alienation is because that is considered psychological abuse -- not my words -- in the DSM 5.

So when you look at the pathology that's present in the child through the materials of Dr. Craig Childress that I was referred to by Judge Elliott and Judge Duckworth. And in our judicial educational requirements I get these things.

You look at the responses by the child and you look at the materials and there's a checklist. Is the child exhibiting this, is the child exhibiting that. There's five or six impressions.

Q All right.

MR. BRADLEY: Your Honor, I think we're going pretty far afield even from last time. She's talking about Dr. Childress and what he did. That was excluded in motions in limine. I would ask for some guidance from --

JUDGE STOCKARD: Mr. Terry.

MR. TERRY: We're not going to get into Dr. Childress not much, if at all. We recognize the Chair's ruling and accept the Chair's ruling that the documents provided by Dr. Childress on which Judge Hughes relied in part are not admissible. We accept that. It's part of her learning. It's like law school. You learn torts and property.

Docket 76117 Document 2019-04454

JUDGE STOCKARD: I'm going to sustain the objection but I think it's probative as to the history of the hearings. But I think going too much afield of -- getting into what was addressed in Motion in Limine 1, I'm going to sustain it as to that.

MR. TERRY: We will not refer to Dr. Childress anymore but there will be further testimony as to the terminology, the actions in reference to the parental alienation.

JUDGE STOCKARD: And we'll take them as they come.

MR. TERRY: Very well.

BY MR. TERRY:

Q All right. Now, you had -- as the chronology showed, you had set a hearing for 7/9/2015. You received Ms. Weiford's letter 6/29/2015. But before the 7/9/2015 you received a supplemental letter, and that's at RO 157.

A Okay.

Q Take a moment and look at that.

A Okay.

(Witness reviewing document.)

BY MR. TERRY:

Q This is Ms. Weiford's letter of what in

effect would have been the day before the hearing.

A Okay.

Q All right? Are you familiar with this?

A Yes.

Q Okay. By way of summary, does it indicate no sessions have occurred between Annie and the natural father?

A That is correct.

Q Okay. Does it indicate that Dad has followed all directions?

A Yes.

Q Does it indicate that Subject Minor is complaining about, again, about being tested by the natural father?

A I don't know. I don't recall. Oh, she does say something.

Q Okay.

A Yes. She's upset about the testing.

Q And does it also indicate that there is no consequence to the subject minor for not cooperating with the reunification attempt?

A Oh, absolutely. Mother is not supporting reunification.

Q All right. Upon what are you basing that?

A The comments by the therapist that Mother

called days in advance of the first meeting and said, What do I do if she doesn't want to come? The therapist told her that she still needed to encourage her. She told -- the mother told the therapist, I don't know why you just can't take her word for it.

Q Did you ever find one piece of evidence that indicated that mother was encouraging reunification?

A No.

Q Was there any experts' reports that were ever provided to you that indicated Mother is encouraging reunification?

A Just the opposite.

Q Okay. Did Mother ever say in any of her documents filed with you, I am encouraging reunification?

A No.

Q So back to the July 8th, 2015, letter, Ms. Weiford reports to you that there has been no as she calls it, conjoint appointment ever.

Is that correct?

A Up until this time, no.

Q So this would have been the second attempt and she makes reference in paragraph one, "I'm

writing this letter as an update to the above-mentioned case that was forwarded to my office May 26th," and then she makes reference to the June 29th letter --

A Yes.

Q -- correct?

A Yes.

Q So does that refresh your memory that June 29th would have been the first session, the first attempt at reunification?

A Well, I entered my order the end of May.

Q Correct.

A And I know that she made several attempts and I think she goes into this historically what she tried to do to get the sessions established. It wasn't happening.

Q So advise the Commission what Ms. Weiford indicated to you in this letter.

A Okay. That several days before the first appointment, Mom called and was resistant to even scheduling the appointment and she mentioned to the therapist that Annie was -- sorry -- Subject Minor was too stressed, that she wouldn't get in the car, that she was having, like, a panic attack, that she was crying.

And the therapist at one point talked to the child on the phone and the child was upset and crying and that the therapist calmed her down, and she stopped crying when she said, Okay. I don't know what "okay" meant, Okay, you don't have to come. Okay, you know, we're going to end the conversation.

But Mother was very resistant to bringing her. They came -- at one point Father was already upstairs in the conference room and they wouldn't get out of the car and it's August. I know I'm jumping ahead but ...

MR. BRADLEY: It's fine.

THE WITNESS: Is that okay with you?

MR. BRADLEY: Excuse me, counsel.

BY MR. TERRY:

Q Continue with this letter.

A I'm sorry. Mother wanted to know what she should do if the child did not want to come to the appointment or was unwilling to get her in the car, if she couldn't get her to leave to go to the appointment or if Dad started to lie. Mother wanted to give the child words to use if she was feeling certain ways.

Q How did you construe that? A signal?

A Yes. Like safe words that you use. That's how I construed that. And the therapist tried to impress upon Mother you need to let it be organic, let them have their time together, let them be reunified, let them meet. It's a safe environment, it's in my office, it's okay, and --

Q Did the mother indicate to Ms. Weiford that, You, Ms. Weiford, are not making my daughter feel comfortable?

A Yeah, she did.

Q Okay.

A She said she doesn't have this problem with anyone else in her life, meaning the targeted parent, the father. So validating my child does not like him, does not want to be reunified with him, she doesn't have this problem with anyone else in her life and so you should accept my child's position on this and not force this reunification.

Q And that's based upon Ms. Weiford's second letter.

A Yes.

Q Now, she continues in the reference to the father, obviously, he's greatly disappointed.

A He loves his daughter very much and wants to have a relationship with his daughter and he's

heartbroken.

Q Did that change?

A No.

Q He never gave up.

A No, he didn't give up. It was a year and he didn't give up.

Q Now, in the interview with the father he basically portrayed a whole different situation with the subject minor, showing photographs of he and the subject minor.

A Right.

Q At any point in time, well in advance of this, et cetera, were they depicted as everything was fine?

A Having a good relationship, yes.

Q Having a good relationship.

Now, Ms. Weiford also gives you observations at page 159. Part of that is, "Subject Minor is not very clear when she talks about her relationship with her father. It seems very much intertwined with Mom's relationship with dad. I am concerned with the possible enmeshment that Subject Minor and Mom might have."

A Yes.

Q And this goes back to the we are one --

A Yes.

Q The parental alienation.

A It's called a cross-generational parental alienation.

Q What is that?

A So if you think about parent/child relationships, a pyramid -- upside-down pyramid where the base is at the top and it points down to the bottom.

In a normal-range family, a normal functioning family, at the top of the pyramid in each corner are the parents and the child is at the bottom. They are the executory function. They make the decisions and they hand those decisions down to their child.

In a pathogenic situation or a cross-generational parental alienation, the materials that I reviewed said that it's a perverse triangle, meaning that child and parent are giving decisions to this parent. This is the outed parent, the targeted parent. This is an allied parent and this is the child. They make the decisions and they tell the targeted parent, This is how it's going to be.

And the enmeshment is because of the

cross-generational coalition. The coalition in this case was so strong and so solidified it was, We are a team, Dad's the enemy. That's what this was portraying to me.

Q All right. Now, at page 160 Ms. Weiford gives opinions in reference to the subject minor as being very strong-willed, articulate, and quite adult in many ways.

A Uh-huh.

Q And then she opines, "So it was curious when she was not able to specifically articulate what her concerns were with Dad."

A Right.

Q Did I read that correctly?

A She is a very articulate young lady. I call it "adultification," which isn't a good thing. People make --

Q Older than your years.

A Well, your vocabulary, that's fine, if you have a sophisticated vocabulary.

But when you're taking on adult problems and adult situations and making them your own, that's a very strong enmeshment. So when she says she couldn't articulate the problems she had with her father, that they were really the problems that

Mother had with Father.

And she was taking on a protective role of the mother and all the adult problems. And that's adultification. That's not a good thing for a child to be put in the middle. They become a psychological battle ground.

Q Now, the recommendation portion --

MR. BRADLEY: Your Honor, I hate to do this but we're getting far afield of what happened in this case and we're hearing all these ideas about adultification and things that I don't think are central to what this Commission's already said are the central issues.

I get that we have to go through a chronology but we're going way far afield and we'll be here all day into tomorrow if we think about every single issue about this child and whether she's an adult and whether she's articulate and all these other things. We need to look at the bigger picture, which is moving this case through the history of what happened. I understand the Commission's ruling but this part is way too detailed.

JUDGE STOCKARD: Mr. Terry.

MR. TERRY: Mr. Chairman, I'm mindful of

the time periods that you've given us, okay? Four hours for the prosecutor and four hours for Judge Hughes' case. If necessary, I won't call some of the other witnesses that we were prepared to call. We will get through it at the time that your Honor has ordered.

However, addressing myself now to the -- what I'll construe as the relevancy issue, this is the buildup. This is part of the big picture. And counsel's right. It's going to continue to grow just like this. There is another Weiford letter in here and another expert is appointed and you'll run into the same thing.

We can either do that by way of summary, which I don't recommend because I think it's very important for the panel to understand that the video that you saw was the last straw. It was all that Judge Hughes could do based upon the totality of what had occurred in this case.

JUDGE STOCKARD: Well, I'm going to sustain the objection. But what I want to do is stay with the chronology and not get into -- something between a summary and kind of where we're at now.

Does that make sense.

MR. TERRY: I believe it does, Mr.

Chairman. And I think what you're saying to me is save it for closing. But if my colleague objects on relevancy, I'll move on to something else.

Is that a fair analysis?

JUDGE STOCKARD: Sure. I think so. But, I mean, if you believe it's getting too far field, then just renew your objection.

MR. BRADLEY: Thank you.

MR. TERRY: May I continue?

JUDGE STOCKARD: Of course.

BY MR. TERRY:

Q We are done with that letter from Ms. Weiford.

A Okay.

Q Now, the next document the panel has deals with the telephonic conference.

And what is this in reference to? This is dated July 15th.

A The court and counsel had a question as to whether father's request to go back to his custodial schedule, whether that request should be granted, whether that was in the best interest of the child.

So we asked Ms. Weiford if she would have a telephone confirmation with us, because she wasn't quite clear in her recommendations whether he could

go back to his weekend visitation or if she was recommending visitation only through reunification.

And that is what she recommended, that visitation only happen through the reunification therapy.

Q Okay. And, in fact, in the July 9th order, which is referenced in the chronology, indicates the hearing on Dad's motion for an order to show time and modified custody and you're finding that Mom -- that Weiford's recommendations are adopted, reunification will continue.

A Yes.

Q Okay. And Mom ordered to support the reunification process --

A Yes.

Q -- the order to show cause of compensatory time for Dad is deferred.

A Right. So his motion for order to show cause, his motion to modify custody, it's all deferred, because I'm opting to triage this family through therapy. I think that's the best approach.

Q Now, on July 15th there's, in fact, a status hearing -- and I'm trying to be mindful of the Chair's directive here, Judge Hughes.

A Right.

Q Okay?

A Okay.

Q On July 15th there's a status here for counsel and the court to call Ms. Weiford regarding those two prior letters that you've already testified to.

A Right.

Q And as a result of that, Dad's visitation is temporarily suspended and ordered to occur through reunifications with Weiford.

A Right.

Q So you suspend Dad's visitation rights.

A Temporarily as in the best interest of the child, because it needs to happen through therapy. There is still a valid court order that says he has weekends, and he made that point. He said, I still have weekends. It hasn't been overruled. It hasn't been modified. Judge, why are you making me, you know, go through reunification? I have weekend visitation.

And I thought, Well, you've had the police over there seven or eight times. She's not going. I ordered reunification therapy. It's supposed to happen here and Weiford recommended that it happen here in the therapist's office. So in the best

interest of the child I temporarily suspended his visits in order for it to happen in therapy. I thought that was the best approach.

Q And that certainly doesn't show any type of bias against the natural mother. It was a detriment to the father, correct?

A Unfortunately, for a very long time.

Q Okay. Now, on August 5th, 2015, you received an additional letter from Ms. Weiford. That is at 162.

A Okay.

Q Generally, this makes you aware that Mom had called the office. She was in the parking lot. Subject Minor would not get out of the car. Ultimately there is no reunification therapy on that day?

A That's correct.

Q Third time in a row, right?

A Yes.

Q Okay. Ms. Weiford said, If I could be of further assistance, basically, let me know. She's done.

A I took it as that and I was not happy with that.

Q Okay. On 8/25 that was the status of the

reunification therapy and you made a note that Subject Minor was again still continuing to refuse to participate, correct?

A 8/25, yes.

Q Okay.

A And I ordered Mom to support it or an order to show cause would issue and I set a status hearing.

Q And you set a status for 9/29 but on 9/16 Dad files a new motion for an order to show cause and the motion to modify custody based on not seeing the subject minor since April of 2015 and Mom not being concerned with the judge, as you put it, and clueless family court system.

A Not my words. Those were her words to him.

Q Okay. And you set a hearing for April -- I'm sorry -- November 4th, 2015.

A Well, right. It was initially set right before Thanksgiving and it was changed. Moved up.

Q Now, there is a supplemental letter by Ms. Weiford at 165 dated September 2nd indicating an inability to pay for her services on behalf of Mom.

Does that fairly summarize it?

A It was a letter addressed to the mother, yes.

Q Okay. Then at 169 an additional letter of October 8th, 2015, from Ms. Weiford indicating to you that your Honor had requested that you do three reunification sessions but that, basically, it did not work.

A I'm sorry. Which letter are you looking at?

Q 169.

A Okay. So the October 8th.

Q Correct.

A She conducted the three unification sessions with Child and Father, thanked them for their participation, and said she would like to continue the therapy.

Q Right. Did that give you some hope?

A A little.

Q All right. Now, by 9/22, that's when Dad had filed the motion for an order to show cause. This letter comes in October 4th, not that long after that, correct?

A Correct.

Q Okay. If we move on to November 20th, Dad's motion to clarify orders and reconsider Weiford's recommendations, do you see that in the chronology?

A Yes, I see that.

Q That's set for a hearing -- reset for the hearing on 12/8/2015. Is that correct?

A Correct.

Q Okay. On 12/8 this is the hearing on the motion to clarify, et cetera, and your directive at that point in time is -- again, both parties are present.

A Right.

Q Okay. You give both parties an opportunity to be heard, correct?

A Yes.

Q And ultimately you direct that Weiford is to continue the reunification therapy, facilitate visitation for Dad, make recommendations, and Dad is permitted to take Subject Minor out for an activity.

A That's what Weiford recommended.

Q And the exchange would occur at Ms. Weiford's office.

A She offered her office because Donna's House is not always available. They don't have constant hours and a lot of times parents exchange at the security gate if they can't exchange at Donna's House.

She also offered her office if it was like

a 7:00 p.m. on a Monday, or whenever they weren't available at Donna's House she would facilitate, in other words.

Q And page 171 an additional report by Ms. Weiford.

A Yes.

Q Okay. Briefly summarize what this report indicates.

A I can't. There is no brief about it.

Q Pursuant to the directive of the Chair.

A I'm sorry. I know. It's so many pages.

MR. BRADLEY: I'll stipulate to allow Mr. Terry to summarize it.

MR. TERRY: Okay. I appreciate that.

THE WITNESS: Thank you.

BY MR. TERRY:

Q At page 171 she gives a summary of what she refers to as "the conjoint sessions." First session, "Subject Minor did not respond to Dad directly. At a later time Annie opened up most of the time that they were together." This is page 172.

And at the third session, second paragraph, "Right before the third session, as I'm walking" -- this is Ms. Weiford -- "the Subject Minor into the

room, she was determined to let me know that she did not want to be reunified." Is that accurate?

A Yes. After a second successful session she did a 180.

Q Right. So finally there had been a meeting between Dad and the subject minor.

A Correct.

Q But that was the second attempt.

A Right.

Q Third attempt, I don't want to be reunified.

A Right.

Q Okay. Part of the observation was that the subject minor reporting that she had been acting when she was spending time with her father all these years. Acting.

A That very much hurt her father.

Q Okay. Now, Ms. Weiford makes reference to Annie's -- Subject Minor's therapist.

Who was the subject minor's therapist?

A I believe it was a Ms. Harper.

Q Okay.

A But she only went twice.

Q Correct. But what's important is that Annie's not reporting any type of abuse, neglect or

other issues with her father, correct?

A That is correct.

Q Okay. And then the last paragraph, "It appears that Mom's thoughts are that the problems lie solely with Dad. Therefore, if we get rid of Dad, the problem is solved." Is that what she --

A Yes, that's what she said.

Q Okay. And counsel's right. This is a relatively long letter. At page 173 -- you already testified to this -- Mom's attitude is much more permissive. Dad's attitude is structured.

A The parenting styles are different.

Q That doesn't mean they're wrong in their parenting styles. It just means they have a different approach.

A Again, a normal-range parent, there's a wide variety of parenting styles. It's when you get outside of the normal-range, which Mother was, that you have issues.

Q What are you relying on in indicating that to the panel?

A That she was out of range?

Q Yes.

A The enmeshment, the cross-generational coalition. It's us against him. He can just go

back to Brazil where he came from. We don't need him. The child not being able to articulate what her problems were. She was protecting her mom.

The problems were the adult conflict and a child turned into a psychological battle ground. And I know you don't want me to use those terms, but that is my thought process.

Q All right. Did you determine that Mom and Subject Minor were talking about the reunification?

A Absolutely.

Q Okay.

A She gave the child an email from the therapist.

Q Okay.

A That was directed to Mom.

Q All right. In the middle of 173 she opines, "I believe that Subject Minor is a child of divorce that is in the middle of the conflicts with her parents. If Subject Minor was spending all of her days being schooled by Mom, going to the dance studio with Mom, and is really close to Mom, of course she is going to see Dad as the enemy."

A really strong term.

A Very strong term but, unfortunately, a reality.

Q Okay. Then in that same paragraph "This stance is being supported in championed by her mother," correct?

A I thought that was a strong word too, championed. That means wholeheartedly supported contrary to everything that's in the child's best interest.

Q Yet Ms. Weiford is still recommending that the counseling continue because she indicates it makes sense to align with the parent that she's closest to and who she observes as being victimized.

A Right.

Q Now Mom is the victim.

A Yes.

Q Okay. However, continuing with the quote, "However, discarding her previous relationship with Dad is not the answer."

In other words, she still is recommending steps to be taken towards the reunification.

A What is the alternative?

Q Well, the alternative is what?

A Dads walks away and says goodbye?

Q Correct.

A And they win? That he's out of her life and he loves her very much and he cares for her very

much and all he wants to do is have a normal relationship? So what's he supposed to do?

It's not happening -- Mom's not facilitating, the child is refusing, and therapy is the only answer. That's what has to happen or he walks away. What are the options?

Q At page 174 Ms. Weiford indicates, "It seems that Mom believes that she has Subject Minor's best interest by protecting her daughter from her father. However, Mom supporting that relationship with Dad is the best thing she could do for her."

In other words, encourage the relationship with Dad.

A Child needs to have two parents. And she had a parent that loves her and that relationship wasn't being fostered. It's not in a child's best interest to cut a parent out that wants to show love, affection, and attention.

Q Now, you had set a status hearing for January 28th, 2016, and you just made reference to Ms. Weiford's letter of January 21st, 2016.

On the notation in reference to January 28th, the first time you indicate that exchanges are to occur at Donna's House, what is Donna's House so that the panel understands?

A Donna's House is -- as a point of history, Judge Steel created it when a court staff was murdered by her significant other or ex-husband in a domestic violence situation over a child custody exchange.

So she created this entity that's on the family court campus -- it's not a house. It's an office. It's at the mediation center -- that protects people when they're in high conflict. And you go to Donna's House and it's monitored exchanges. They report to the court but they have to go through an orientation process and they have to know the rules. They have to go through the security gate like the airport where there are metal detectors. That's what Donna's House is.

Q All right. Now, at page 176 you received an additional report from Ms. Weiford.

Are you familiar with that?

A I'm there.

Q Okay. Part of her recommendations -- and she does articulate the fact that Mom was not showing up for appointments with Subject Minor.

A She scheduled various appointments and they weren't participating.

Q And you had ordered family reunification

therapy, correct?

A Many times.

Q Okay. "I have not had a reunification appointment with Dad and his daughter since September 24th, 2015. My office on several occasions has tried to schedule appointments with Mom and Subject Minor. Our last scheduled appointment was December 10th. Mom was aware of the appointment. She made contact with us the day before the appointment. Mom made it clear that she would not be bringing Subject Minor because she could not afford the sessions and because it stressed Subject Minor and gave her headaches," correct?

A Yes.

Q So between the dates articulated in Ms. Weiford's letter and this January 21st letter, there hadn't been any further visitations between Dad and the subject minor, correct?

A Correct. The only contact he had was in the three sessions with Weiford.

Q Yet her recommendations are "Dad should be able to start having access to his daughter weekly. There can be a four-week plan in place," and she talks about what the weeks are.

A She did.

Q And she made several other recommendations in there.

A Yes, she does.

Q Did you adopt those recommendations?

(Witness reviewing document.)

BY MR. TERRY:

Q The reason I ask is it says "All exchanges take place at Donna's House."

A I'm reading all of them. "Dad participate monthly." Most of these I did. At some point I ordered them to parenting classes also through UNLV but, yes, exchanges to be done at Donna's House.

Q Now, by February 16th Donna's House advises you they are closing their case because Subject Minor refuses to go with Natural Father, correct?

A Yes.

Q Now, by way of summary, what efforts had been made to get the Subject Minor to Donna's House and then ultimately to meet with Dad for the exchange that had been recommended by you?

A What do you mean "what efforts had been made"?

Q Well, did Mom take her?

A She took her.

Q Did Subject minor get out of the car?
A I don't recall.
Q Okay. Were there reunifications meetings with Dad?
A At Donna's House?
Q Yes.
A No.
Q Do you recall why?
A The child refused to go.
Q Okay. How many different times?
A Two or three.
Q Okay. So by this point in time -- and, actually, continuing through this point in time -- Subject Minor is making the decisions as to what she is and isn't going to do.
A I think the coalition was making the decisions.
Q Okay.
A Subject Minor with the support of the mother wholeheartedly.
Q But Dad is getting no visitations?
A None.
Q Now, you set an evidentiary hearing for March 29th and then it was reset to 5/12 to allow time for a custody evaluation.

A Yes. A full-custody evaluation by Claudia Schwartz, Marriage and Family Therapist.

Q Who is that?

A She is a marriage and family therapist in the community that performs these services. There are several that do but I thought her fees would be more reasonable and affordable for the parties rather than a Ph.D.

And the outsource custody evaluation as part of it consists of a full psychological evaluation, which in this case I thought was needed due to what appeared to me to be parental alienation.

Q All right. And 178 is Ms. Schwartz's letter to you indicating that Natural Mother's indicating she cannot afford it.

A Yes. She said she was unable to afford it.

Q Now, there's an additional letter at 179 from Ms. Steincamp. Are you familiar with her?

A Yes.

Q Who is Ms. Steincamp?

A She's also a marriage and family therapist that I appointed to be a parenting coordinator. That's a liaison between two parents who are high-conflict and they can't communicate effectively

or respectively so they communicate through the parenting coordinator, and that was going to be her role.

Q So this was the next move you made in an effort to ensure reunification.

A Yes.

Q And pursuant to the April 10th letter, it indicates, "Ms. Silva disagrees with everything."

A Are you at 179?

Q I am.

A Okay.

(Witness reviewing document.)

THE WITNESS: Yes, that's what it says. "Ms. Silva disagrees with everything" and that she smelled like pot.

BY MR. TERRY:

Q Correct. Now, did Ms. Steincamp continue in her services?

A Not really.

Q There was, however, another letter dated June 12th, 2017, at 182 from Ms. Steincamp.

A Yes, there is.

Q Would you look at that.

A Yes.

Q Okay. And can you summarize that letter?

A Well, at first impression she seems to be including reports from other therapists because she talks about history and the minor child's statements. And she, to my knowledge, did not interview the child. She had no authority to do that. She was simply the liaison between the parents. "PC" for short, parenting coordinator is to just help them communicate.

Q She indicates at 182 she interviewed Subject Minor and she's adamant she does not want to see Father at all.

A I'm not sure she interviewed her or if she's taking -- I don't know. I didn't provide her any reports but I don't know if she's taking these comments from someone else. Because she also indicates the wrong age for the child, so I don't know what she's relying on there. I did not talk to her about it.

Q Who appointed her to have any involvement in this case?

A I did.

Q Okay. For what purpose?

A Just to be the liaison, the communications person between Mom and Dad.

Q What does typically a liaison person do?

A Because they can't communicate effectively with each other, they communicate with the parenting coordinator and the parenting coordinator contacts the other parent.

And the parenting coordinator may have communications with both of them, like have them on a conference call or circulate emails. But they filter out the vindictive, disparaging comments, the conflict. They reduce the conflict.

Q She, interestingly enough, at 183 either comes up with her own opinion or, again, is relying on somebody else, that it is apparent that Subject Minor and Mother are enmeshed.

A I saw that word many times.

Q You find that interesting? It's the same terminology that Ms. Weiford is using.

A Yes.

Q Okay. She also goes on to say "She is almost 12 and she likely knows her way around the Internet."

A Oh, yeah.

Q What did you construe that as?

A Well, this was after I changed custody on a temporary basis.

Q Correct.

A And I believe what she was referring to was the posting of this video of the child crying by Mother on You-Tube.

Q By that time what had been posted on You-Tube?

A The video we saw today.

Q The video we just saw?

A Yeah.

MR. BRADLEY: I have to object. She's being charged with violating Nevada law and Nevada Judicial Code up to June 15th, 2016, and anything that happens after that is not really relevant to our proceedings here today.

I ask that the references to whether or not this was played on the Internet is -- should be stricken.

MR. TERRY: And I'll leave that one to the Chair --

JUDGE STOCKARD: I'm going to --

MR. TERRY: -- however, the comment about this case ended on the day of the video that we saw is incorrect. There was an order to show cause hearing that was set at a later point in time that we intend to have testimony, Mr. Chairman.

JUDGE STOCKARD: As to the testimony

regarding the video on You-Tube, I'll sustain that objection. I'll allow you -- as other issues come up, you can renew your objection, so it's sustained.

MR. TERRY: Thank you, Mr. Chairman. Can I have your indulgence for one second?

JUDGE STOCKARD: Of course.

BY MR. TERRY:

Q I want you to turn to Respondent's Exhibit book page 125. This is the same journal entry that my colleague made reference to of June 8th, 2016.

Do you have that?

A Yes, I do.

Q Now, within this journal entry, which is five pages long, you recount certain facts, correct?

A Yes.

Q My colleague didn't necessarily go into those, but, for example, "This case has a lengthy troubled history. Since the parties' divorce of April 26th, 2013, they've been before the court no less than nine times primarily on father's motions to enforce his custody rights, et cetera."

A Right.

Q Okay. And you go on to articulate facts that have been ascertained on this case since you have been the judge on this case, correct?

A I do.
Q You make reference to the Wealthy reports. You make reference to Donna's House, et cetera, and the failures to effectuate reunification.
A Yes.
Q By this point in time had you determined that the parental alienation was obviously present?
A Absolutely.
Q Did you determine that Mother was interfering with the reunification process?
A Yes.
Q Okay. Is it for that reason that you directed that the subject minor be brought to court?
A Yes.
Q By the June -- date of this order, had you already -- journal entry. I beg your pardon --
A Right.
Q -- had you already determined that a temporary change of custody was appropriate?
A Yes.
Q And was it based upon that which is set forth within this journal?
A These are the highlights, obviously. I couldn't draft a 10-page journal entry but I felt it important to describe the efforts that I had made to

try to reunify the child and the father, and those were part of my findings to temporarily transfer custody.

Q Now, prior to the journal entry, Dad had filed requests for order to show cause why Mom should not be held in contempt, correct?

A Correct. And I hadn't ruled on those. He had two motions to have her held in contempt and he had two motions to change custody.

Q And those hadn't been ruled on?

A Rather than granting or denying, I chose to deal with it therapeutically, but they were still pending.

Q Okay. Now, at page 128 you indicate "This Court finds that Plaintiff, Natural Mother" --

A Right.

Q -- "is in contempt of the Court's order to facilitate visitation on weekends with the father. An order to show cause shall issue."

A Yes.

Q Once again, the change of custody wasn't as a result of your, quote, finding, closed quote, of contempt. Is that correct?

A Not at all.

Q What was the change of custody based upon?

A What we had been enduring for the last year was Mother withholding the child, Mother committing parental alienation, the child not going, and therapy failing because Mom wouldn't encourage and facilitate. She wouldn't participate in therapy.

Q Did you feel it was in the best interest of the minor child to have a relationship with her father?

A Of course.

Q Okay. Had Ms. Silva ever filed anything that said, I don't want my daughter to have any relationship with her father?

A Had she filed anything? I don't recall.

Q Basically, a motion to terminate parental rights.

A Oh, no, no, no.

Q Okay. That type of document had never been filed.

A No.

Q And then you continue "An order to show cause is also issued against Plaintiff for not complying with the Court's orders to refinance the house or have it sold," correct?

A Home equity line of credit.

Q "And a further order to show cause is

further issued against Plaintiff for not having the subject minor tested for math proficiency."

Now, this is from the order that you entered in February of 2015. Is that correct?

A I believe. It was over a year prior.

Q Okay. Well, as of June 8th it would have been over a year.

A Yeah. It was in 2015.

Q Okay.

A There were a couple of orders.

Q Okay. Then you indicate at 129, "The order to show cause hearing shall be scheduled for July 28th. Status check set for July 28th at ten is hereby vacated," at page 19, correct?

A Correct. There wasn't a need for a status check because the order to show cause hearing had been set.

Q All right. On June 15th, which is the date that the panel had seen the hearing, did you --

A It's not a hearing.

Q Well --

A It was a child custody exchange.

Q Yes. Did you feel you had any other choice at that point in time other than to change the custody?

A No.

Q And why is that?

A I had tried everything. I'd used every resource that was available to me. There was nothing else I could do.

Q This was based upon your training and experience?

A The experts that I had, the reunification therapist, the parenting coordinator, Donna's House. I didn't have anything else I could do. I didn't have another way to address this.

Q Well, you could have continued it.

A Over --

Q -- on and on and on and on for another two or three years, Judge. Why didn't you do that?

A That's not appropriate. Because all this while the child is not having a relationship with her father and there's nothing wrong with her father.

Q And the longer she's away from her father, the harder reunification is going to be.

A There's no other way to do it. And my job is very tough and I took no pleasure in doing that.

Q Now, what isn't shown here is that there's a point in time -- when I say "here," the video that

we saw -- there was a point in time when you address the subject minor, just you and she.

A Yes.

Q And is this permissible?

A Yes.

Q Under what authority?

A Under the best interest of the child, the Court has great latitude. There's case law on that, that I can make any order as I deem best interest of the child.

Q During that nine minutes, what if anything was your exchange with the subject minor? Was it an interrogation?

A It was not. I did not ask her questions.

Q How would you summarize it?

A It was an opportunity for me to explain to her what was happening and why.

Q Did you do that?

A I did that, yes.

Q Okay. Was she upset?

A No.

Q Now, you see her crying on this video and you ultimately go back on and order that she go with Dad.

A Right.

Q Okay. Is your testimony she wasn't crying when you and she were together?

A Absolutely not.

Q Okay. Your court clerk was likewise present, correct?

A And my marshal.

Q Why did you do that out of the presence of all other parties and just you and the subject minor and not on video?

A Okay, that's a lot. So why did I not do it on video? Am I allowed to answer that? We don't videotape children because the parents can misuse those videos and put them on You-Tube. And I know you made an objection to that but --

Q Okay. That's probably good enough.

A -- I'm trying to protect the child. It's not in the best interest of the child to videotape her because it can be misused.

Second of all, as if in a child interview, which this was not a child interview, it wasn't under Chapter 50, we seal those so they can't be misused. So that's why it wasn't videotaped.

The reason the parents were asked to leave was that they could not influence the message that I was trying to deliver to this child. They couldn't

construe it for the child or comment, and I wanted the child to understand that this is my decision. I have made this decision for your best interest.

And I didn't want her to blame her father because I'm now temporarily placing her with her father to stop the coalition that happened. And this is a recommended treatment method of parental alienation where you temporarily issue an order of no contact by the allied parent and you put the child with the targeted parent and allow them to form a relationship without any interference.

They once had a great relationship, they were on their way to getting a good relationship, and they needed time to be together without her interference.

And so I explained to her, I'm doing this for your best interest. I said, Your father loves you very much. He just wants to spend time with you. Please give him a chance. Please decide that you -- open your heart to him and you will go with him. He misses you and he cares for you.

Q Did it appear to you that he was willing to do that?

A She said "I will not" three times. Crossed her arms.

Q Were her arms folded?

A Yes. And I said -- child's name -- "This is very important. You need a father in your life." And she started asking me questions and posing scenarios to me, what-if scenarios. What if this and what if this, and I answered her questions and that was it.

Q Ultimately she went with her father that day, correct?

A She did.

Q She never went to Child Haven?

A No.

Q Okay. And pursuant to your temporary order, she was ordered to spend the summer with her father.

A Yes.

Q Okay. And ultimately on 7/28, according to the chronology, that's when Mrs. Silva files the objections to the further hearing that was going to occur and you granted the objections, correct?

A Well, as to the May 12th order, because counsel, unbeknownst to me, did not have that finalized.

Q Never made the --

A The May 12th order was the Donna's House

exchange.

Q So there was no order to show cause to proceed upon, correct?

A I issued the order to show cause because I didn't know that the May 12th -- there was a handwritten order for Donna's House. That was an order.

But I didn't know counsel was not successful in getting her order turned in because I had a temporary clerk and she rejected the order. But the temporary clerk didn't advise me of that. My clerk would have told me.

Q Okay. If you look at 133 of the exhibits in front of you -- this is dated July 28th, 2016--

A Yes.

Q -- it makes reference to that.

A Oh, okay.

Q Look at that and see if it refreshes your memory.

A Right. The order had not been signed or filed regarding Donna's House. The handwritten order had been done but counsel had not submitted the order with the findings.

Q Now, the natural mother also filed a motion for reconsideration. Is that correct? That was on

10/4/2016.

A After I made my decision on the math testing.

Q Correct. And just so we're clear, after a hearing did you hold her in contempt on any items?

A At the order to show cause hearing I believe the only thing we proceeded on was the HELOC, maybe -- no, not the HELOC -- the math testing that was ordered over a year ago.

Q The one from February --

A Yes.

Q -- of 2015?

A That was the only thing she was held in contempt on and sanctioned.

Q And what was the sanction?

A $500.

Q Now, by October 14th she files a motion for reconsideration, the motion is denied. Dad's countermotion for fees is granted and the court reiterates that Mom was not held in contempt for violating any visitation orders.

A That's correct.

Q Is that correct?

A That is correct.

Q Now, up to this point in time you hadn't

been recused from the case, correct?

A I was never recused.

Q Okay. On 10/11 of '16 is the evidentiary hearing on the modification of custody.

A That was when it was scheduled. It didn't take place.

Q Correct. And, once again, why didn't it take place?

A The parties stipulated that Father would continue to have temporary sole legal custody, primary physical custody and Mom would have visitation one week on a Saturday and the next week on a Sunday alternating.

Q And that was pursuant to stipulation?

A Stipulation through counsel, but the parties were present.

Q And both were represented by counsel?

A Yes. And I ordered them to parenting classes. I continued the evidentiary hearing at their request.

MR. TERRY: Mr. Chairman, recognizing that you've given us a period of time to present Judge Hughes' case too, I believe that would be the end of my cross-examination.

JUDGE STOCKARD: Okay. Mr. Bradley?

MR. BRADLEY: No questions.

JUDGE STOCKARD: Why don't we take a 10-minute break.

(Recess taken.)

JUDGE STOCKARD: Back on the record on Case No. 2016-113-P in the matter of the Honorable Rena Hughes. The parties are present and the Commission is present. Mr. Bradley.

MR. BRADLEY: Your Honor, I just wanted to confirm that, because there were no objections filed by Respondent, that all of my exhibits are admitted?

MR. TERRY: That is an accurate statement, Mr. Chairman.

JUDGE STOCKARD: They're admitted.

MR. BRADLEY: Accordingly, prosecuting officer rests.

JUDGE STOCKARD: And just so we know from a time perspective, I show Prosecution has two hours and 56 hours remaining and Respondent has two hours 19 minutes remaining.

MR. TERRY: I think we can do that, Mr. Chairman.

JUDGE STOCKARD: And, Mr. Terry, it's 11:30. I'd like to break as close to noon as we can, so how do you --

MR. TERRY: How about if I address the Chair after we finish with our first witness?

Would that be permissible?

JUDGE STOCKARD: Yes.

MR. TERRY: The only other thing I would ask is I assume that now that the Chair's made rulings on all of the other exhibits, do we have a stipulation that all other exhibits are admitted other than the ones that the Chair has excluded?

MR. BRADLEY: Yes. I'll stipulate all the ones are admitted other than the ones you've ruled are inadmissible.

MR. TERRY: We, likewise, provided to the reporter three or four additional character letters, which I would like to present copies to you at the appropriate time.

MR. BRADLEY: And I have no objection to those.

JUDGE STOCKARD: And are those different than the ones that were uploaded on Friday?

MS. DAVIS: I think --

MR. TERRY: At the end of your book those are not different because we did forward those to you on Friday. So I have nothing further but I would, for purposes of the record, indicate that I

did provide those to the court reporter before I got the ruling from the Chair.

JUDGE STOCKARD: Very well. So those will all be admitted.

Mr. Terry.

MR. TERRY: We're prepared to proceed, Mr. Chairman, now that Mr. Bradley has rested.

JUDGE STOCKARD: Okay.

MR. TERRY: Our first witness would be Ms. Scaggs, your Honor, Tiffany Scaggs. She's in the witness room.

(Witness sworn.)

JUDGE STOCKARD: Mr. Terry.

DIRECT EXAMINATION

BY MR. TERRY:

Q Thank you, Mr. Chairman.

Ms. Scaggs, for the record, would you spell your first and second name, please.

A Tiffany, T-i-f-f-a-n-y, Skaggs, S-k-a-g-g-s.

Q I should have said your last name.

A Oh, sorry.

Q By whom are you employed?

A Clark County.

Q And what is your position?

A District Court Courtroom Clerk II.
Q And you work with Judge Hughes?
A Yes.
Q Would we commonly refer to you as her court clerk?
A Yes.
Q How long have you had that position?
A With Judge Hughes?
Q Yes.
A Three years.
Q And that would be since she became a judge?
A Correct.
Q And prior to that time you were a court clerk for other judges, correct?
A Yes.
Q I want to direct your attention to a specific case that was entitled the Silva case, and consistent with the agreement of all the parties, we're not mentioning the subject minor's name. We are referring to her as "Subject Minor."
A Okay.
Q Do you recall a hearing or a proceeding conducted by Judge Hughes that was not videoed and was outside of the presence of counsel and parents and just with the subject minor?

A Yes.

Q Okay. Who else was present in the courtroom?

A The judge, the marshal, myself, and a trainee clerk.

Q If you could speak up a little bit, I would greatly appreciate it.

A It was --

Q I heard you. I just wanted to make sure that the panel's hearing you too.

A Okay.

Q Did that hearing last about nine minutes?

A Yes.

Q Would you refer to it as a hearing or how would you refer to it?

A It was just letting the minor know what was happening and why.

Q Okay. What did Judge Hughes indicate during that hearing to the subject minor?

A That for children it's best that they have both parents in their lives.

Q What else?

A That her father had been trying to have a relationship with her and that it was mainly for children who need both parents.

Q How did the subject -- strike that.

Did Judge Hughes specifically tell the subject minor that she was going to be going with her dad?

A Yes.

Q And this was during that nine-minute period also.

A Yes.

Q What was the demeanor of the subject minor?

A She was upset. She was somewhat argumentative.

Q In what way? Tell the panel.

A She -- she was -- seemed like a girl who was used to getting her way, so she was, I'm not gonna do this, You can't make me do this, I don't want to go with him.

Q What was Judge Hughes' response to those types of comments?

A Just that she was the adult and she knew what was best for children and that children need both parents.

Q Were you also present -- Court's indulgence. I keep saying "Court." I apologize.

Were you also present when the natural father was allowed back into the room and attorneys,

et cetera?

A Yes.

Q And I will tell you that the panel has seen the video of the proceedings, not the nine-minute pause, obviously, as that was not taped.

Did the demeanor of the subject minor change at the point in time that Judge Hughes directed that she go with her father?

A At the beginning she seemed worse but then she mellowed and said, Okay, let's go.

MR. TERRY: Pass the witness, Mr. Chairman.

MR. BRADLEY: No questions.

JUDGE STOCKARD: Thank you.

MR. TERRY: We will call Judge Hoskin to the stand.

(Witness sworn.)

DIRECT EXAMINATION

BY MR. TERRY:

Q Would you please state your first and last name for the record.

A Charles Hoskin.

Q And would you spell it.

A C-h-a-r-l-e-s, H-o-s-k-i-n.

Q Getting right to the point, you are in, fact a, judge?

A I am.

Q And a judge of what?

A I'm a district court judge in the Eighth Judicial District in the Family Division.

Q How long have you held that position?

A Almost ten years.

Q Okay. Have you ever been the presiding judge?

A I have been.

Q For how many years?

A Four years.

Q Are you the current presiding judge?

A I am not.

Q Okay. Did there come a point in time when you became familiar with the newly elected Judge Hughes?

A Yes.

Q Would that have been right after election in January of 2015?

A No.

Q Do you remember when?

A It would have been in the summer of 1990.

Q Okay. Because she was a practitioner.

A Correct. We -- I was clerking in that firm and I believe she was an associate in the firm at

the time.

Q There came a time, however, when you were already on the bench as a judge and Judge Hughes was elected. Would that be accurate?

A That is correct.

Q And would that have been in approximately January of 2015?

A I believe that is correct.

Q Now, how many other family court district court judges were there in January of 2015?

A There were 19 others.

Q 19 others?

A So 20 total.

Q And did you have a system or an agreement of -- with new judges appointing or offering services to new judges as far as mentoring was concerned?

A I did.

Q If you need to talk to me, come see me, if you have specific issues, thing like that?

A That's correct.

Q Before I get into that, it appears to the -- may appear to the Commission that the rules on contempt that deal with family court are somewhat unique. Generally on a contempt -- are contempt

issues heard before a different judge?

A I don't know generally. Upon objection of the party that's being accused, I believe, it should go to another judge.

Q How does that work in family court?

A Family court is exempt from that rule. The judge who is making a contempt finding is also the judge who hears the contempt charge.

Q Just so we're clear, the judge that makes the finding of contempt or before that issues the order to show cause, is the one that sits on the issue dealing with whether or not that person is in contempt?

A Yes. NRS 22.030, I think.

Q Is that pursuant to a local rule?

A Actually, pursuant to statute.

Q Okay. That applies to family court?

A Correct.

Q Okay. But other than that, the general rules dealing with contempt are the same.

A Yes.

Q Okay. Is it oftentimes proper for a judge to order a minor to be brought to court?

A Is it oftentimes proper?

Q Proper. How about this: Is there

authority for that?

A Is the question, Can I have a child appear?

Q Yes.

A Yes, I can.

Q Okay. And I want to direct your attention now to Judge Hughes. Were there points in time where Judge Hughes came to you and did not discuss the case by way of case name but discussed it in a hypothetical?

A Yes.

Q Okay. And ultimately did you determine that one of the cases that she spoke to you about was a case called Silva --

A Yes.

Q -- the Silva case? But you did not learn that until a later point in time.

Would that be accurate?

A That would be correct.

Q So your discussions with Judge Hughes would have been in reference to issues that were occurring within her court that she was seeking your advice on--

A Yes.

Q -- as a senior judge?

A As a colleague, I would say, but I was also

serving as the presiding judge at the time.

Q And a friend?

A Yes.

Q And that was not unusual for all the judges to do?

A It is very common --

Q Okay.

A -- for that to occur, yes.

Q Speak to other judges about issues that are arising.

A Yes.

Q Do you remember a specific conversation with her under a hypothetical which you later learned to be the Silva matter where it was an issue of potential parental alienation?

A Yes.

Q Do you remember what facts she related to you?

A Do I remember? Do I have a specific recollection? I don't know that I could honestly say I have a specific recollection of the conversation. Although, based upon the events that occurred afterwards, would remind me of the fact that we did have a conversation and we did have a discussion.

Q Do you recall what it was she was asking you about?

A She was asking in a circumstance where, as I recall, one parent was not permitting contact with another parent contrary to court order, was there a way to elicit enforcement of that order.

Q And did you give her suggestions?

A I believe I did.

Q Would you call that advice or would you call it suggestions?

A I would call it a discussion --

Q Okay.

A -- because I don't believe that I gave her only one way of doing it. I think we talked about more than one way of accomplishing it.

Q What were the ways that you discussed with her enforcing the child custody/parental alienation issue?

A You could simply leave your order in enforcement. You could have an order to show cause hearing, if that was placed before you, to make the transfer take place. Threat of contempt is a way to enforce compliance with that.

If you've gone beyond those remedies and you have other ways of dealing with it, you can have

it occur at a therapeutic practitioner's office. You could, perhaps, have the Family Mediation Center assist with that, and we also discussed doing it in the courtroom.

Q I'm sorry?

A We also discussed having that occur in the courtroom.

Q Did you also discuss the potentiality of Child Haven if the minor refused to go?

A Not as part of the transfer taking place but as an ultimate destination for the child if one parent would not allow the child to go and the child refused to go to another parent, Child Haven would be a place where the child could go pending further determinations, yes.

Q And that would be equally applicable if the child simply said, I'm not going?

A Yes.

Q And just so the panel is clear, what is Child Haven?

A Child Haven is -- it's adjacent to our juvenile detention facility on the same property as the family division courthouse. And it's used for individuals when the authorities don't have any place else to take them. It's not a lock-down

facility. They prefer that the children stay there but they could leave if they needed to.

I don't know that I have a great answer to that question other than it's a place where children are taken. I've heard of other circumstances where either a parent's being arrested or something's occurring and the Metro will take them to Child Haven.

MR. TERRY: Can I have the panel's indulgence for a moment?

JUDGE STOCKARD: Of course.

BY MR. TERRY:

Q Did you ever refer to Child Haven as a jail?

A Um, I probably would have made that reference. I don't know that that's an accurate reference but I believe that I did make that reference. It's not a place that a child would want to go. It would -- going with a parent would be preferable to going to that facility, yes.

Q And you made that suggestion to Judge Hughes?

A I believe I did. I don't have a specific recollection but I believe I did.

Q Back on the parental alienation issue,

you've indicated that there are steps that can be taken.

Is one of those ultimate steps a temporary change of custody if you determine that followed by an order to show cause, a more formal hearing, if you determine that one parent is purposely keeping the minor away from the other parent?

A Okay. Your question went long for me, so I wanted to make sure I'm answering your question.

Is the question, Is it one of the steps? Is that the question?

Q Is it one of the options?

A It is one of the options, yes. We are tasked as family division judges with making determinations as to what's in the best interest of children.

Q How do you define best interest of the minor child?

A Well, the legislature has defined factors for us to make that determination.

Q What are those?

A Nine or ten factors found in -- well, they just changed, 125.

Q If you could speak up a little bit.

A Sure. I'm trying to remember the statute

name. 125.0035 is the factors that we consider in making that determination. Wishes of the child, nomination of parents, which is more likely to foster a relationship, mental physical health of the parents, special needs of the children.

The list goes on and on and it's not exclusive. There's also other factors the court can find in order to make that determination.

Q Okay. And is that unusual for a temporary change of custody order to be issued?

Is that a fair statement?

A Is what unusual?

Q A temporary change of custody order.

A We make temporary orders all the time. Family court is unique in the civil arena in that we are tasked with handling a case at the very beginning before we have all the evidence. We take argument and try and put a Band-Aid on family's lives in order to get them from the beginning of litigation to the end of litigation.

We don't always have all the information that we need to make the determination, but we're tasked with handling that procedure through that process.

Q Do you rely on child therapists? Do you

rely on other individuals in reunification attempts?

A Do I rely on them?

Q Yes.

A On occasion.

Q Okay.

A Well, I guess I would -- I don't like the word "rely." Have I utilized them to assist me in getting to the facts? Yes. I don't know that I rely on that.

Q Listen their input?

A I review their input.

Q Are you also familiar with Donna's House?

A I am.

Q And so the panel is clear, what's Donna's House?

A Donna's House -- we're actually lucky in the Eighth Judicial District that we have a facility that allows us to either have exchanges or have -- supervised exchanges or supervised visitation occur in a supervised setting that's still sort of connected to the court, so Donna's House is that facility that we have.

Q Why do you need a facility like Donna's House?

A Well, occasions occur quite a bit where I

believe that visitation should be maintained but it should be supervised many times out of an abundance of caution. Either a parent has been out of a child's life for an extended period of time or the parent is on drugs or doing something that I think would be potentially harmful for a child, I would order supervised visitation.

If the parents have a difficult time co-parenting or even exchanging the child, I may order that they go to Donna's House for a supervised exchange.

Getting back to your question why do we need that, because many times I will ask parents -- I'm not a big fan of Donna's House. I think it's not the best way for parents to interact with their children. It's very sterile and foreign, it's not very family-centric.

But in circumstances where parents cannot agree on a supervisor or they don't have anyone in their family that can assist with the supervision that they feel is safe, then that's my point of last resort, Donna's House.

MR. TERRY: If I can have the panel's indulgence for a moment.

JUDGE STOCKARD: Of course.

BY MR. TERRY:

Q Would the wishes of a child ever be the lead determining factor in determining child custody?

A Are you saying are the wishes of the child the determining factor?

Q Yes.

A No.

Q Have you seen situations where one child doesn't necessarily want to go with one parent but there are directives that that reunification or that visitation occur?

A It is very often the case that children think that they know what is best. I don't know if you want me to elaborate on that.

Q One more time. Panel's indulgence.

JUDGE STOCKARD: Judge Hoskin, speak up just so we make sure.

THE WITNESS: I'm sorry. Usually that's not a problem for me.

MR. TERRY: Thank you very much. I pass the witness. Thank you, Judge.

JUDGE STOCKARD: Mr. Bradley?

//

CROSS-EXAMINATION

BY MR. BRADLEY:

Q Judge, we can agree that contempt power must be used with the utmost restraint?

A I don't know that I understand the question, "utmost restraint."

Q Let's see. The unjustified use of contempt is prejudicial to the administration of justice.

We can agree?

A Unjustified, yes, I totally agree with that.

Q And judges have a responsibility to apply contempt power judiciously?

A I would agree with that.

Q And only when contempt is clearly unequivocally shown?

A You have to demonstrate the contempt, yes, that it's willful as well as there's a clear order, yes.

Q And we can agree that if there's an abuse of the contempt power constituting this conduct, then discipline is warranted?

A If there's an abuse of the contempt power...that discipline is warranted.

I guess if abuse is demonstrated, then it

would be a violation of probably 1.1, yes.

Q Even if we assume that Ms. Silva was a pathogenic parent, does that give Judge Hughes the right to use a temporary change of custody as a sword to punish that parent's violation of visitation orders?

MR. TERRY: Object to the form of the question. It's not supported by the facts. Utilization of the word "punished."

If the question was phrased, Is it unusual to grant temporary custody, we have no objection but the way the question is phrased that it's a punishment, we object to the form of the question.

JUDGE STOCKARD: Mr. Bradley.

MR. TERRY: Your Honor, the law is very clear in Nevada that judges are not permitted to use changes in custody as a punishment for violation of things like visitation orders.

Judge Hughes is trying to distinguish the fact that she didn't make any permanent change in custody and just a temporary change. But I just want to confirm that Judge Hoskin agrees that it's not appropriate to use a temporary change in custody as a sword to punish parental misconduct. And I'm using the language in Nevada Supreme Court in Dogger

so I disagree with counsel's interpretation.

JUDGE STOCKARD: I'll allow the question.

THE WITNESS: And now I'm not clear.

MR. BRADLEY: Now I have to ask it all over again.

BY MR. BRADLEY:

Q Even assuming that Ms. Silva was a pathogenic parent, does that give Judge Hughes the right to use a temporary change of custody as a sword to punish Ms. Silva because she violated visitation orders?

A Is your -- so that I understand the question, are you asking, Is it appropriate to use a change of custody as a sanction for contempt?

Q No, I did not include the word "contempt."

A So as a sanction for...

Q The judge's belief that there was a violation of visitation orders. I'm not jumping to the -- whether or not there was contempt or not.

A Okay. So as a sanction for violating a court order that you would temporarily change custody.

Q Do you want me to say that again?

A Because I guess the way that the question is being asked I'm not clear on --

Q Right. I want to make sure you're clear.
A Right. I know you're not trying to trick me because --
Q Okay.
A -- I spend a lot of time ...
Q Okay. Is it appropriate for Judge Hughes to use a temporary change of custody as a sword to punish the parent's violation of visitation orders?
A I can think of circumstances where that -- I believe that would be an appropriate temporary action, yes.
Q Sir, isn't the sole consideration in either a temporary or permanent change in custody to be the best interest of the child?
A That is what I'm thinking about when I'm answering that question.
Q But you're assuming that it's in the best interest of the child to punish the parent.
A No, I'm not. That's not why I'm answering the question that way.
Q Explain to me how, without my question even mentioning any determination about what's in a child's best interest, that a judge can use a temporary change of custody as a sword to punish a parent's violation of visitation orders.

A The way that you've asked the question, it would not be appropriate if the sole reason for the change would be to punish a parent. I would agree with that.

Q What about the primary purpose as opposed to the sole purpose?

A Even primary purpose. Best interest has to be the controlling factor.

Q So there has to be a determination by the judge before even making a temporary change in custody that the change is solely for the best interest of the child and not to be used as a sword to punish.

A It should not be used as a sword to punish. I'm hesitating on the first part of your question because it is a temporary order and not all the evidence has been taken by the court in order to get to that position.

But what I am -- what I'm indicating is that we attempt with the information we have before us to make the best decision for the benefit of the child. I'm not sure -- I'm not sure if I danced around your question or I answered your question at that point.

Q I think you answered it.

MR. BRADLEY: I don't have any other questions. Thank you.

JUDGE STOCKARD: Mr. Terry.

REDIRECT EXAMINATION

BY MR. TERRY:

Q Is it in the best interest of a minor child to have contact with both parents --

A It is.

Q -- assuming no abuse or neglect?

A If you can establish that they are fit parents, it is in a child's best interest, according to the supreme court and Nevada legislature, to have contact with both parents.

Q Is it a duty of a presiding family court judge to make sure that that is effectuated, that there is contact between both parents and the subject minor?

A Going from your last question to this one and considering the best interest of the minor child, my answer is yes.

Q And would that include sometimes forcing the child to have contact with a parent they do not wish to have contact with?

A Yes.

MR. TERRY: Nothing further.

JUDGE STOCKARD: Mr. Bradley?

MR. BRADLEY: Nothing.

JUDGE STOCKARD: Judge Hoskin, thank you.

We'll now break for lunch.

Is 1:00 o'clock agreeable for everyone?

We'll break for an hour.

(Recess taken at 11:55 a.m.)

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AFTERNOON SESSION.

JUDGE STOCKARD: We're back on the record in Case No. 2016-113-P. It's in the matter of the Honorable Rena Hughes. Parties are present as is the entire Commission.

Mr. Terry, are you ready to proceed?

MR. TERRY: We are, Judge.

JUDGE STOCKARD: You may proceed.

MR. TERRY: May I call our next witness?

JUDGE STOCKARD: Of course.

MR. TERRY: Judge Steel.

JUDGE STOCKARD: Just as a matter of housekeeping, we got these additional exhibits. Is there any objection to the admission of those?

MR. BRADLEY: No, sir.

JUDGE STOCKARD: It's Bates-stamped 0185 through 0190.

MR. TERRY: Those are the ones I referred to this morning, Mr. Chairman, and we would ask they be admitted. They are additional character letters.

JUDGE STOCKARD: Hearing no objection, they are likewise admitted.

MR. TERRY: Thank you. We have provided a copy to the court reporter.

JUDGE STOCKARD: Judge Steel, if you'll

come up here to the chair right here next to the court reporter.

(Witness sworn.)

DIRECT EXAMINATION

BY MR. TERRY:

Q Good afternoon. Would you mind spelling your first and last name for the record please?

A For the record Cynthia, C-y-n-t-h-i-a -- my middle name is Diana. I go by that usually -- Steel Steel, S-t-e-e-l.

Q Okay. And are you, in fact, a judge of the Eighth Judicial District Court Family Division?

A For 21-plus years.

Q For 21 years strictly handling family court?

A Yes.

Q Okay. Are you familiar with Judge Hughes?

A I am.

Q Did there come a point in time in roughly January of 2015 when she was elected as judge?

A Yes.

Q And whether or not there was any formality to it or not, was there also a policy between the judges of the family court to assist new judges?

A Yes.

Q Were you, in fact, Judge Hughes' mentor?
A I believe so.
Q And how would you classify that? How would you define that?
A As a neophyte judge we didn't do that. We didn't have mentors. It became clear after a while of the progress of the bench that some of the newer judges coming in didn't know prior judges' meetings. They may not know prior policies. They may not have learned that we used to do it this way but now we do it that way.

It's different from the bench than it is being an attorney and so we decided that we should, each of us, have a judge -- a mentor when they come in to sort of guide them through and somebody they can be comfortable with and be able to discuss hypotheticals or process or how to set up a calendar, lots of different things.

Q You just indicated that "we would discuss hypotheticals."

Did that often occur between you and Judge Hughes?
A Yes.
Q Okay. And whether you are or not aware of it, we're here in reference to a matter involving a

Ms. Silva. And recognizing what you just said about "we talk in terms of hypothetical," did there come a point in time when Judge Hughes came to you to seek your advice or to get your input on certain matters of what she classified as parental alienation in a case that she had before?

A Yes.

Q And do you recall what it was that she discussed with you?

A One of the things that she discussed was asking what I would do in a certain circumstance where one parent was not permitting the other parent to have access to the child.

And there's so many varieties of things it could be that would cause that. It could be that there was truth to a statement of some sort of harm that might be coming to the child. It could be that there was just a fear in that parent's mind that something might happen to the child. It could be a control issue of one parent over the other parent. It could be a lot of different things.

So when I talked to her about it, I tell her I need to know more about what the circumstances are that are going on between the parties, because every time you work with a party, it's never the

same thing. If I said I always do this in that case, I would be telling a lie because I don't always do the same thing.

And I'm sort of a different kind of judge. I do things differently than some of the other judges do and so I always preface what I say with, Be sure and ask a couple other judges to get a real true feeling around a feeling about what you're doing.

But, yes, she talked to me about what do you do as a judge when parties are not cooperating with each other, not co-parenting, and I gave her some ideas of how I've handled it in different circumstances.

Q You just mentioned two factors. Are there more factors? What do you do in the case of X?

A Yeah. I look at is the parent that isn't getting the visitation safe? Are they just being annoying and trying to use the court to bludgeon the other person by bringing motion after motion after motion.

I look at whether or not the child -- if I've had an opportunity to talk to the child and sometimes I have and sometimes I haven't -- has said in an FMC report or something, I wish my parents got

along better, that tells me that that child is not afraid the other parent. If they didn't want to see the other parent they wouldn't want them to get along.

Q Judge --

A So there's lots of things that would happen in the hearing and I didn't read the file. You come to a hypothetical, here is the broad picture of what's going on and what do you do, and that's basically it.

Q Did judge Hughes give you a broad picture?

A Yes, she did.

Q Did she indicate that the matter had been in front of her for close to a year?

A I don't know if she mentioned that to me or not but I knew it had several hearings.

Q Did she indicate that she had made attempts at reunification with different entities and different specialists?

A Well, because during our conversation I said, Well, have you sent them to Donna's House? Have you looked at family therapy? I don't do family therapy but a lot of the other judges do. They will send them to somebody to get them back together again and try to get either -- whatever --

one of the parents needs something from the other parent to feel comfortable in the custody situation, and so a therapist can sometimes ferret that out. It doesn't necessarily have to be about the child even. It could be about some other circumstance. And so sometimes a therapist can bring it back home to just focusing on that child.

But ultimately, whenever we're making the decisions and we've not ever met the child, all we have is the pleadings in front of us, the parents and their attorneys who are telling us stuff. We have a third-party beneficiary out there who, by our statutes, gets to have the observation of best interest of that child.

And so we're sometimes in a predicament we don't know, really, which parent is telling the truth or not, and we get a feel after a while by knowing the parents and after many hearings you can sort of discern what you're up against.

Frequently, it becomes a situation where I've taken over a lot of cases midstream, high-conflict cases. And the court may have made a blunder, the prior court, in my mind, but they didn't appeal it so that's the law of the case. I've got to work with that law of the case.

And you can see how sometimes they're just trying to get the record right and they keep filing and filing to make sure the judge understands and then suddenly it becomes me against the litigant instead of the litigants working to get something done for their child. It can devolve into that so you have to try not to let that happen. That would be something I would have told her.

Q Do you remember any other specific advice that you gave to Judge Hughes based on this hypothetical?

A Well, I told her that I frequently will change custody pending an evidentiary hearing. If I feel the other parent is safe and that the child has no fear of that person and is going to be okay, I will change custody of a child.

Q You just said "pending an evidentiary hearing."

A Right. We're not allowed to do it without -- we used to do it when I was a neophyte and we would change custody. And unless somebody did an appeal on the motion it would go up. There was a decision and they could appeal it.

Q So you were referring to a temporary change of custody.

A Yes.

Q And does that occur often?

A Yes.

Q But then eventually you set a hearing on permanent change of custody.

A I do. I usually do it at that hearing.

Q You set it at that hearing.

A Yeah.

Q I heard you indicate earlier that there was occasions when you talk to a minor child.

A Yes.

Q Under what circumstances?

A It's a learning process. I remember I was a new judge and I had some very wealthy people coming into court and they had all these reports from all these therapists and counselors and everything. And both parties said, Judge, if you just talk to her, you'll understand what's going on.

So I said, Okay, and took her up to my chambers, because that was the standard of the day back in the late '90s, and talked to her. And I said, Wouldn't it be okay if you and your Dad -- because they were very estranged -- just had dinner once a month to start off, just to see, you know.

And we had our conversation and I went back

downstairs. And I said, I believe she's okay with doing this, and they set it up. And then I got a motion that I needed to maybe not be involved in that case anymore because I had coerced the child into something. And I had no witness. Nobody was in the room but me and her.

So I learned early on that I would prefer to have someone in the room with me and, generally, I won't talk to a child unless there's two attorneys, one for each parent. Otherwise, they can go to mediation and the family mediator can give me the information.

Q Did you advise Judge Hughes that she could talk to the minor child?

A I don't recall telling her to talk to the minor child without somebody in the room. I said it may be a good idea to talk to the minor child but I don't think I told her about how to set that up.

Q Do you recall specifically telling her that you can talk to the minor child?

A You can talk to the minor child. A lot of judges still do take the kids up into chambers. I just got burned and so I don't do it that way anymore.

MR. TERRY: Thank you. We would pass the