,
6 the fact that she was hired by Motel 6, doesn't that show
7 that she had sufficient initiative to go out and obtain
8 employment?

9 A Yes. But there was no -- there was lack of
10 follow-through.

11 Q You mean she lost the job?

12 A Right.

13 Q Is that what you mean by "lack of follow-
14 through"?

15 A Well, I don't know why she lost the job. I
16 know what she told me, but I don't know for a fact.

17 Q But when you say "lack of follow-through,"
18 you mean she lost her job; correct?

19 A Not necessarily, no.

20 Q Well, it takes motivation to get the job?

21 A Right.

22 Q It takes initiative? You have to apply for
23 it, you have to interview, you have to fill out the
24 paperwork, you have to show up for work?

1 A Right. Not in that instance. I would say,
2 no, there was not a lack of follow-through in that
3 instance.

4 Q But, Ms. Lopez, didn't Ms. Guerrero also tell
5 you throughout the case that she was looking for work?

6 A Right.

7 Q Okay. And, of course, we've established that
8 during the Linden Street residency she was pregnant?

9 A Correct.

10 Q So she finds this job, and I believe, if I'm
11 not mistaken, it was in October of 2014.

12 Do you recall that?

13 A Sounds about right, I think.

14 Q Didn't -- well, I don't want to repeat
15 myself, but I think we'd agree that showed motivation?

16 A Some motivation, yeah.

17 Q So how is it, then, that at that point she
18 hadn't satisfied the goal of showing motivation?

19 A For 30 days? That's not ongoing.

20 Q So your answer is because she lost the job?

21 A No. Because she didn't have a permanent job
22 throughout this case. Not a permanent job, just
23 employment throughout the case.

24 Q Ms. Lopez, the issue was motivation; correct?

1 A Right.

2 Q Meaning she has to have the initiative to do
3 what's necessary to get employment; right?

4 A Uh-huh.

5 Q She did that, didn't she?

6 A For 30 days.

7 Q You mean she maintained the employment for 30
8 days?

9 A No. Well, yeah, she maintained that
10 employment for 30 days.

11 Q So your answer to the question of lack of
12 motivation, at that point she lost the job?

13 MS. ELCANO: Objection. Asked and answered.
14 I think this is getting to the point of badgering the
15 witness.

16 THE COURT: You've made your point.

17 MR. ELKINS: Thank you, Judge.

18 BY MR. ELKINS:

19 Q Yesterday you testified that Ms. Guerrero
20 could have gone to mental health court.

21 A She could have. She was referred.

22 Q Ms. Lopez, isn't it a fact that at the time
23 of the referral there was one opening in mental health
24 court?

1 A Correct.

2 Q And isn't it a fact that you actually told
3 her that there was a low chance that she would get into
4 mental health court?

5 A Not initially.

6 Q Did there come a time when you said, "There's
7 one opening and there's a low chance you'll get in"?

8 A Yes.

9 Q So, in fact, she was not admitted to mental
10 health court, was she?

11 A That's true.

12 THE COURT: Since I'm not familiar with
13 mental health court over here, are there more services
14 available for people that are in mental health court than
15 there would be for people who aren't?

16 THE WITNESS: Yes. There's more supervision,
17 more support. They get a foster grandparent who assists
18 them in, really, motivation, emotional support.

19 THE COURT: Can they get housing and all of
20 that stuff?

21 THE WITNESS: No, no. There isn't any of
22 that involved in it. You have a team of people working
23 together to support the parent, and that includes their
24 lawyer, a therapist, social worker, the judge. And so

1 working together, we try to help the parent. The foster
2 grandparent, the mentor moms, working together, we try to
3 figure out solutions as to how do we help the parent.

4 Again, we give them tasks, but the parent
5 still has to take that initiative and take action, but
6 there is a lot more supervision.

7 THE COURT: So there's not people -- I mean,
8 at least to begin with, we started mental health court
9 for people who were charged with crimes, trying to keep
10 them out of jail. So it's gone beyond that now and you
11 can --

12 THE WITNESS: Well, this is family mental
13 health court. There is a criminal mental health court.
14 This is family mental health court.

15 THE COURT: So this is completely different?

16 THE WITNESS: Yes.

17 THE COURT: Okay. I didn't realize that.

18 MR. ELKINS: Sorry, Judge.

19 BY MR. ELKINS:

20 Q And there are a limited number of openings;
21 correct?

22 A Correct. Family mental health court has a
23 limited amount of openings.

24 Q Do you know how many people are in that at

1 any one time?

2 A I don't. I'm sorry.

3 THE COURT: Is that still being done by Breen
4 and Blake and Schumacher?

5 THE WITNESS: The judge right now is
6 Judge Walker.

7 THE COURT: Egan?

8 THE WITNESS: Yes.

9 BY MR. ELKINS:

10 Q So it's not just a matter of signing up;
11 right?

12 A No.

13 THE COURT: From this, I'm assuming she
14 applied and was not accepted because there wasn't room?

15 THE WITNESS: No, that's not what happened.

16 MR. ELKINS: Well, Judge, I don't know that
17 this witness is part of the process.

18 THE COURT: I'll just withdraw the question
19 because if she doesn't know, then that's fine. I'm
20 sorry.

21 MR. ELKINS: And I --

22 BY MR. ELKINS:

23 Q You weren't on the team that determined
24 whether she was admitted, were you?

1 A No.

2 Q So we've gotten to the Fourth Street trailer
3 park and the trailer you saw there where the parents
4 lived with Ethan.

5 I believe you testified yesterday there came
6 a time when Ms. Guerrero was assaulted by
7 Mr. Hunt-Taylor, as you understand it?

8 A Yes.

9 Q And she did not return to the trailer after
10 that; correct?

11 A I don't know if she went back and then -- I
12 don't know exactly when. I just know it was shortly
13 after she didn't go back.

14 Q So you don't know?

15 A Correct.

16 Q But you do know that she went to court;
17 correct?

18 MS. ELCANO: Objection. Vague. "Court"? I
19 mean --

20 BY MR. ELKINS:

21 Q You do know she got a protective order --

22 A Yes.

23 Q -- against Mr. Hunt-Taylor; correct?

24 A Yes, I do know that.

1 Q And Mr. Hunt-Taylor went to jail, did he not?

2 A Correct.

3 Q And, in fact, after that, for a -- well,
4 Mr. Hunt-Taylor was in jail from July until -- was it
5 October of 2014?

6 A I don't know when he got out, but it was
7 somewhere around there.

8 Q And then after that their visits at the
9 agency were separated; is that right?

10 A Correct. Correct.

11 Q And you and Ms. Guerrero had conversations
12 about her relationship with Mr. Hunt-Taylor, did you not?

13 A Correct.

14 Q And there came a time when she told you that
15 they were not in a romantic relationship, but that they
16 did communicate without their children; correct?

17 A Correct.

18 Q And at that time she asked that the visits be
19 recombined; is that right?

20 A Correct.

21 Q And so she and Mr. Hunt-Taylor visited
22 together?

23 A Not at that time. There was still a TPO.

24 Q When the TPO was lifted?

1 A Right.

2 Q And they again began to visit together?

3 A Yes.

4 Q Do you know about when that was? Toward the
5 end of 2014, maybe?

6 A Yeah. December, January, somewhere around in
7 there. I don't recall the exact time.

8 THE COURT: Of 2000 --

9 THE WITNESS: Of 2014-15, around that time.

10 BY MR. ELKINS:

11 Q So there was a substantial period of time
12 when either Mr. Hunt-Taylor was in jail or they were
13 visiting separately?

14 A Correct.

15 Q But at that point in time you've testified
16 that you didn't offer any services because no more
17 services were required of you with regard to domestic
18 violence because you had gotten the order from the Court
19 setting the goal of termination of parental rights;
20 correct?

21 A Correct.

22 Q Ms. Lopez, in 2013, had the parents been able
23 to maintain their Linden Street apartment, the plan was
24 to reunite the children with their parents there; isn't

1 that right?

2 A Correct.

3 Q So had they been able to maintain the
4 apartment, if they had sufficient income to pay the rent,
5 keep the utilities on, purchase food, the children would
6 have been returned to their parents; is that right?

7 MS. ELCANO: Objection. Calls for
8 speculation.

9 THE COURT: I think he asked if that was the
10 plan.

11 MS. ELCANO: He had previously, but in this
12 question he didn't.

13 BY MR. ELKINS:

14 Q Is that correct?

15 THE COURT: Go ahead and answer. Was that
16 the plan?

17 THE WITNESS: That was the plan.

18 BY MR. ELKINS:

19 Q And had the conditions been met, the plan
20 would have been implemented; correct?

21 A Yes.

22 Q You had no more casework responsibility here,
23 right, for Ms. Guerrero after April of 2014?

24 A Correct.

1 MR. ELKINS: The Court's indulgence.
2 THE COURT: I just want to get some dates
3 clear.
4 The children were removed in April of 2013?
5 THE WITNESS: Correct.
6 THE COURT: They had an apartment from May of
7 2013 through December of 2013?
8 THE WITNESS: Correct.
9 THE COURT: And then after she had the baby,
10 she moved in with her father, but at some point they had
11 a trailer --
12 THE WITNESS: March -- sorry -- April 2014.
13 THE COURT: 2014. And then it was right
14 then, because the 12 months were up, that the permanency
15 plan was changed from reunification to --
16 THE WITNESS: Termination.
17 THE COURT: -- termination. So that would
18 have been in April of 2014?
19 THE WITNESS: Correct.
20 THE COURT: When did you try to get her into
21 mental health court?
22 THE WITNESS: I think it was about -- it was
23 six months into the case. I think it was maybe about
24 November, December 2014, so six months.

1 MR. ELKINS: Judge, rather than have the
2 witness sit here -- I know you're accustomed to taking a
3 break -- I don't know if this is too early for you, but
4 if you want, I can look through my notes and tell you
5 whether I have any other questions.

6 THE COURT: Let's just all stand in place
7 here. You can go ahead and -- because usually I take
8 it -- well, 8:30 -- see, if we take it now, then it's a
9 real long stretch after that.

10 So let's just do this. Everybody else can be
11 at ease, and you can take a few minutes and look at
12 your notes.

13 MR. ELKINS: I appreciate that. Thank you.

14 (A recess was taken.)

15 BY MR. ELKINS:

16 Q Ms. Lopez, there came a time, did there not,
17 in January of this year when you had a conversation with
18 Roberto about adoption.

19 Do you recall that?

20 A Yes.

21 Q And you went to see him in his foster home;
22 is that right?

23 A Correct.

24 Q That's Sandra Matute's home?

1 A Correct.

2 Q And you talked to him about why he was still
3 in foster care?

4 A Correct.

5 Q And what was his demeanor during that
6 conversation?

7 MS. ELCANO: Your Honor, I believe that's
8 hearsay.

9 MR. ELKINS: His demeanor?

10 THE COURT: No. That's an observation.

11 THE WITNESS: Towards the end of our
12 conversation, he was tearful.

13 BY MR. ELKINS:

14 Q Is it fair to say he was sad?

15 A Sorry?

16 Q Sad? He used the word "sad"?

17 A Yes.

18 Q And, in fact, you referred him to a
19 therapist; correct?

20 A Yes.

21 Q After that conversation?

22 A Correct.

23 MR. ELKINS: No further questions, Judge.

24 THE COURT: Any redirect?

1 MS. ELCANO: Yes. Thank you.

2

3

REDIRECT EXAMINATION

4

BY MS. ELCANO:

5

Q I want to first turn to SAFE-FC, Ms. Lopez.

6

7

I think the way that the questions were
phrased to you were requirements of the parents, but you
are required to offer meetings to the parents; is that
correct?

9

10

A Yes.

11

12

Q And what is the purpose or benefit of
offering meetings, more meetings than, say, a non-SAFE-FC
to parents?

13

14

15

16

17

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19

20

A The purpose was to have momentum, to discuss
the case plan goals with services that are needed, what's
working, what's not working, to discuss how they're
feeling and to just process everything that's going on
with the purpose of, if we do this every single week,
then we gain more momentum and the kids come home
quicker.

21

22

Q Do you believe that this was beneficial for
Ms. Guerrero?

23

24

A I think it's beneficial to have more contact
with a parent, and, yes, I think it was beneficial.

1 Q Why in particular do you feel that it was
2 beneficial to Ms. Guerrero to offer these weekly meetings
3 to her?

4 A She was able to express how she was feeling.
5 We would be talking about what she felt and what she
6 needed. It was about providing the guidance as a social
7 worker that she needed.

8 Q And during these meetings were you able to go
9 over the goals of the case plan?

10 A Yes. The case plan meetings were -- I mean,
11 weekly meetings were focused on her goals.

12 Q And also the tasks that were expected to be
13 completed?

14 A Correct.

15 Q And were you also able to discuss services
16 that could be implemented?

17 A Sure. Yes.

18 Q As well as discussing Ms. Guerrero's progress
19 or lack thereof?

20 A Correct.

21 Q And what could be done to address that; is
22 that correct?

23 A Correct.

24 Q And if a parent fails to attend these

1 meetings, but they are in a situation where they have
2 demonstrated an ability to safely parent their child,
3 would the failure to attend these meetings be a reason
4 solely not to return their child to their care and
5 custody?

6 A No.

7 Q You testified, I believe, that you thought
8 mom's TANF benefits were approximately \$513 a month; is
9 that correct?

10 A Yes.

11 Q While Ms. Guerrero was receiving this \$513 a
12 month, were the children in her care?

13 A No.

14 Q Was she able to meet her own basic needs,
15 including housing and food, while she was receiving the
16 \$513 a month?

17 A No.

18 Q And was that TANF benefit, to your knowledge,
19 the amount that she received when the children were in
20 her care?

21 A Yes.

22 Q So did that TANF change once the children
23 were removed and TANF caught up basically?

24 A It wasn't changed initially.

1 Q But did the 513 amount change?

2 A Not initially.

3 Q When did it change?

4 A I'd say about six months.

5 Q Based on your own personal knowledge or
6 conversations with Ms. Guerrero, do you know why it
7 changed?

8 A I do know that if -- initially welfare does
9 not change the TANF money if the plan is reunification,
10 but they pretty much give them six months. If the
11 children are not home within six months, then it gets
12 reduced.

13 Q I see. So just so I understand, TANF
14 benefits relating to a parent caring for a child would
15 remain the same for six months if the plan is
16 reunification?

17 A Yes.

18 Q Even though the children were placed outside
19 of the parents' home?

20 A Correct.

21 Q Thank you.

22 To your knowledge was there ever a lapse in
23 TANF benefits provided to Ms. Guerrero, aside from her
24 sit-out period, during the life of the case?

1 MR. ELKINS: Objection. Objection, Judge.

2 Hearsay.

3 BY MS. ELCANO:

4 Q Based on conversations with the mother,
5 Ms. Guerrero?

6 A Yes, we did have a conversation. I'm going
7 to say it was March of 2014. She missed a month of TANF
8 benefits because she wasn't -- she hadn't turned in
9 certain documents that were required.

10 Q I wanted to discuss Social Services' policies
11 regarding the number of bedrooms that are required in
12 order to meet the number of children. In other words, if
13 there is a mother caring for a child, how many bedrooms
14 are required to approve placement of three children home
15 with the mom?

16 A Actually, we don't have a requirement.

17 Q You don't, okay.

18 A No. We have licensing requirements and we
19 have parent requirements, and they're completely
20 different.

21 Q So three children could be placed -- there
22 would be no requirement -- in a one-bedroom apartment
23 with a parent?

24 A As long as there was appropriate sleeping

1 arrangements for each one.

2 Q Perfect. Okay. Thank you.

3 You testified that Ms. Guerrero did have an
4 outstanding power bill that you did not recall the amount
5 at the time that she moved into the Linden apartment; is
6 that correct?

7 A Correct.

8 Q And what services were offered to
9 Ms. Guerrero to assist her with taking care of this?

10 A I requested Ms. Pasley, which is the Cabinet
11 worker assigned to me on this case, to assist her with
12 that task.

13 Q And did you indicate to Ms. Pasley what
14 services you wanted her to offer to Ms. Guerrero to help
15 her with that?

16 A One of them was to apply for low-income
17 housing.

18 Q Thank you.

19 A I mean -- sorry -- the energy assistance. I
20 apologize.

21 Q Thank you.

22 So services were discussed and hopefully --

23 A Yes.

24 Q Do you have any knowledge whether that

1 service was offered based on your conversations with
2 Ms. Guerrero?

3 A Based on our conversations, no, that was not
4 something she obtained.

5 Q I'm sorry. Was the service offered based on
6 your conversation with Ms. Guerrero?

7 A Sorry. Yes, it was offered to her. Yes.
8 Sorry.

9 Q Thank you.

10 And based on your conversations with
11 Ms. Guerrero, did she apply for this utility, low-income
12 utility?

13 A She did.

14 Q And based on your conversations with
15 Ms. Guerrero, did she obtain this?

16 A No.

17 Q And based on your conversations with
18 Ms. Guerrero, why not?

19 A She told me that they told her she was
20 missing documents and that she needed to reapply.

21 Q And to your knowledge did Ms. Guerrero
22 reapply, based on your conversations with Ms. Guerrero?

23 A No.

24 Q Did Ms. Guerrero ever indicate to you why

1 not?

2 A No.

3 Q You talked a little bit about budgeting.

4 Why was managing a budget an issue in this
5 particular case?

6 A There had been money coming into the home.
7 Obviously they had the food stamps which were used for
8 food, but they had the TANF money, and that money wasn't
9 being managed properly and being used for the basic
10 needs.

11 Q What behaviors specifically or what did you
12 observe which led you to believe that the money was not
13 being managed properly?

14 A I constantly saw the parents show up with
15 fast food to visits or -- there was an occasion where I
16 saw Ms. Guerrero with acrylic nails, which are expensive.
17 They bought expensive toys for their children. She once
18 told me that she bought Kayleigh a \$95 teddy bear from
19 Build-A-Bear.

20 I observed -- and this was after the TANF
21 money, after her sit-out -- but I did observe her show up
22 to the office with -- with expensive -- I wouldn't say
23 expensive things, but things that she couldn't afford.

24 Q Such as?

1 A A cake, a Hello Kitty cake, Hello Kitty gifts
2 for Kayleigh's birthday, just, you know, fast food. That
3 can get expensive if you do that often. So just things
4 that she really couldn't afford.

5 Q So obviously these were things that
6 Ms. Guerrero was trying to do something nice for her
7 children. Why was that concerning to you?

8 A Well, I understand wanting to spoil your
9 kids, wanting to buy them nice things. We had many
10 conversations about what was -- what was the priority,
11 what was important. So was it important to buy a child a
12 cat or was it important to pay your power bill and your
13 rent so they could be home with you? What would be in
14 the child's best interest?

15 And so consistently we had these
16 conversations about misspending your money and what was
17 the priority, which was get the children home.

18 Q I now want to turn to the Linden apartment.
19 Were you at all involved with the selection
20 of this particular apartment?

21 A No.

22 Q Who selected this apartment, to your
23 knowledge?

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

1 Q And did Ms. Guerrero ever discuss with you
2 this particular selection?

3 A She just told me she had obtained the
4 apartment.

5 Q Okay. And was the rent ever discussed prior
6 to obtaining the apartment?

7 A We had a conversation about how she was going
8 to maintain it.

9 Q And can you please tell me what was discussed
10 at that point?

11 A I don't remember the amount. Like I said, I
12 remember it was less than the TANF money, but we talked
13 about "How are you going to maintain it? How are you
14 going to pay the power bill? What's the plan? What are
15 you planning here?"

16 Q And what was Ms. Guerrero able to tell you
17 about the plan?

18 A She said that they were going to use their
19 TANF money to pay the rent and that either she or
20 Mr. Hunt-Taylor would get a job to pay for other things
21 that were needed, such as the power and other supplies,
22 obviously, that we all need, you know, to live.

23 Q Was that at all concerning to you?

24 A At the time, no.

1 Q Did it become concerning to you?

2 A Well, at one point, yes, because they weren't
3 finding jobs or any -- I mean, the power wasn't getting
4 paid, the rent wasn't getting paid, and so obviously her
5 plan was not working.

6 Q And did you discuss that with Ms. Guerrero?

7 A Yes.

8 Q And tell me, please, what was discussed.

9 A So we discussed this. This was a topic that
10 we had continuously throughout the first year and
11 actually throughout whenever I would talk to her. We
12 would -- I can't -- I can't tell her what to do because
13 it doesn't work. She needs to tell me what is her plan.

14 MR. ELKINS: Judge, the objection is it's
15 beyond the scope of the question.

16 THE COURT: I think what she asked was what
17 the conversation was about this, so, no, I think the
18 answer is still about what they talked about. So
19 overruled.

20 THE WITNESS: And I explained that to her. I
21 said, "It would be so easy to tell you to do A, B, and C,
22 but it doesn't work that way because that's my plan, not
23 your plan. Things work better when you have the plan and
24 you ask, 'How do I get here? How do I get to the next

1 step?'"

2 And so when we would talk about, "Okay. This
3 is not working. What are you going to do to do this?"
4 there was things like "I'm going to go sell plasma, I'm
5 looking for a job, I submitted an application here."

6 We talked -- those are the times that we had
7 conversations about what are employers looking for. We
8 talked about being on time. You know, that's what an
9 employer looks for, being on time, showing up every day,
10 your hygiene is important. We talked about places to go
11 look for work. I encouraged her to work on the budget,
12 you know, working with the money you had and then also
13 encouraging -- having her encourage Mr. Hunt-Taylor to
14 look for work as well.

15 BY MS. ELCANO:

16 Q Was Ms. Guerrero able to articulate a plan to
17 you?

18 A I think she always has a plan.

19 Q So what was the concern, then?

20 A That she never followed through with the
21 plan.

22 Q I see. You talked a little bit about the
23 Section 8 housing, and placed on your personal knowledge
24 as well as conversations with Ms. Guerrero, what happened

1 with that Section 8 housing?

2 A So based on --

3 MR. ELKINS: Judge, objection. That's a
4 compound question.

5 MS. ELCANO: I asked what happened with the
6 Section 8 housing based on --

7 THE COURT: That was the question: What
8 happened with the Section 8 housing?

9 MR. ELKINS: But what I'm trying to find out,
10 Judge, is, was it based on her conversation or was it
11 based on something else?

12 THE COURT: That's what she asked.

13 Based on your conversations with
14 Ms. Guerrero, what happened to that?

15 THE WITNESS: In regards to the Reno Housing
16 voucher, Ms. Guerrero and I talked about -- about it
17 several times. She did obtain the voucher when she was
18 living in the Fourth Street home, in the mobile home.
19 She was at that time not sure if she was going to use the
20 voucher or if she was going to stay in the Fourth Street
21 mobile home.

22 I told her to think about the pros and cons.
23 Again, I can't tell her what to do, but I can get her to
24 think about it and analyze what is in her best interest.

1 So we talked about that.

2 Later, in July, when she left that home,
3 she -- she didn't act on the voucher still. She told me
4 she had been looking for apartments that would accept the
5 voucher.

6 Come September 2014, when -- sorry, it wasn't
7 September. I'm sorry. It was before September. No, it
8 was September. Sorry. It was September 2014. I'm
9 sorry. All these dates get confusing.

10 Come September 2014, she calls me and told me
11 she had found an apartment that would take the voucher;
12 all she had to do was go sign the lease. She came to my
13 office. I gave her a two-ride bus pass so she could get
14 there and sign the lease and get it to the domestic --
15 the domestic violence advocate.

16 She -- the following week she hadn't done it,
17 and I gave her a copy of the lease she had provided me
18 with, and then I asked her again follow-up questions
19 after that, I believe it was a week, a couple weeks
20 afterwards, and she told me she hadn't went to submit
21 that voucher, I mean that lease. So she didn't get that
22 apartment.

23 And then later on the voucher was still good.
24 She got an extension on it. She told me she was still

1 looking for a place, and that's when she told me that she
2 couldn't find one due to her credit history.

3 BY MS. ELCANO:

4 Q But she had obtained an apartment, based on
5 her representations to you, using the Section 8 voucher
6 regardless of her credit history and eviction history at
7 one juncture?

8 A According to what she provided me, the
9 information and the lease she gave me, yes.

10 Q And why didn't she get that apartment,
11 according to Ms. Guerrero's statements to you?

12 A She told me she didn't submit the lease and
13 the apartment was not available anymore.

14 Q And you testified that later Ms. Guerrero
15 attempted to use the Section 8 voucher but couldn't find
16 an apartment because of her credit history; is that
17 correct?

18 A That's what she told me.

19 Q And did Ms. Guerrero indicate where she had
20 gone to look for an apartment?

21 A I don't know.

22 Q And you also were asked if you had a
23 conversation with Ms. Guerrero regarding TANF and the
24 concern that TANF wouldn't be sufficient to meet the

1 needs of the family, and I believe you said you had said
2 that. Why? Why was that a concern to you?

3 A It wasn't enough money to support a whole
4 family. It was probably enough to support her at that
5 point, but she was not using the money correctly because
6 they weren't paying the rent.

7 Q And why were visits no longer -- when were
8 visits no longer permitted -- let me restate that. I
9 apologize.

10 When were visits required to be back at
11 Social Services?

12 A Drop-off and pick-up or on site?

13 Q On site.

14 A I want to say that was maybe November of
15 2014, maybe.

16 Q Okay. And why?

17 A It was due to her allowing an unsafe person
18 during visits.

19 Q And who was "her"?

20 A Ms. Guerrero.

21 Q And who was the unsafe person?

22 A Mr. Vazquez.

23 Q You testified that the power got shut off at
24 the Linden Street apartment; correct?

1 A Correct.

2 Q And approximately when did that happen? I'm
3 jumping back and forth. I apologize.

4 A That was in August of 2013.

5 Q At that time did Ms. Guerrero indicate to you
6 whether or not she had reapplied for that low-income
7 utility assistance?

8 A I don't remember.

9 Q Do you recall if you requested that she do
10 so?

11 A I don't remember. I'm sorry.

12 Q That's okay.

13 So why did the visits have to stop being at
14 the Linden apartment given that the power was turned off?

15 A Because at that time I had done a home visit,
16 and the home was -- the environment of the home was not
17 safe.

18 Q Can you describe why? Maybe -- I didn't mean
19 to cut you off if you were --

20 A No. That's okay.

21 There was a lot of unsafe things. We have
22 young children, and so there was a lot of -- the home was
23 very dirty, a lot of garbage on the floor, clutter, a lot
24 of clutter, things that didn't really belong inside a

1 home such as -- I saw bikes in the home, things like
2 that.

3 MR. ELKINS: I'm sorry. Did you say "bikes"?

4 THE WITNESS: Yes. Adult bikes, not children
5 bikes. Things that could fall over the children,
6 especially Nathan, who was very young at the time. A lot
7 of clutter on the counters, dirty dishes everywhere. So
8 at that point -- and she did tell me she couldn't do the
9 dishes because of the hot water.

10 And when I was there, Mr. Hunt-Taylor was
11 sweeping, and so -- so that was a concern, the condition
12 of the home at that point.

13 BY MS. ELCANO:

14 Q Could some of those safety concerns be
15 remedied regardless of whether or not the power was on or
16 off?

17 A Sure. I think so.

18 Q And did you discuss that with Ms. Guerrero?

19 A Yes.

20 Q And what was her response?

21 A She said that they were in the process of
22 cleaning and they were very busy, so they didn't have
23 time to clean.

24 Q And approximately how long was it until you

1 went and saw the Linden apartment again, or did you?

2 A I did. I was in the home -- we tried to do
3 our weekly meetings -- they don't have to be in my
4 office, and so we would try to do one week in her home,
5 one week in my office. So every other week I'd try to be
6 out in the home.

7 Q And did the condition of the home improve
8 after you had that conversation?

9 A No.

10 Q And approximately when was that conversation?

11 A Probably sometime in August 2014 was the
12 first time the home was not in good condition.

13 Q And then you testified that the power did
14 come back on?

15 A About November 2014.

16 Q And to your knowledge, based on your
17 conversations with Ms. Guerrero, was the power bill
18 rectified or was it still outstanding?

19 A It was still outstanding. She told me the
20 apartment manager turned it on due to the weather, and
21 now they have to pay their outstanding power bill and the
22 current power bill on top of the rent.

23 Q And based on your conversations with
24 Ms. Guerrero, was she able to do so?

1 A No.

2 Q And what ultimately happened to the Linden
3 apartment?

4 A The Linden apartment, they got evicted due to
5 nonpayment of rent for several months.

6 Q And -- I'm sorry. I'm kind of jumping
7 around, but going back to the low-income energy
8 application, you indicated, based on your conversations
9 with Ms. Guerrero, it was not granted; correct?

10 A Correct.

11 Q And why wasn't it granted, based on your
12 conversations with Ms. Guerrero?

13 A She had told me that there was missing
14 paperwork and it was denied and she had to reapply.

15 Q You had testified about an incident where
16 Ms. Guerrero became very upset when she was informed of a
17 change in the visits.

18 A Uh-huh.

19 Q Was Ms. Guerrero consolable?

20 A Oh, yes, yes.

21 Q And how?

22 A I asked her to take a deep breath and calm
23 down, and I couldn't understand what she was saying. She
24 was crying. And so she stopped. She held herself

1 together and we were able to have a conversation.

2 Q Okay. So approximately how long was she
3 upset for?

4 A Probably just a minute. I mean a couple
5 minutes.

6 Q Okay. And --

7 A I mean, she was upset during the whole thing,
8 but crying, it was only about a minute.

9 Q I apologize. Thank you for clarifying that.
10 And approximately when was this?

11 A I don't remember. I'm sorry.

12 Q And you also testified about Ms. Guerrero
13 completing a psychosocial evaluation with Dr. -- pardon
14 me -- with Ms. Carter; is that correct?

15 A Yes.

16 Q And you indicated that recommendations were
17 made for Ms. Guerrero to address the issues identified in
18 the psychosocial; correct?

19 A I'm sorry?

20 Q You testified that recommendations were made
21 by Brianna Carter to address the issues identified in the
22 psychosocial; correct?

23 A Correct.

24 Q And based on your conversations with

1 Ms. Guerrero, did she follow through with the
2 recommendations provided by Brianna Carter?

3 MR. ELKINS: Objection, Judge, to the
4 vagueness of the question. If counsel wants to ask what
5 specifically they were and what specifically she did or
6 didn't do based upon her conversations, then --

7 MS. ELCANO: I'm happy to do so.

8 BY MS. ELCANO:

9 Q What were the specific recommendations of
10 Brianna Carter?

11 A To attend individual therapy.

12 Q And did Ms. Guerrero follow through with
13 that?

14 A No, she did not.

15 Q To your knowledge, what therapist did
16 Ms. Guerrero start to see throughout the life of this
17 case?

18 A Initially she was referred to
19 Ms. Brianna Carter. She met with her a few times and
20 didn't follow through. We discussed --

21 Q I just want to lead to the question.

22 What therapist did Ms. Guerrero start
23 services with?

24 A Brianna Carter.

1 Q So you indicated Brianna Carter. Who else?

2 MR. ELKINS: Judge, I'm going to object
3 unless this is within the time frame that this worker was
4 making referrals.

5 MS. ELCANO: This worker has been assigned to
6 this case and still is today, so she has knowledge of the
7 individuals that Ms. Guerrero saw.

8 MR. ELKINS: It's hearsay, Judge, unless she
9 made the referrals. She's already testified that she
10 stopped providing services in April of 2014.

11 THE COURT: What she said is that she -- it
12 changed, but she still provided some services.

13 So ask the question again. I didn't --
14 BY MS. ELCANO:

15 Q While you have been the assigned social
16 worker to this case, what therapist did Ms. Guerrero
17 start services with?

18 A The first year she was assigned
19 Brianna Carter.

20 MR. ELKINS: Object to any other testimony in
21 this regard because she was actively providing services
22 during the first year and not thereafter.

23 MS. ELCANO: I don't think she's even
24 finished answering the first year.

1 THE COURT: All she's answered is
2 Brianna Carter was assigned. So if you're objecting to
3 that, that's --

4 MR. ELKINS: I'm not objecting to that,
5 Judge.

6 THE COURT: So ask the next question, I
7 guess.

8 MS. ELCANO: I don't think she's ever been
9 permitted to fully answer the question.

10 THE COURT: Are we going to have Ms. Carter
11 come in and testify?

12 MS. ELCANO: We are, yes.

13 THE COURT: So if she didn't comply with what
14 was recommended, Ms. Carter should be able to testify to
15 that.

16 MS. ELCANO: I'm trying to establish, though,
17 what recommendations were made in this case -- and if you
18 want me just to limit it to Ms. Lopez, I will --
19 recommendations and vouchers for individual people for
20 Ms. Guerrero to meet with.

21 THE COURT: So you gave her a voucher to see
22 Ms. Carter?

23 THE WITNESS: So I gave her a voucher to see
24 Ms. Carter.

1 THE COURT: I'm still confused about what
2 this voucher thing is. Is that just an authorization --
3 MS. ELCANO: It's like a referral.
4 THE WITNESS: We don't give it to the
5 parents. We give it to the provider.
6 THE COURT: You tell the parent, "You can see
7 Ms. Carter" --
8 THE WITNESS: -- "and we're going to pay for
9 it."
10 THE COURT: -- "and we're going to pay for
11 it."
12 THE WITNESS: Yes.
13 THE COURT: And you call that giving them a
14 voucher?
15 THE WITNESS: Right. Yes.
16 THE COURT: All right.
17 THE WITNESS: So, yes, Ms. Brianna Carter was
18 offered. And then Mr. Deken Gossett was --
19 MR. ELKINS: Objection, Judge.
20 MS. ELCANO: Ms. Lopez was the one who made
21 the voucher for Deken Gossett.
22 MR. ELKINS: I don't know that.
23 MS. ELCANO: Well, if you'd let her finish.
24 MR. ELKINS: I just want to make sure she's

1 limited to the period of time when she was actively
2 involved.

3 THE COURT: Well, I don't know that she's
4 limited to that because she's still seeing --

5 You're still seeing the mother, aren't you,
6 now?

7 THE WITNESS: We still talk, yes. I'm still
8 assigned to this case.

9 THE WITNESS: Are you providing her some
10 services?

11 THE WITNESS: If she requests it.

12 MR. ELKINS: Judge, I'd like to voir dire on
13 that point, if I could.

14 THE COURT: You're going to get to recross,
15 so why don't you do that.

16 MR. ELKINS: Judge, I'm concerned about
17 evidence that's not competent. I think the worker who
18 was assigned subsequently will testify.

19 MS. ELCANO: Let me back up.

20 THE COURT: Okay.

21 BY MS. ELCANO:

22 Q What therapists did you provide vouchers for
23 Ms. Guerrero to see?

24 A Ms. Brianna Carter, Mr. Deken Gossett, and

1 then again Ms. Brianna Carter.

2 Q Based on your conversations with Ms.
3 Guerrero, who else did Ms. Guerrero see?

4 A Ms. Guerrero reported to me that she was
5 referred to see Ms. Dori Orlich. She reported to me that
6 she was referred to complete several evaluations,
7 Dr. Rogina, Dr. Aberasturi. She told me -- the last one
8 she told me was Ms. Amanda Buttacavoli.

9 Q Did Ms. Guerrero, based on your conversations
10 with her, follow through with services with Ms. Carter?

11 A No.

12 Q Why was Ms. Guerrero referred to Mr. Gossett?

13 A For the convenience. Mr. Gossett's office is
14 right next to our building.

15 MR. ELKINS: Judge, I'm going to object.
16 This is really beyond the scope of cross. It's not
17 responsive to my cross.

18 THE COURT: The answer to that is, I think
19 she can recall here and we can start it all over again,
20 so -- you know, there's a reason for rules of evidence
21 and order of presentation, but sometimes they can limit
22 information. So go ahead. Ask a question.

23 MS. ELCANO: The psychosocial is what I'm
24 asking about.

1 THE COURT: Go ahead.

2 THE WITNESS: So -- I'm sorry.

3 BY MS. ELCANO:

4 Q Why was Ms. Guerrero referred to Deken
5 Gossett?

6 A So she was referred to Mr. Deken Gossett
7 because Ms. Brianna Carter wasn't working -- therapy with
8 her wasn't working out. So we discussed, for her
9 convenience, going to Mr. Deken Gossett. His office is
10 right next to us. She has to pick up and drop off the
11 kids from our office, and so it's -- she drops off the
12 kids and she goes to counseling.

13 Q Did Ms. Guerrero follow through with services
14 with Mr. Gossett?

15 A I believe she met with Mr. Gossett maybe four
16 times.

17 Q So did she follow through?

18 A No.

19 THE COURT: Again, based on your
20 conversations with Ms. Guerrero?

21 THE WITNESS: Ms. Guerrero, yes.

22 BY MS. ELCANO:

23 Q You testified that you stopped providing
24 reunification efforts and reasonable efforts to

1 Ms. Guerrero; correct?

2 A Correct.

3 Q Why did you stop doing that?

4 A I was relieved by the Court of providing
5 efforts.

6 Q Did you request or ever discuss with
7 Children's Cabinet services being implemented for
8 Ms. Guerrero for employment?

9 MR. ELKINS: Objection. Clearly calls for
10 hearsay.

11 MS. ELCANO: I'm asking if she asked.

12 THE COURT: She can ask.

13 THE WITNESS: Yes, I did ask Ms. Pasley to
14 provide services to her in regards to that.

15 BY MS. ELCANO:

16 Q And what services did you request that
17 Ms. Pasley implement for Ms. Guerrero to address
18 employment?

19 A I requested if she knew of any jobs, job
20 fairs, because they really have tons of information in
21 that agency, to provide it, to help her write a résumé,
22 job-seeking skills.

23 Q And based on your conversations with
24 Ms. Guerrero, were those services offered?

1 A She -- she told me yes. She said she was
2 given leads to jobs and she did her résumé.

3 Q Did Ms. Guerrero ever ask for help to fill
4 out a job application?

5 A Not to me, no.

6 Q Did Ms. Guerrero ever indicate she was unable
7 to fill out a job application or required assistance?

8 A Not to me.

9 Q You also testified that at one juncture
10 Ms. Guerrero indicated she needed some hygiene products,
11 and I believe your response was you would be able to get
12 her those if she really needed them?

13 MR. ELKINS: Judge, I haven't objected as to
14 leading up to this point, but it's getting specific.

15 MS. ELCANO: I'm referring to what she
16 testified to.

17 THE COURT: Ask the question.

18 BY MS. ELCANO:

19 Q What was Ms. Guerrero's response when you
20 indicated, if she needed the hygiene products, you could
21 get them?

22 A You know, I don't recall. I'm sorry.

23 THE COURT: You know, let's go ahead and take
24 our morning break because I thought your --

1 MS. ELCANO: I'm close, but I'm not quite
2 done. Thank you.

3 THE COURT: That's fine. So we'll come back
4 at 20 minutes to 11:00. Be at ease.

5 (A recess was taken.)

6 THE COURT: Case No. FV14-03897 in the matter
7 of the parental rights as to the Taylor children, four of
8 them, as contained in the petition. The parties are
9 present with their clients.

10 Go ahead, Ms. Elcano.

11 MS. ELCANO: Thank you, Your Honor.

12 BY MS. ELCANO:

13 Q Ms. Lopez, were the children ever placed in
14 the maternal grandfather's home?

15 A No.

16 Q Based on your conversations with
17 Ms. Guerrero, why not?

18 A Like I said before, we did discuss the
19 possibility, but it was not a permanent home where she
20 would be able to reside.

21 Q In regard to Ms. Guerrero's employment, to
22 your knowledge, based on your conversations with
23 Ms. Guerrero, was she employed at La Quinta?

24 A She told me she had gotten a job, but I never

1 got any proof after that.

2 Q Can you describe to the Court the goal of
3 motivation in the case plan and service agreement?

4 A So when I speak of motivation, as I mentioned
5 before, it's the motivation to do all the follow-through
6 in regards to many things: Following through with the
7 parenting things we need to do. Getting your children up
8 in the morning, bathing them, getting them to school, all
9 of that is part of motivation; you have a motivation to
10 parent.

11 There's also the other aspect. Do you have
12 the motivation to provide for your children, the
13 motivation to follow through on an application, to keep
14 your welfare services, turn in the necessary paperwork.
15 Also that's part of your motivation. If you're not
16 getting it done, then I question your motivation.

17 Q Why was Ms. Guerrero's follow-through an
18 issue for you in this case?

19 A Why was her follow-through an issue? Because
20 we were getting nowhere. We were in a cycle, and it kept
21 happening over and over and over again, and it keeps
22 happening up until this date.

23 And so the follow-through in regards to
24 treatment, she's been assigned different therapists, and

1 there's been no follow-through.

2 MR. ELKINS: Judge, I object to the narrative
3 and also things beyond the scope of the witness's
4 personal knowledge.

5 THE COURT: That objection is overruled. I
6 think the question is, why is follow-through concerning
7 to you? She is going to answer it in the narrative, but
8 it's appropriate in this circumstance. So objection is
9 overruled.

10 Go ahead.

11 THE WITNESS: So basically that's it. The
12 services are offered, there's no follow-through, then
13 we're back to zero. Services are offered again, we're
14 back to zero. There's no follow-through. We're in a
15 cycle here.

16 BY MS. ELCANO:

17 Q In what particular aspects did you see
18 Ms. Guerrero fail to follow through?

19 A She failed to follow through with keeping a
20 stable, clean home. She failed to follow through with
21 keeping employment long term. She failed to follow
22 through with attending treatment to help her with the
23 issues that she may have.

24 Q I wanted to just quickly turn to mental

1 health court.

2 In regards to stating or testifying that
3 there was a low chance that Ms. Guerrero would get into
4 mental health court, what was the basis for that
5 statement or why did you make that statement?

6 A As mentioned before, there's a limited amount
7 of spots in the program, and the limited chance was that
8 all the spots were -- but one was filled, and there was
9 already a person who had been assigned to that spot.

10 Q And can the number of openings change?

11 MR. ELKINS: Objection, Judge. I don't know
12 that this information is within the scope of this
13 witness's knowledge. It's not her assignment.

14 THE WITNESS: Well --

15 BY MS. ELCANO:

16 Q Based on your experience -- if I can
17 rephrase, Your Honor -- based on your experience with
18 mental health court, can the number of openings change?

19 MR. ELKINS: Judge, I'm going to object again
20 based upon --

21 THE COURT: What is your experience with
22 mental health court?

23 THE WITNESS: I actually am on the unit at
24 this time, so I am familiar with the program.

1 MR. ELKINS: I'm sorry. I didn't hear you.

2 THE WITNESS: I'm in the family drug court/
3 family mental health unit at this time.

4 THE COURT: So that's experience. Sometimes
5 you're better off not asking the question.

6 MR. ELKINS: We're referring to 2013, two
7 years ago?

8 THE WITNESS: Right.

9 MS. ELCANO: I was asking based on her
10 experience just in general with mental health court, can
11 the number of openings fluctuate or change.

12 MR. ELKINS: Judge, I'll withdraw the
13 objection based on that.

14 THE WITNESS: Yes, they can change.

15 BY MS. ELCANO:

16 Q And why wasn't Ms. Guerrero admitted into
17 mental health court, based upon your conversations with
18 Ms. Guerrero?

19 MR. ELKINS: Objection. Asked and answered.
20 She'd already said, Judge, there was one slot and there
21 was someone slated to take it.

22 THE COURT: You know, let me -- I heard that
23 objection a couple of times now for a number of years,
24 and I seldom, if ever, sustain the objection because

1 usually the objection "asked and answered" is real
2 obvious, it's been asked about ten times, they're
3 badgering the witness. So far I have not heard that
4 objection made that I would sustain it in this
5 proceeding, so unless it's getting really repetitive,
6 it's a relatively useless objection. So that objection
7 is overruled.

8 MR. ELKINS: Judge, may I make a record on
9 that issue?

10 THE COURT: Go ahead.

11 MR. ELKINS: I don't think she's badgering
12 her own witness. I do think, however, that having gotten
13 an answer, she's trying to get another answer, and she
14 has answered and that's the basis for my objection.

15 MS. ELCANO: I'd just like to clarify for the
16 record as well, Your Honor --

17 THE COURT: The objection is overruled. Ask
18 the question.

19 MS. ELCANO: Thank you.

20 BY MS. ELCANO:

21 Q Based on your conversations with
22 Ms. Guerrero, why wasn't she admitted to drug court --
23 mental health court? Pardon me.

24 A She did not follow through with the

1 requirements to -- to even be put on the list.

2 Q Based on your conversation with Ms. Guerrero,
3 what were those requirements that she failed to follow
4 through with?

5 A I told her she needed to do a mini
6 orientation, which is attend -- meet with somebody from
7 True Vista, an agency across the street. They provide an
8 orientation about what mental health court is.

9 I told her she had to go observe a mental
10 health court hearing. That's a requirement. She did not
11 do that part. She did do the mini orientation, but she
12 did not observe. And the other part is you have to do a
13 full orientation, which I told her to do. She did not
14 complete that, but usually the full orientation is at the
15 end of the requirements.

16 She also had to complete an evaluation with
17 Northern Nevada Mental Health Services, which
18 Ms. Guerrero did not follow through on.

19 And those are the requirements, and that's
20 what we discussed in regards to as to why she couldn't be
21 put on the list.

22 Q When did domestic violence, specifically with
23 Mr. Hunt-Taylor, become an issue in this case?

24 A That I know of? She -- it was July 2014.

1 Q Had you ever discussed domestic violence with
2 Ms. Guerrero before?

3 A When I first met them, I asked them if there
4 was domestic violence. They denied it.

5 Q Why wasn't the plan to reunify at the Linden
6 apartment ever effectuated or made a reality?

7 A What we required was, because, again, of the
8 long history, was the stability. We requested three
9 months at least. So they got the apartment in May; June
10 was okay; July, they were already late on their power
11 bill. That is not stability to me. By August they were
12 late on their rent and their power was turned off.

13 From then on they were constantly telling me
14 they were going to get evicted, and there was nonpayment,
15 and it just continued until December when they did get
16 evicted.

17 Q And I just want to turn back to TANF.

18 Based on your experience as a social worker,
19 how many years of TANF benefits can a person receive?

20 A There's a total of five per federal
21 government law.

22 Q So you can't get any more than five years
23 once you've maxed out, to your knowledge?

24 A Correct.

1 Q And I think we've kind of talked about this,
2 but can you just explain what a sit-out period is?

3 A So a sit-out period -- every state has a
4 different way they can use those five years. Nevada has
5 two years you can be on TANF, you have a sit-out for a
6 year, two years you can be on TANF, you have a sit-out
7 for a year, and then you have your last year and you're
8 done, no matter what state you're living.

9 Q Based on your conversations with
10 Ms. Guerrero, how many years of TANF has she taken
11 advantage of?

12 MR. ELKINS: I'm sorry, Judge. I'm going to
13 object based on hearsay, lack of personal knowledge.

14 MS. ELCANO: The question was based on her
15 conversations with Ms. Guerrero.

16 THE COURT: Objection overruled.

17 MR. ELKINS: Thank you.

18 THE WITNESS: Based on our conversations, I
19 think she's done at least two of her years.

20 BY MS. ELCANO:

21 Q Thank you.

22 And I just wanted to clarify this a little
23 bit. As a social worker, once a termination plan is
24 adopted and you're no longer obligated to provide

1 reasonable efforts for reunification towards the parents,
2 do you still provide services?

3 A If she asked me, I would never deny.

4 Q I'm sorry. That wasn't quite -- are you
5 still providing --

6 A I'm sorry.

7 Q No, no. I didn't ask that clear enough.

8 As a social worker, what are you doing at
9 that point in regards to the family and the children in
10 care?

11 A I see what you're asking me. At that point
12 when I'm relieved of efforts, my job is to achieve the
13 permanency plan at that point. So at that point in April
14 of 2014 the plan was changed to termination of parental
15 rights followed by adoption. At that point my job is to
16 focus on that plan and only that plan. So with that
17 said, it doesn't mean that -- we can change it at some
18 point. Plans can change.

19 Q And in this case has the plan changed?

20 A No.

21 Q And why not?

22 A Because she hasn't demonstrated she can --
23 she hasn't reached her goals. She hasn't been able to
24 demonstrate she can provide a safe home for her children.

1 Q And who is "she"?

2 A Ms. Guerrero.

3 MS. ELCANO: Thank you. I have no further
4 questions, Your Honor.

5 THE COURT: Mr. Elkins.

6 MR. ELKINS: Just give me a minute, Judge,
7 please.

8 RECROSS-EXAMINATION

9 BY MR. ELKINS:

10 Q Ms. Lopez, what is a Unity note?

11 A A Unity note is where -- it's a case note.
12 We're required to put in notes throughout the case in
13 regards to our contacts, actions that we take.

14 Q Required by whom?

15 A By our agency.

16 Q So you have a legal obligation to record
17 information in the Unity notes; is that correct?

18 MS. ELCANO: Objection. Calls for a legal
19 conclusion.

20 THE COURT: I don't know if it's legal.

21 MR. ELKINS: I'll rephrase the question,
22 Judge.

23 BY MR. ELKINS:

24 Q Your employer requires you to keep Unity

1 notes; is that correct?

2 A That's correct.

3 THE COURT: When we refer to "notes," do you
4 guys even use pencils and pieces of paper anymore or is
5 it all --

6 THE WITNESS: No. Well, initially, when
7 you're meeting with somebody, yes, you write notes, but
8 then you go back and put them in the computer system.

9 THE WITNESS: Because that's been brought up
10 a couple of times, and I'm just wondering, because I see
11 all he's looking at is typewritten.

12 Go ahead. That was just a question I had,
13 Mr. Elkins.

14 MR. ELKINS: That's fine. Thank you, Judge.
15 BY MR. ELKINS:

16 Q And can you tell me what it is you put in the
17 Unity notes?

18 A I put in as much as I can about the case,
19 phone calls I have with the parents, e-mails,
20 face-to-face contact, things we talk about, things that I
21 observe, contact with therapists, contact with Reno
22 Housing, contact -- pretty much everything in
23 regards -- contact with the children. Everything that I
24 could possibly put in a note.

1 Q And when do you record the information in
2 Unity, in other words, in relation to the event?

3 A We are required to put them in within five
4 business days.

5 Q Okay. So it's relatively contemporaneous to
6 what occurs?

7 A Yes.

8 Q Would you say your memory is pretty good at
9 that point as to what happened usually?

10 A Yes.

11 Q Ms. Lopez, you do acknowledge that you told
12 Ms. Guerrero that there was a very low chance that she
13 would be admitted to mental health court; correct?

14 A Yes.

15 Q Because at the time, I believe you testified,
16 the one available slot was committed?

17 A Correct.

18 Q You stated that Ms. Guerrero just never could
19 implement the plan, her plan. She had a plan, but she
20 didn't implement it.

21 A Yes.

22 Q Can you tell me what her plans were,
23 according to your understanding?

24 A Her plans were get a home, pay for the rent,

1 pay for the power, have food, get basic needs, basically.
2 Get a job, keep a job.

3 Q So her plans were appropriate; correct?

4 A Yes.

5 Q And is it fair to say that she did take steps
6 to do those things?

7 A Yes.

8 Q But she wasn't successful ultimately; is that
9 correct?

10 A Correct.

11 Q When you talk about budgeting, I think you
12 testified that you believe the TANF was \$513 a month, and
13 you don't know exactly what the rent was on the Linden
14 Street apartment; correct?

15 A Correct.

16 Q But you do know it took up most of the TANF
17 benefits; correct?

18 A The majority, yes.

19 Q So in budgeting that, you have -- well, you
20 do have food stamps?

21 A Uh-huh.

22 Q Do you know how much the amount of the food
23 stamps was?

24 A I don't. I don't recall.

1 Q Let's assume --

2 A It was hundreds, hundreds, several hundred.

3 Q So let's assume that covers your ability to

4 buy food.

5 A Correct.

6 Q Could you just describe for me what that

7 budget would look like if that's all you had?

8 A You would pay your rent.

9 Q You would pay the rent?

10 A Uh-huh.

11 Q Would you pay anything else?

12 A You'd have a little bit to go towards the

13 power bill.

14 Q Enough to cover it?

15 A I don't know. I don't know what a

16 power -- what the amount is for a one-bedroom apartment.

17 I don't know.

18 Q Okay. Anything else?

19 A No.

20 Q So you wouldn't have any money for clothes if

21 you needed clothing? You wouldn't have any money for

22 medical expenses, assuming you'd pay something? If you

23 had something in storage, you couldn't pay for that;

24 correct?

1 MS. ELCANO: Your Honor, I think the point is
2 made. We can move on.

3 THE COURT: If that's an objection, it's
4 overruled.

5 BY MR. ELKINS:

6 Q And, in fact, didn't Ms. Guerrero tell you,
7 when they were evicted from their previous apartment,
8 they had put things in storage?

9 A Correct.

10 Q Do you recall that?

11 A Correct.

12 Q And so they were trying to maintain the
13 things that were in storage to keep them from being
14 auctioned; isn't that right?

15 A Correct.

16 Q And do you recall that she told you it was
17 children's clothing, furniture, toys?

18 A I don't know.

19 Q But there was something in storage?

20 A There was some things in storage, yes.

21 Q They came from the previous apartment
22 presumably?

23 A I'm going to assume, yes.

24 Q But this was a one-bedroom?

1 A Right.

2 Q So they were paying storage?

3 A Right.

4 Q Could you formulate a budget that didn't come
5 out to a negative number if they're living in the Linden
6 Street apartment?

7 A No.

8 Q You said after the children were in care for
9 six months, TANF stops for the kids; correct?

10 A It's reduced.

11 Q So the payments are reduced?

12 A Right.'

13 Q And by about what, 50 percent?

14 A I guess about, yeah.

15 Q So the children came into care in April, and
16 so sometime around November the TANF was reduced by
17 whatever that amount is to maybe less than \$300 a month?

18 A Correct.

19 Q When you saw Ms. Guerrero's nails, did you
20 ask her what she paid for them?

21 A No. Actually, Ms. Seronio was the one who
22 had the conversation with her. At the time Ms. Seronio
23 was my intern.

24 Q So you didn't have that conversation?

1 A I didn't.

2 MR. ELKINS: I would ask the Court to
3 disregard that testimony.

4 THE COURT: That's fine.

5 MS. ELCANO: Your Honor, she still has
6 knowledge of whether or not she had nails. She just
7 didn't discuss the nails with her.

8 MR. ELKINS: Okay.

9 MS. ELCANO: Did you personally observe the
10 acrylic nails?

11 THE COURT: This isn't very important to me
12 regardless of what happens, you know, so let's move on.
13 I don't care about her nails.

14 BY MR. ELKINS:

15 Q When it came to the voucher, now, you said
16 you had gone to the trailer that they had purchased or
17 were trying to purchase; is that correct?

18 A Yes.

19 Q And you had a conversation with Ms. Guerrero
20 about whether she would stay there or use the voucher to
21 go elsewhere; correct?

22 A The housing voucher.

23 Q Is that right?

24 A Correct.

1 Q And that conversation occurred on or about
2 April 16th; right?

3 A Sure. I just know it was April sometime.

4 Q We're talking about 2014?

5 A 2014.

6 Q What happened the next day?

7 A I don't know.

8 Q Is that when you went to court?

9 A Sure. I don't know. I don't remember.

10 Q Would it have been approximately at the 12
11 months?

12 A In April of 2014.

13 Q And that's when you asked the Court to
14 relieve you of your obligation to work with the family?

15 A Correct.

16 Q With the parents?

17 A Correct.

18 Q Do you recall, during that conversation,
19 Ms. Guerrero asking you whether, now that they had a
20 place to live, the children could come home?

21 A Yes.

22 Q Do you recall what you said?

23 A I said she hadn't demonstrated stability.

24 Q And did you give her a time frame when they

1 might be able to come home?

2 A No. I don't remember.

3 Q Well, did you make a note in the Unity notes
4 of that conversation?

5 A I don't know.

6 Q Aren't you required to record conversations
7 in your Unity notes?

8 A Yes.

9 Q And so if you have a conversation with a
10 parent about whether the children can come home, isn't
11 that something you would write down?

12 A Yes.

13 Q Okay. And if I were to show you the note,
14 would that refresh your recollection about the
15 conversation?

16 A It would. I could read off the note, but I
17 wouldn't remember having the conversation.

18 Q You mean if you looked at the note -- you
19 know, without looking at the note, that you wouldn't
20 remember?

21 A Exactly.

22 Q It wouldn't refresh your recollection?

23 A What I'm saying is I remember telling her
24 they didn't have stability. I don't remember the

1 conversation -- the part of the conversation that you're
2 talking about. So I could read off of a note, but I
3 won't remember it.

4 Q Okay. So since they had a residence, how is
5 that lacking stability?

6 A The home was not up to code, it was not safe
7 for the children to live there.

8 Q I see. When you say "up to code," did anyone
9 inspect it?

10 A No. She told me that the plumbing wasn't
11 working.

12 Q It was the kitchen sink; correct?

13 A I don't remember.

14 Q Subsequently do you recall having a
15 conversation with the mother about using the voucher?

16 MS. ELCANO: Can we just clarify which
17 voucher?

18 MR. ELKINS: The Reno Housing voucher.

19 THE WITNESS: Yes, I had further
20 conversations with her.

21 BY MR. ELKINS:

22 Q Do you recall being told in July that they
23 had gotten an extension on the voucher?

24 A Yes.

1 Q And do you recall her telling you they were
2 trying to find an apartment?

3 A Yes.

4 MR. ELKINS: Judge, I'd like to refer to
5 Respondent's Exhibit 1, and I don't know, I guess the
6 witness needs the binder.

7 THE WITNESS: This binder?

8 MR. ELKINS: No. It's the little one, not
9 the big one.

10 May I, Judge? May I approach the witness?

11 THE COURT: Go ahead.

12 MS. ELCANO: This has not been admitted into
13 evidence; right?

14 MR. ELKINS: No. That's correct.

15 BY MR. ELKINS:

16 Q Could you look at Exhibit 1 for
17 identification, please?

18 Do you recognize that document?

19 A Yes.

20 Q What is it?

21 A It's a lease that she provided to me.

22 Q And the one you testified that you discussed
23 with her following the domestic violence incident?

24 A Correct.

1 MR. ELKINS: Judge, I'd move this into
2 evidence as Respondent's 1.

3 MS. ELCANO: I object, Your Honor. This
4 document hasn't been properly authenticated. Ms. Lopez
5 is not the person that authored this document and --

6 THE COURT: Well, she just -- it was shown to
7 her by Ms. Guerrero, so --

8 MS. ELCANO: But she did not author this
9 document. I have no ability to cross-examine anyone as
10 to the authenticity of this document, why it was created,
11 whether it was created, who signed it. It's clearly some
12 sort of a form lease. I don't know --

13 THE COURT: Well, at this point in time the
14 only reason I would consider it is it was something that
15 Ms. Guerrero submitted to the --

16 MR. ELKINS: That's the only reason I'm
17 offering it at this point. She mentioned she was given a
18 lease and this is the one she was given. I'm not
19 offering it for any other purpose at the moment.

20 THE COURT: It's admitted for that purpose at
21 this point, and if I hear other testimony about it, then
22 I'll consider it for other purposes.

23 MR. ELKINS: Thank you, Judge.

24 THE COURT: So the rental agreement,

1 Respondent's Exhibit 1, is admitted.

2 (Respondent's Exhibit 1 was admitted.)

3 BY MR. ELKINS:

4 Q And that was sometime in early September of
5 2014; is that correct?

6 A Yes.

7 Q Do you recall having a conversation with
8 Ms. Guerrero on or about September the 8th where she said
9 she doesn't have the deposit?

10 A Correct.

11 Q So that was a reason she gave you for not
12 being able to get the apartment?

13 A No.

14 Q Did she say she didn't have the deposit?

15 A Yes.

16 Q Drawing your attention to October 9th of
17 2013, the day -- well, let me -- I'm sorry. Let me
18 rephrase that.

19 Do you recall the date when the visits were
20 restricted to the agency?

21 A Not the exact date.

22 Q Okay. Recalling that day, whenever it was,
23 did you enter a Unity note regarding the event?

24 A I'm guessing I did.

1 Q And did you do your best to describe what
2 occurred accurately in the Unity note?

3 A I always tried to.

4 Q With regard to Ms. Guerrero's demeanor and
5 how upset she was, do you think it would refresh your
6 memory if I showed you your Unity note?

7 A I don't remember her demeanor that day.

8 Q You don't remember her demeanor?

9 A That day, no.

10 Q Didn't you --

11 A I'm sorry. I don't know which -- can you
12 backtrack and ask specifically about --

13 Q Believe me, Ms. Lopez, I'm not trying to
14 confuse you.

15 The day when you said she was upset, do you
16 remember --

17 A She was upset a lot.

18 Q When the visits were limited to the agency
19 and you said she became very upset, started crying, do
20 you remember that?

21 A Limited to the agency, pick-up, drop-off, or
22 limited to the agency on site?

23 Q Pick-up, drop-off.

24 A Okay.

1 Q Isn't that when she became -- she started to
2 hyperventilate?

3 A Yes. She was hysterically crying.

4 Q And you said for a minute?

5 A Well, she was hysterically crying for several
6 minutes.

7 Q In fact, didn't you take her into a room,
8 separate room, to try to calm her down?

9 A Right.

10 Q And wasn't your impression that she was
11 crying hysterically like a child?

12 A Yes. Like a teenager would when they get in
13 trouble.

14 Q So it wasn't just a matter of shedding a few
15 tears for a minute?

16 A No. I said hysterical crying.

17 Q And you took her to a separate, private area
18 to calm her down?

19 A Right.

20 Q So it took longer than a minute, isn't that
21 right --

22 A I wasn't timing it.

23 Q -- to calm her down?

24 A I wasn't timing it.

1 Q And you spoke to her privately.
2 Do you know how long you and she were in that
3 room together?
4 A Probably 30 minutes, maybe.
5 Q Thirty minutes?
6 A Yeah. I don't recall.
7 Q As far as feeding the children at visits,
8 isn't that customary, that parents bring a snack?
9 A Yeah. They're not required, but they could.
10 Q But isn't it -- well, let me rephrase the
11 question.
12 Fair to say that more often than not parents
13 bring food?
14 A Most parents bring food.
15 Q Is it your testimony that it's irresponsible
16 of a parent to bring fast food to a visit for the kids?
17 A Fast food?
18 Q Well, when I say fast food, chicken
19 nuggets.
20 A Food, yes. Fast food, no, not so much, not
21 very healthy.
22 Q Because you don't like the healthiness.
23 But in terms of bringing food, does the
24 agency say to people, "You can't bring fast food"?

1 A No.

2 Q "You can't bring chicken nuggets"? I don't
3 know.

4 A No.

5 Q When you said "fast food," what is it you
6 were referring to?

7 A McDonald's, pizza.

8 Q Would you say that the children had an
9 expectation of getting a snack?

10 A I don't know.

11 Q Okay. Well, when did these visits occur,
12 after school?

13 A Yes.

14 Q And the children would come pretty much
15 directly from school?

16 A Only Roberto would.

17 Q Only Roberto. And the other children would
18 obviously be at the same time; is that correct? So they
19 were late in the afternoon?

20 A Yes. But we had them dropped off at
21 different times.

22 Q Okay. Is there anything inappropriate about
23 giving a child a snack at a visit?

24 A No.

1 Q Do you consider that irresponsible?

2 A No.

3 Q Ms. Lopez, you had the ability of hearing
4 Dr. Aberasturi testify?

5 A Correct.

6 Q And when asked, she said in Ms. Guerrero's
7 case, based upon her assessment, that an appropriate
8 service would be to help her fill out applications.

9 Did you hear that?

10 A Sure. Yes.

11 Q Had you known that, is that something you
12 would have done?

13 MS. ELCANO: Objection. Calls for
14 speculation.

15 THE COURT: You know, some of these --

16 MS. ELCANO: I think we're way outside of
17 redirect.

18 THE COURT: Some of these questions don't add
19 anything, the answer doesn't add anything. It's a
20 rhetorical question. You've made your point.

21 MR. ELKINS: Actually, Judge, it's not
22 rhetorical. Let me just push a little --

23 THE COURT: Did you help her make out the
24 applications?

1 THE WITNESS: No.

2 THE COURT: Why not?

3 THE WITNESS: She never asked.

4 BY MR. ELKINS:

5 Q Okay. But if you had known it was an
6 obstacle, is that a service you would have provided?

7 MS. ELCANO: Again, it calls for speculation,
8 Your Honor.

9 MR. ELKINS: I'll withdraw the question,
10 Judge.

11 I have no further questions. Thank you very
12 much.

13 THE COURT: You can step down.

14 Next witness.

15 MS. ELCANO: Thank you, Your Honor. Deken
16 Gossett.

17 MR. ELKINS: Judge, even though this witness
18 was not on the original witness list, I have no objection
19 to the testimony.

20 MS. ELCANO: Your Honor, just so the record
21 is clear, he was identified as an original witness when
22 we made witness disclosures. However, I was unaware of
23 the fact that he treated Ms. Guerrero until I received
24 documentation from opposing counsel, I think, on Friday