

In the
Supreme Court of Ohio

ORIGINAL

State Ex., Rel. Amanda Wilson Iler
121 E. Sixth Street.
Seaman Ohio 45679

Relator,

VS.

Judge Brett M. Spencer
110 West Main Street
West Union Ohio 45693

&

Michael Farahay
1200 Mineral Springs Rd.
Peebles Ohio 45660

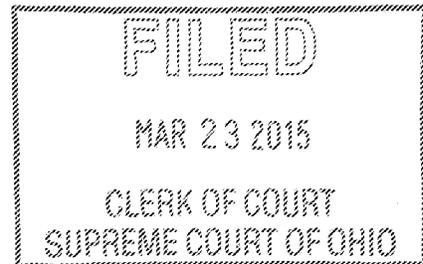
&

Judges of Fourth Court of Appeals
14 South Paint Street.
Chillicothe Ohio 45601

Respondents.

Case No. 2015-0146

Original Actions for Writs
of Habeas, Mandamus &
Prohibition



RELATOR'S MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT
PURSUANT TO CIV. R. 15 (A) WITH AMENDED COMPLAINT ATTACHED

*accompanied certificate of service

Volume 2

Amanda Wilson Iler
121 E. Sixth Street
Seaman Ohio 45679
*Relator, Pro Se

Jonathan Coughlan (0026424)
66 East State Street, Ste 1800
Columbus Ohio 43215
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Judge Brett Spencer

David Grimes (0067097)
108 East Mulberry Street
West Union Ohio 45679
* Counsel to Respondent,
Michael Farahay

Judges of the Fourth Court of Appeals
14 South Paint Street
Chillicothe Ohio 45601
*Respondent(s)

AFFIDAVIT

The State of Ohio

)

) S.S.

County of Clermont

I, Jennifer Shupert, of Williamsburg, Ohio, MAKE OATH AND SWEAR THAT:

1. During divorce proceedings in Adams County Court of Common Pleas (*Shupert v. Shupert*, 20070604, *Shupert v. Shupert*, 2013 604, and *Shupert v. Shupert*, 135 Ohio St. 3d 1470), the undersigned discovered that there were significant and deliberate alterations to the court transcript of the two-day Final Hearing. Upon obtaining the audio/video recording of the Final Hearing, and under the direction of attorney Donald W. White, an independent transcribing firm made corrections to the transcript, based on the audio/video recording. This resulted in twenty (20) pages of corrections (some of which were outright omissions), and the Fourth District Court of Appeals was petitioned to allow an Addendum (corrected transcript) be filed in support of the Defendant, Jennifer Shupert's appellate brief.
2. As a direct result of uncovering allegations of Adams County Court of Common Pleas deliberating tampering with a court transcript, Judge Brett Spencer, called attorney Donald W. White and in a tirade, ranted against the Defendant for obtaining the audio/video recording, having the transcript corrected, and retaliated by banning the undersigned from the Adams County Courthouse. On his Order banning Defendant, he includes the Plaintiff, Ray Shupert, in the ban, although he had absolutely nothing to do with the Judge's action. The undersigned hereby encourages the Fourth District Court of Appeals to contact attorney Donald W. White (Batavia, Ohio) as a witness to verify that the aforementioned facts are true.
3. Further, it has recently surfaced since the docket has gone online for the Adams County Court of Common Pleas, that Judge Spencer's Court never forwarded or filed the Addendum correcting the altered transcript of the Final Hearing for review by the justices on the Fourth District Court of Appeals. This deceitful tactic may have unduly harmed the outcome of the Appeal filed by the undersigned in response to errors made by Judge Spencer in his final ruling in the divorce settlement – a decision which he took twenty (20) MONTHS to reach and was obviously slanted in favor of the Plaintiff.

4. The undersigned further attests that there were many instances of unethical conduct put forth by the Adams County Court of Common Pleas during her divorce proceedings, which lasted over five years. Note that this was a divorce with two minor children, and there were disputes involving the court-appointed Guardian Ad Litem, who among other things, refused to show at the Final Hearing for cross-examination. In fact, one of the omissions from the original (altered) court transcript, was the Court trying to impose upon the Defendant to waive any contest involving custody. This was a violation of the undersigned's rights, and she asserted as much, but the transcript omitted the entire response as "inaudible." Clearly, this was not the case, as the corrected transcript reveals the full response by Defendant. In addition, the undersigned experienced numerous devious "tricks" by the Court such as sending court documents to the wrong zip code, causing delays in delivery (and resulting in a loss of over \$50,000 to the Defendant in one such incident); fake issuance of Civil Protection Orders; harassment by the Court and Guardian Ad Litem -- filing false police report, malicious prosecution, repeated failure to find the Plaintiff in contempt of court, banning the Defendant from the courthouse; repeated attempts to deny services for interpretation services to the Defendant, who is hearing-impaired -- then when the Court was forced to provide services per the Americans with Disabilities Act, Judge Spencer issued an Order indicating that Defendant was responsible for paying for such services, clearly an abuse of federal law; and refusal to release in-camera interview of one of the minor children. This just scratches the surface of the malfeasance on display in the Adams County Court of Common Pleas.

FINALLY, the undersigned respectfully submits that she is willing to appear and testify under sworn oath as to any of the above allegations and present proof of same.

SUBSCRIBED AND SWORN TO)

BEFORE ME, on the 23rd day of)

December, 2014:)

Connie S Storms)

NOTARY PUBLIC)

My Commission expires 5/10/2015

Jennifer Shupert
Jennifer Shupert



CONNIE S STORMS
NOTARY PUBLIC
STATE OF OHIO
My Commission Expires
May 10, 2015

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ADAMS COUNTY COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
ADAMS COUNTY, OHIO

RAY SHUPERT :
Plaintiff, : CASE NO. 20070604
-vs- :
JENNIFER SHUPERT : TWO-DAY TRIAL, DAY ONE ✓
Defendant. : (JULY 6, 2010)

APPEARANCES

On behalf of Plaintiff: On behalf of Defendant:
DAVID GRIMES, ESQ. DONALD W. WHITE, ESQ.

THIS IS AN ADDENDUM to the original transcript of Day One (July 6, 2010) of the above captioned trial, this addendum contains corrections and omitted comments of said trial that were left out and marked "inaudible" on the original transcript of said trial, Day One (July 6, 2010).

TRI-COUNTY COURT REPORTING
886 Bradbury Road
Cincinnati, Ohio 45245
(513) 732-1477

1 pg 6, line 7 MR. GRIMES: It is, Your Honor,
2 it is also our request.

3 pg 6, line 10 MS. SHUPERT: I feel like I'm
4 giving up my right to cross examine the guardian
5 ad litem and I feel like there should have been a
6 hearing all along for the validation of parental
7 rights and that was never done. I just want to go
8 on record as saying that I feel like from that
9 standpoint my rights have been violated. But I
10 know this is a complicated divorce and we need to
11 get through it quickly, so for the time being I
12 have authorized him to go this route.

13 pg 6, line 16 MR. GRIMES: Yes, Your Honor,
14 may it please the Court, opposing counsel, Your
15 Honor, as far as our position as far as the issue
16 before the Court today as far as property, we have
17 outlined plaintiff's trial property statement that
18 the plaintiff filed with the court

19 pg 7, line 15 MR. GRIMES: ...or seventy-five
20 hundred for marital.

21 pg 7, line 18 MR. GRIMES: ...Mr. Rittenhouse
22 has the property at 242,000.

23 pg 8, line 14 MR. GRIMES: ...if you use the
24 tax returns

25 pg 8, line 17 MR. GRIMES: ...but the

1 appraisers actually support this up and have
2 larger figures for the loss.

3 pg 9, line 20 MR. GRIMES: What we have on
4 our pleading indicates ...

5 pg 10, line 9 MR. GRIMES: Marital
6 liabilities.

7 pg 12, line 10 MR. WHITE: Your Honor, may it
8 please the Court, counsel, I'd like to use the
9 podium.

10 pg 12, line 11 MR. WHITE: That's fine, I
11 moved it over here to get out of their way.

12 THE COURT: Thank you.

13 pg 12, line 13 MR. WHITE: ...after we
14 received his, Your Honor.

15 pg 12, line 16 MR. WHITE: He's left a few
16 things out. (Inaudible) accordingly.

17 pg 14, line 3 MR. WHITE: He doesn't have
18 comps.

19 pg 14, line MR. WHITE: ...it's active to
20 the point ...

21 pg 14, line 10 MR. WHITE: ...as a result of
22 the fact that it lies fallow.

23 pg 14, line 11 MR. WHITE: ...we believe that
24 all participation is active.

25 pg 14, line 12 MR. WHITE: ...as I see it,

1 he'll have to testify based on his appraisal.

2 pg 15, line 12 MR. WHITE: ...stated -- and
3 this is not closing argument, but he stated the
4 evidence they're going to present regarding the
5 breeding stock.

6 pg 16, line 16 MR. WHITE: ...statement.

7 pg 16, line 17 MR. WHITE: ...find the entry
8 on this, we'll talk about it later, that when she
9 took possession ...

10 pg 17, line 1 MR WHITE: ...not a penny.

11 pg 18, line 4 MR. WHITE: ...he's got the
12 six-hundred-and-some-thousand, comes to 644 and
13 some change. Half of that is 322. Subtract her
14 twenty-eight-fifty for the reconciliation.

15 pg 18, line 7 MR. WHITE: And if we're
16 finished you get to make the decision.

17 pg 21, line 19 MR. WILSON: The cost approach
18 I come up with was four hundred --

19 pg 22, line 1 MR. GRIMES: ...as opposed to
20 admissibility.

21 pg 24, line 7 MR. GRIMES: No, Your
22 Honor.

23 pg 24, between line 11&12 MR. WHITE:
24 Continuing objection.

25 pg 24, line 18 MR. WILSON: ...the cost

1 approach on a house...

2 pg 25, line 13 MR. WHITE: Could I just
3 quickly voir dire my client ...

4 pg 25, line 16 MR. WHITE: Yes or no?

5 pg 25, between line 18&19 MS. SHUPERT: I
6 can't hear anything Mr. Grimes says because I
7 can't read his lips, but I can hear Mr. Wilson.

8 pg 26, line 21 MR. WHITE: I've always asked
9 that, you know.

10 pg 27, line 10 MR. WHITE: They're all
11 questions that deal with issues I'm objecting to.

12 pg 27, line 14 MR. WHITE: I would say they
13 probably clarified.

14 pg 29, line 21 MR. GRIMES: ...hoop barn, is
15 that correct?

16 pg 30, line 3 MR. WILSON: ...the hoop barn,
17 is that what you asked?

18 pg 30, line 4 MR. GRIMES: Hoop barn and the
19 grain bins.

20 pg 30, line 5 MR. WILSON: The hoop barn ...

21 pg 30, line 10 MR. GRIMES: Okay. What is a
22 hoop barn?

23 pg 30, line 11 MR. WILSON: A hoop barn ...

24 pg 34, line 15 MR. WHITE: ...to basically
25 guess is, as far as I'm concerned, is reversible

1 error.

2 pg 37, line 6 MR. WILSON: ...a bank barn.

3 pg 42, line 1 MR. WILSON: Cabbage, I don't
4 know where it is.

5 pg 42, line 12 MR. WILSON: No, it wasn't
6 concrete blocks.

7 pg 51, line 9 MR. WHITE: Objection, move to
8 strike, nonresponsive.

9 pg 51, line 19 MR. CONLEY: The Apphorn,
10 which is a ...

11 pg 54, line 15 MR. CONLEY:...on the enblow..

12 pg 55, line 6 MR. CONLEY: ...depending on
13 if I own the dog.

14 pg 56, line 16 MR. WHITE: Objection. All
15 this is nonresponsive, Your Honor.

16 pg 58, line 19 MR. WHITE: That wasn't the
17 question.

18 pg 58, line 21 MR. WHITE: ...whether it's by
19 yourself or someone else, then you won't increase
20 the value by finishing it, is that correct?

21 pg 59, line 18 MR. WHITE: ...would you agree
22 with that?

23 pg 60, line 19 MR. WHITE: -- or elbow tests,
24 right?

25 pg 60, line 23 MR. WHITE: It's not in your

1 report?

2 pg 61, line 2 MR. CONLEY: ...had to go

3 digging pretty hard ...

4 pg 62, line 5 MR. WHITE: How can he make,

5 give any answer?

6 pg 67, line 16 MR. GRIMES: It starts with

7 combines and heads.

8 pg 69, line 9 MR. BROWN: Yes. MR. GRIMES:

9 They didn't have anything of particular value like

10 a registered or show cow or anything

11 pg 72, line 11 MR. WHITE: I'm not a farm

12 guy, I don't know much about this stuff.

13 pg 74, line 11 MR. WHITE: He said the same

14 things.

15 pg 71, line 1 MR. GRIMES: Your Honor, if I

16 could proffer what it's for...

17 pg 82, line 12 MR. GRIMES: Is there a

18 ferring house or nursery....

19 pg 82, line 16 MR. GRIMES: There is a hoop

20 building....

21 pg 84, line 20 MR. SHUPERT: It sets on a

22 4-foot wood knee wall.

23 pg 90, line 10 MR. WHITE: ...it says 95 in

24 1997.

25 pg 92, line 12 MR. SHUPERT: 1997, they went

1 down. MR. WHITE: So there was less.

2 pg 90, line 12 MR. SHUPERT: Yeah, 7 head.

3 pg 92, line 2 MR. SHUPERT: That was an '09
4 figure which was more of a "go-count."

5 pg 92, line 8 MR. SHUPERT: ...ferring house
6 a couple years before that.

7 pg 92, line 9 MR. SHUPERT: ...to sell that
8 many fat hogs.

9 pg 95, line 1 MR. WHITE: Your Honor, I'm
10 going to interpose an objection.

11 pg 95, line 9 MR. WHITE: We're going into
12 this for nothing.

13 pg 97, line 3 MR. WHITE: That's just, you
14 know --

15 pg 97, line 13 MR. WHITE: Well, I'm sorry,
16 I'll let you go. I apologize for interrupting.

17 pg 97, line 16 MR. WHITE: ...but go ahead.

18 pg 97, line 18 MR. WHITE: I can't, I don't
19 know where I am right now.

20 pg 98, line 11 MR. WHITE: ...show that he --

21 pg 98, line 15 JUDGE: ...proffer a....

22 pg 98, line 22 JUDGE: I think it's just a
23 commentary that --

24 pg 99, line 1 JUDGE: Well, don't try that
25 now. MR. WHITE: But the idea was....

1 pg 99, line 13 JUDGE: that being the 750
2 ten-foot no-till drill.

3 pg 104, between line 13&14 JUDGE: May I ask
4 counsel to approach. (Off the record side bar
5 discussion.)

6 pg 104, line 17 MR. SHUPERT: Yes.

7 pg 104, line 17 JUDGE: And then I...

8 pg 105, line 1 MR. SHUPERT: I'm not sure.

9 pg 105, line 1 THE COURT: -- or the one I
10 bought after the marriage.

11 pg 105, line 1 MR. SHUPERT: I'm not sure.

12 pg 105, line 1 JUDGE: If you've only owned
13 one 4020. Don't know?

14 pg 105, line 3 MR. SHUPERT: No.

15 pg 105, line 4 JUDGE: Okay.

16 pg 107, line 20 MR. GRIMES: Okay. I'll
17 withdraw those questions and I'll start over.

18 pg 107, line 20 JUDGE: Is it the same
19 combine that was listed on your 1997 list of
20 equipment?

21 pg 107, line 22 MR. SHUPERT: Yes.

22 pg 108, line 1 JUDGE: The one you sold to
23 the Semples? MR. SHUPERT: Yes. THE COURT: Okay,
24 thank you.

25 pg 108, line 7 MR. WHITE: Asked and

1 answered, Your Honor. Objection to that. He's
2 covered this already.

3 pg 108, line 15 MR. GRIMES: I'll ask you to
4 take out another couple pages.

5 pg 111, line 7 MR. WHITE: ...interest in the
6 equipment is \$80,000.00.

7 pg 116, line 22 JUDGE: ...looks like they
8 were inherited.

9 pg 120, line 2 MR. WHITE: Your Honor, I'm
10 looking at the same document....

11 pg 120, line 4 MR. WHITE: ...says anything
12 about livestock . I'm not sure what it means.

13 pg 122, line 18 MR. SHUPERT: That's the Blue
14 Book for 315209, is it?

15 pg 127, line 3 JUDGE: On my Exhibit 35 it
16 has a joint tenants with right of survivorship,
17 account holders.....

18 pg 128, line 20 JUDGE: Mr. Grimes, you're
19 proffering it for what reason?

20 pg 129, line 20 MR. WHITE: In other words,
21 if the Court orders this account is divided....

22 pg 130, line 2 MR. WHITE: Whatever the
23 market is telling it to do, it's going up and
24 down, so....

25 pg 132, line 22 MR. SHUPERT: I had more

1 profit in it than I should.

2 pg 133, line 23 MR. GRIMES: ...you have 30
3 percent? MR. SHUPERT: Yes. MR. GRIMES: Which
4 means....

5 pg 138, line 21 MR. WHITE: Your Honor, you
6 know, I mean, he's not been qualified as an expert
7 in the handwriting.

8 pg 138, line 23 MR. WHITE: Let him say that,
9 then, if that's the case.

10 pg 139, line 4 JUDGE: Mr. Shupert is
11 qualified to testify as to what is or is not his
12 signature, and he's saying 3336 is not your
13 signature, is that correct?

14 pg 150, line 23 MR. WHITE: I think I'm okay
15 with what I've got over there.

16 pg 151, line 5 MR. WHITE: I'm taking stuff
17 home and --

18

19 END OF ADDENDUM/CORRECTIONS OF DAY ONE

20 SHUPERT vs SHUPERT TRIAL TRANSCRIPT

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STATE OF OHIO
COUNTY OF CLERMONT

I, Evelyn Charles, court reporter,
Notary Public for the State of Ohio, duly
qualified and commissioned, do hereby certify that
the foregoing was by me duly transcribed from an
audio compact disc of said trial and that the same
is true and accurate as transcribed.

I further certify that I am not counsel,
attorney, relative or employee of any of the
parties hereto, or in any way interested in the
within action, and that I was at the time of
transcribing said trial a Notary Public for the
State of Ohio.

IN WITNESS WHEREOF, I have hereunto set
my hand and notarial seal at Cincinnati, Ohio this
30th day of August, 2012.

my commission expires
November 20, 2015



Evelyn Charles
Notary Public-State of Ohio

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ADAMS COUNTY COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
ADAMS COUNTY, OHIO

RAY SHUPERT :
Plaintiff, : CASE NO. 20070604
-vs- :
JENNIFER SHUPERT : TWO-DAY TRIAL, DAY TWO ✓
Defendant. : (JULY 7, 2010)

APPEARANCES

On behalf of Plaintiff: On behalf of Defendant:
DAVID GRIMES, ESQ. DONALD W. WHITE, ESQ.

THIS IS AN ADDENDUM to the original transcript of Day Two (July 7, 2010) of the above captioned trial, this addendum contains corrections and omitted comments of said trial that were left out and marked "inaudible" on the original transcript of said trial, Day Two (July 7, 2010).

TRI-COUNTY COURT REPORTING
886 Bradbury Road
Cincinnati, Ohio 45245
(513) 732-1477

1 pg 2, line 8 MR. GRIMES: There's none on
2 our behalf, Your Honor.

3 pg 4, line 8 MR. WHITE: November 30th,
4 there's nothing in the account?

5 pg 6, line 14 MR. WHITE: Objection, Your
6 Honor. I've asked a question.

7 MR. SHUPERT: So she did have money.

8 MR. WHITE: Hold it a second.

9 pg 6, line 17 JUDGE: you would like to
10 espouse but your counsel will

11 pg 12, line 19 MR. WHITE: So, you know,
12 eleven-twelve-seven?

13 pg 12, line 20 MR. WHITE: Marital money?

14 MR. SHUPERT: Yes.

15 pg 14, line 8 MR. WHITE: So, yes?

16 pg 14, line 14 MR. WHITE: Well, I'm going
17 to keep asking you until you answer.

18 pg 15, line 10 MR. WHITE: Did she do it
19 voluntarily? MR. SHUPERT: Yes.

20 pg 15, line 15 MR. WHITE: Hold on for a
21 second, let me try something, I do this all the
22 time. MR. SHUPERT: Well, I don't. MR. WHITE:
23 I know, I know you don't. Sometimes if you do
24 that and it stays together. The next time it will
25 stay together. Not always but sometimes.

1 JUDGE: Kind of like a lynchpin. I can do one of
2 those. MR. WHITE: I'd like to tell you I know
3 what that is, Judge, but I don't. I've heard it
4 before, I just never -- okay, maybe that will
5 help, I don't know.

6 pg 17, line 18 MR. WHITE: What about the
7 next one to (inaudible) Methodist, is that your
8 handwriting?

9 pg 17, line 20 MR. WHITE: What about the one
10 to Donna Stable, Stalls.

11 pg 17, line 22 MR. WHITE: What about
12 Jostens?, the next one 3338, your handwriting?

13 pg 20, line 10 MR. WHITE: You don't have any
14 paper trail on that to show you stopped payment?

15 pg 20, line 17 MR. WHITE: Okay, I'll
16 preface it with this.

17 pg 23, line 19 MR. SHUPERT: It was in
18 November, yeah -- or, no, it was in February,
19 I mean, yes.

20 pg 24, line 12 MR. WHITE: . . .for the term
21 of the marriage of November 30, 2007 . . .

22 pg 28, line 22 MR. GRIMES: . . .relevance
23 of getting into 2009 . . .

24 pg 29, line 17 MR. WHITE: I'm going to show
25 you what's been marked as Exhibit L.

1 pg 30, line 22 MR. WHITE: It's a document
2 that he should have in his --

3 pg 32, line 14 MR. GRIME: Yes, Your Honor,
4 we would renew our objection.

5 pg 33, line 4 MR. WHITE: ...and that's the
6 reason why I'm asking the questions.

7 pg 34, line 1 MR. SHUPERT: Weight, yeah,
8 the weight and doc and all that.

9 pg 34, line 12 MR. WHITE: . . .the Court is
10 already familiar with all this . . .

11 pg 35, line 5 MR. WHITE: You make it
12 (inaudible) percentage even?

13 pg 35, line 16 MR. WHITE: . . .the first one
14 is dated 2/5/08 for 10,933.83. Do you see that?

15 pg 37, line 14 MR. WHITE: Go through here
16 and get to the first check to Dan, if you would.
17 I apologize, I probably shouldn't have put any-
18 thing in here I didn't want to talk about.

19 pg 37, line 16 MR. WHITE: Do you see the
20 first, when I first get to John there, the check
21 dated 2/29/08? MR. SHUPERT: Yes.

22 pg 37, line 17 MR. WHITE: For 12,975.28?
23 MR. SHUPERT: Yes.

24 pg 37, line 17 MR. WHITE: That's part of the
25 farm operation?

1 pg 38, line 4 MR. WHITE: . . .these are July
2 of '09, we'll skip these until we get to something
3 (inaudible).

4 pg 38, line 11 MR. WHITE: . . .is for Dan on
5 2/27/09, we'll skip that. Looks like we're in '09
6 now, so I think the rest of this is all --

7 pg 40, line 6 MR. WHITE: The third is that
8 handwriting, Ray Shupert (inaudible) '06, you
9 don't recognize any of those documents, right?

10 pg 40, line 12 MR. WHITE: and he received
11 it later, crop insurance proceeds that was owed to
12 him as of the date of (inaudible) which makes it
13 marital property.

14 pg 41, line 5 MR. WHITE: Your Honor, I've
15 turned to a page that has a check on the bottom
16 for 25,587 payable to Ray Shupert on 4/16/08.

17 pg 41, line 12: . . .JUDGE: It's the actual
18 check itself or the itemization? MR. WHITE: it's
19 the check.

20 pg 42, line 15 MR. SHUPERT: I had some
21 preventive payments; I don't think they're ran
22 together until I check.

23 pg 43, line 4 MR. WHITE: N. N should be
24 the Phillip Morris. MR. SHUPERT: Yeah.

25 pg 46, line 8 JUDGE: Mr. White, I'm sorry,

1 there's been another malfunction of the captionist
2 equipment. MR. WHITE: I've got (inaudible) to
3 do this again. JUDGE: Is that one machine, is it
4 now defunct for the day? CAPTIONIST: This one,
5 yeah. JUDGE: Yeah? So it's out? CAPTIONIST:
6 Right. JUDGE: How do we insure that Ms. Shupert
7 is capable of seeing this? Will you just be
8 transferring back and forth the one that's still
9 operative? CAPTIONIST: Yeah. JUDGE: Okay.
10 MR. WHITE: She has another laptop she can put in
11 front of her, is that what you're saying? Okay.
12 CAPTIONIST: I can leave this one. MR. WHITE:
13 Okay. JUDGE: But how does Ms. Shupert view it?
14 MR. WHITE: You're going to put that up there?
15 CAPTIONIST: Yeah, I'm going to put this up here
16 and what she types will show up here, then I'm
17 just going to use her laptop when she's done.
18 JUDGE: Okay, and what I would ask of the
19 captionist, if you'll just advise us, we can just
20 take a brief pause in the proceedings and --
21 sorry, madam court reporter -- we can take a brief
22 pause of 30 or 40 seconds, whatever it takes to
23 switch those off and that way we'll make sure that
24 everything is still available to Ms. Shupert.
25 Okay? CAPTIONIST: Okay. JUDGE: Did you put a

1 time restriction on him, Mr. Grimes? Okay.

2 CAPTIONIST: Our continued apologies, Your Honor.

3 JUDGE: That's quite all right. Thank you,

4 though. CAPTIONIST: This is highly unusual.

5 I believe we are back in business.

6 pg 47, line 5 MR. WHITE: United Producers,

7 Union Stockyard, and Manning.

8 pg 47, line 21 MR. WHITE: Well, we were

9 talking about crops before. We're talking about --

10 pg 48, line 2 JUDGE: Okay. MR. WHITE: Is

11 that correct?

12 pg 50, line 1 MR. SHUPERT: Did you say "I"?

13 JUDGE: You were talking of I3 when you were

14 inquiring.

15 pg 50, line 10 MR. GRIMES: . . .my I3 only

16 has two pages (inaudible). JUDGE: There's a

17 whole bunch of pages.

18 pg 52, line 16 MR. WHITE: . . .I think

19 earlier I asked you if the farm, Shupert Pig Farm

20 or the Shupert Farm dealt with this United

21 Producers and you said yes, correct?

22 pg 53, line 3 JUDGE: Counsel, the Court had

23 considered it and will now confirm that as a

24 continuing objection that the Court has overruled

25 on those issues . . .

1 pg 55, line 1 MR. WHITE: . . .purchasing now
2 are superior, more genetically improved gilts and
3 boars than what you had in 1997?

4 pg 55, line 12 MR. GRIMES: . . .does any of
5 that reflect the cost . . .

6 pg 61, line 11 MR. WHITE: . . . That was the
7 stipulation, right?

8 pg 61, line 12 MR. GRIMES: Right, that's
9 the cost.

10 pg 66, line 22 Off the record side bar
11 discussion.

12 pg 67, line 14 MR. SHUPERT: Since I done
13 tax, since '81.

14 pg 68, line 14 MR. GRIMES: In other words,
15 programs vary . . .

16 pg 69, line 20 MR. WHITE: I just have a
17 couple, Your Honor.

18 pg 75, line 1 MR. GRIMES: Not that we
19 addressed, Your Honor.

20 pg 75, line 12 MR. WHITE: She has an
21 opinion. She saw her that day (inaudible) and,
22 based on her expertise in the field of evaluating
23 people who come in in that position, she doesn't
24 believe she attempted to commit suicide.

25 pg 75, line 17 MR. WHITE: It has nothing to

1 do with that.

2 pg 75, line 23 MR. WHITE: The ages,
3 physical, mental and emotional conditions of the
4 parties, which is C, subject to the C.

5 pg 76, line 16 MR. WHITE: . . .quasi-medical
6 professional . . .

7 pg 76, line 21 MR. WHITE: . . .I'll just
8 proffer it.

9 pg 77, line 6 JUDGE: I will allow you to
10 proffer her anticipated testimony.

11 pg 78, line 7 MR. WHITE: . . .would have
12 heard that.

13 pg 78, line 8 MR. WHITE: It's new to me but
14 it's not new to --

15 pg 78, line 11 MR. WHITE: Medical.

16 pg 78, line 15 MR. WHITE: That she said;
17 she gave it to --

18 pg 79, line 4 MR. WHITE: Five minutes.
19 Which, if a lawyer said that, it means ten.

20 pg 79, line 7 MR. WHITE: Appreciate that.
21 Has she been sworn in?

22 pg 86, line 20 MS. SHUPERT: . . .I was
23 working for Rendigs Fry Kiely & Dennis.

24 pg 87, line 5 MR. WHITE: . . .did you
25 continue working for Rendigs Fry Kiely & Dennis?

1 the farm book?

2 pg 128, line 22 MR. WHITE: And the total is
3 \$67,059.20?

4 pg 129, line 5 MS. SHUPERT: The grand total
5 is \$6,759.27.

6 pg 129, line 13 MR. WHITE: The company is
7 called Abacus?

8 pg 130, line 9 MR. WHITE: What are you doing
9 there?

10 pg 130, line 18 MR. WHITE: All right. If I
11 can approach the witness I'll be fine.

12 pg 133, line 10 MR. WHITE: You're familiar
13 with Ray's finances, are you not, in your
14 marriage?

15 pg 133, line 14 MR. GRIMES: Objection, Your
16 Honor, it calls for speculation if he's asking
17 about his current income. Ray has testified to
18 that.

19 pg 133, line 19 MR. WHITE: I don't think she
20 heard you. Did you answer that yes?

21 pg 134, line 13 MR. WHITE: ...other than
22 Abacus?

23 pg 136, line 12 MR. WHITE: ...I might have
24 half an hour, tops.

25 pg 137, line 19 MR. WHITE: ...in compiling

1 one of the previous exhibits you testified to,
2 Exhibit I-2?

3 pg 138, line 2 MS. SHUPERT: ...it shows the
4 crop insurance proceeds that Ray received in '08
5 from crop year 2007.

6 pg 138, line 17 MR. WHITE: ...just briefly?

7 pg 145, line 3 MR. GRIMES: ...so that's why
8 I put the document in.

9 pg 146, line 7 MR. GRIMES: I'm talking
10 about the livestock portion of Exhibit 11.

11 pg 146, line 10 JUDGE: It's on the board.

12 pg 146, between line 10&11 MS. SHUPERT: This
13 is all equipment in 11.

14 pg 146, line 13 JUDGE: If I can find mine
15 I'll give it to her.

16 pg 147, line 20 MS. SHUPERT: ...improved
17 gilts

18 pg 156, between line 6&7 MS. SHUPERT: I can
19 answer the question.

20 pg 159, line 5 MS. SHUPERT: This one it
21 says Avatar Try Try Again.

22 pg 159, line 5 MR. GRIMES: Okay. Your
23 Honor, before we go any further (inaudible) ...

24 pg 166, line 15 MR. WHITE: It's really
25 confusing.

1 pg 168, line 6 MS. SHUPERT: Sweco, Swaco ...

2 pg 168, line 13 MS. SHUPERT: (No audible
3 answer.)

4 pg 168, line 15 MS. SHUPERT: That was with
5 Sweco in Florence, Kentucky.

6 pg 171, line 9 MS SHUPERT: ...I bought
7 clothes for him, I bought clothes for the
8 children.

9 pg 177, line 1 MR. WHITE: What caused you
10 to go?

11 pg 179, line 9 MR. WHITE: ...that 2006
12 document that he marked as Exhibit 63 --

13 pg 179, line 19 MR. GRIMES: Objection,
14 beyond the scope of cross.

15 pg 181, line 19: (Off the record conference
16 at side bar.)

17 pg 182, line 2 MS. SHUPERT: ...I'm sorry, I
18 took them off.

19 pg 182, line 5 MR. WHITE: I'm ready whenever
20 you are, Your Honor.

21 pg 183, line 12 MR. WHITE: 62 is hearsay
22 and I object to that.

23 pg 183, line 17 MR. WHITE: 63 I'm going to
24 object (inaudible) the fact that she said, "This
25 is our checking account, so she didn't acknowledge

1 that (inaudible) I'm not sure what the relevance
2 is to the 2006 checks, copies of the (inaudible)
3 checks.

4 pg 185, line 23 MR. WHITE: There was?

5
6 END OF ADDENDUM/CORRECTIONS OF DAY TWO
7 SHUPERT vs SHUPERT TRIAL TRANSCRIPT
8
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C E R T I F I C A T E

STATE OF OHIO
 COUNTY OF CLERMONT

I, Evelyn Charles, court reporter,
 Notary Public for the State of Ohio, duly
 qualified and commissioned, do hereby certify that
 the foregoing was by me duly transcribed from an
 audio compact disc of said trial and that the same
 is true and accurate as transcribed.

I further certify that I am not counsel,
 attorney, relative or employee of any of the
 parties hereto, or in any way interested in the
 within action, and that I was at the time of
 transcribing said trial a Notary Public for the
 State of Ohio.

IN WITNESS WHEREOF, I have hereunto set
 my hand and notarial seal at Cincinnati, Ohio this
 30th day of August, 2012.

my commission expires
 November 20, 2015


 Evelyn Charles
 Notary Public-State of Ohio

EXHIBIT _____

Prosecutor's falsified certificate of service while serving as counsel to Respondent Judge Brett Spencer during Writ of Prohibition in ~~the~~ *Fourth* District Court of Appeals w/ actual envelope that was *never* entered upon the journal to show the "true" method of service to Relator.

10 pgs- Respondent's Motion to Dismiss w/ "cert of service" signed by counsel.

+

6 pgs -Relator's Motion to Strike Motion and Brief, including striking the false certificate of service.

+

3 pgs -Online Journal entries that conflict with Prosecutor's cert. of service.

"liar liar pants on fire....."

IN THE COURT OF APPEALS
FOURTH APPELLATE DISTRICT
ADAMS COUNTY, OHIO

AMANDA WILSON nka ILER :
Relator :
VS :
JUDGE BRETT M. SPENCER :
Respondent :

CASE NO. 2014CA999

FILED
APPELLATE DISTRICT
NOV 12 10 11 AM '14
Francis Wilson

CIVIL RULE 12 (B)(6) MOTION TO DISMISS RELATOR'S COMPLAINT FOR
WRIT OF PROHIBITION

Amanda Wilson Iler
121 East Sixth Street
Seaman OH 45679

Pro Se Relator

David Kelley
Adams County Prosecuting Attorney
110 West Main Street
West Union OH 45693

Counsel for Respondent
Supreme Court No. 0061368

NOV 12 10 11 AM '14



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Cases:

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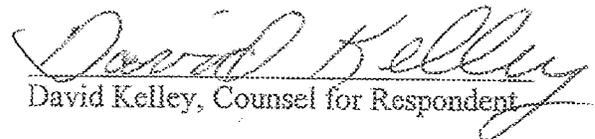
State ex rel. Crebs v. Court of Common Pleas of Wayne County, Probate Division,
309 N.E. 2d 926, 38 Ohio St.2d 51, (Ohio 1974) 4

State ex rel. Eaton Corp. v. Lancaster, 534 N.E. 2d 46, 40 Ohio St.3d 404 (Ohio 1988) 4

MOTION

Respondent Judge Brett M. Spencer (hereinafter referred to as "Judge Spencer") respectfully moves this Court for an Order dismissing the Relator's Complaint (hereinafter referred to as "Iler") for failure to state a claim upon which relief can be granted pursuant to Ohio Civ. R. 12 (B)(6). The Respondent's reasons are set forth hereafter.

Respectfully submitted,


David Kelley, Counsel for Respondent

STATEMENT OF THE CASE

Relator Amanda Wilson, nka Iler, filed a Complaint for Writ of Prohibition on October 23, 2014, against Respondent Adams County Common Pleas Judge Brett M. Spencer praying for video surveillance in the Magistrate's Courtroom, reimbursement of Iler's court costs (presumably incurred in the original juvenile case from which the Complaint stems, captioned *Amanda Wilson v. Michael Farahay, Adams County Juvenile Case No. 20035123*), an order permitting M.F., Iler's daughter, to speak for herself in the juvenile case, reversal of Judge Spencer's decision in the juvenile case and returning M.F. to Iler, and sanctions.

FACTS

Iler is a party to Adams County Juvenile Case No. 20035123 captioned Amanda Wilson v. Michael Farahay. Iler is the biological mother of M.F. Michael Farahay is the biological father of M.F. In 2013, Michael Farahay filed a Motion for Change of Custody of their daughter M.F. who was at that time in the custody of Iler. The matter was heard by Magistrate James Schlueter who issued a Decision changing custody of M.F. to Michael Farahay. Iler filed Objections to the Magistrate's Decision. Judge Spencer ruled on the Objections affirming the Magistrate's Decision. Iler filed an appeal on July 9, 2014, with this Court captioned *Amanda Wilson v. Michael Farahay*, Fourth District Court of Appeals Case No. 994. Michael Farahay's reply brief is due December 1, 2014.

ARGUMENT/BRIEF IN SUPPORT OF MOTION

Iler's Complaint fails to state a claim upon which relief can be granted and must be dismissed pursuant to Civ. R. 12 (B)(6). Iler asks for a Writ of Prohibition. To be entitled to the requested writ of prohibition, Iler must establish that Judge Spencer is about to exercise or has exercised judicial or quasi-judicial power that is unauthorized by law and that denial of the requested relief would result in injury for which no other adequate remedy exists in the ordinary course of law. *State ex rel. Bell v. Pfeiffer*, 961 N.E. 2d 181, 131 Ohio St.3d 114, 117 (Ohio 2012). Dismissal of the Complaint under Civ. R. 12 (B)(6) is appropriate if, after all factual allegations of the Complaint are presumed true and all reasonable inferences are made in Iler's favor, it appears beyond doubt that she cannot prove a set of facts entitling her to the requested writ. *Id. at 116*.

Iler does not suggest that Judge Spencer is about to exercise judicial power that is unauthorized by law. Rather she claims he has exercised judicial power in the juvenile custody case involving her daughter, M.F, that is unauthorized by law. Judge Spencer is the duly elected Common Pleas Court Judge in Adams County presiding over the General, Probate and Juvenile divisions. Judge Spencer exercised judicial power in the juvenile custody case by considering the Motion to Change Custody, the Magistrate's Decision and the Objections to the Magistrate's Decision. Judge Spencer is possessed with jurisdiction to hear juvenile custody matters in his own court. Absent a patent and unambiguous lack of jurisdiction, a court of general subject-matter jurisdiction can determine its own jurisdiction. *Id. at 118*. If a party is contesting the Court's jurisdiction, the remedy is an appeal. Iler doesn't contest the jurisdiction of Judge Spencer in the juvenile proceeding but his decision. Her remedy is an appeal. The relief she

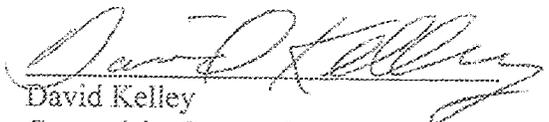
seeks in the Complaint for Writ of Prohibition is the same as the relief requested in the juvenile appeal pending before this Court. She asks for custody to be returned to her and her costs in the case.

The Court of Appeals cannot grant the requested relief through a writ. A writ of prohibition is not a substitute for an appeal. *State ex rel. Crebs v. Court of Common Pleas of Wayne County, Probate Division*, 309 N.E. 2d 926, 38 Ohio St.2d 51, (Ohio 1974). Nor is a writ of prohibition a remedy for an abuse of discretion. *State ex rel. Eaton Corp. v. Lancaster*, 534 N.E. 2d 46, 40 Ohio St.3d 404, 409 (Ohio 1988). "Prohibition tests and determines 'solely and only' the subject matter jurisdiction of the inferior tribunal. Where the tribunal has such jurisdiction, prohibition is not available to prevent or correct an erroneous decision." *Id.*

Her also requests video surveillance be installed in the Magistrate's courtroom to video the interactions of the Magistrate with the parties and particularly children who are being interviewed en camera. This request is moot as the Court recently installed video cameras in the Magistrate's Courtroom in compliance with its security plan.

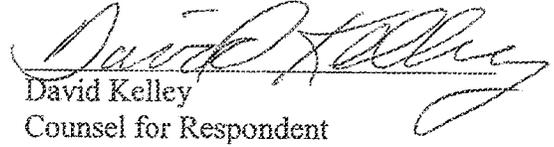
CONCLUSION

This Court must dismiss the Complaint for Writ of Prohibition for failure to state a claim upon which relief can be granted. Judge Spencer did not lack jurisdiction to make a decision in the juvenile custody case. Her has an adequate remedy for the requests made in her Complaint and it is an appeal of the juvenile case decision. She has filed her appeal in this Court. A ruling on this Motion will dispose of the merits of this case.


David Kelley
Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Dismiss was sent by regular U.S. mail, postage pre-paid to Amanda Wilson Iler, Relator, 121 East Sixth Street, Seaman OH 45679, this 12th day of November, 2014.


David Kelley
Counsel for Respondent

Relators Exhibit
6 pages

IN THE COURT OF APPEALS
FOURTH APPELLATE DISTRICT
ADAMS COUNTY, OHIO

Amanda Wilson Iler

Relator,

VS.

Judge Brett Spencer

Respondent.

Case No. 2014CA999
Original Action

COURT OF APPEALS
FILED
ADAMS COUNTY
CLERK OF COURTS
2014 DEC 18 PM 12:22
Frank J. Miller
CLERK

RELATOR'S MOTION TO STRIKE RESPONDENTS
MOTION CIV. R. 12(B)(6) & BRIEF, DUE TO FALSIFIED CERTIFICATE
OF SERVICE, PURSUANT TO CIVIL R. 11

Amanda Wilson Iler
121 E. Sixth Street
Seaman Ohio 45679
Ph: 937.779.6637

Relator, Pro Se

David Kelley, #0061368
Adams County Prosecuting Attorney
110 West Main Street
West Union Ohio 45693

Counsel for Respondent

MEMORANDUM IN SUPPORT PURSUANT TO CIVIL R. 11

On November 12, 2014, Counsel for Respondent filed a Motion to Dismiss under Civil R. 12(B)(6), in Case No. 2014CA999, although Counsel for Respondent signed and certified that a copy of that particular Motion, in its entirety, was sent to Relator by regular U.S. mail, Relator was not ever served in that method. In fact, Relator sent an electronic communication to Counsel to demand it *after* six(6) days went by and still had not been served what was certified by counsel. (See exhibit #1)

Relator was officially served by certified mail by signing for it at postal office on November 21, 2014, only after Relator confronted Counsel by e-mail, demanding true service be made. (See exhibit #2) Furthermore, the online docket only reflects the November 12, 2014 and not the later date of actual service which was not by regular U.S. mail but was Certified mail and with a later date of November 21, 2014.

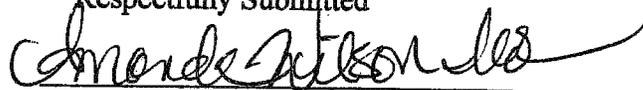
Civil Rule 11 says the signature of an attorney constitutes "a certificate by the attorney or party that the attorney or party has read the document; that to the best of their knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay." It is clearly signed yet the method and date has never been documented to reflect the truth. Civil Rule 11 also provides that "if a document is signed with the intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though it has not been served." Granted, Relator was eventually served but clearly only after the confrontation and demand was sent. Relator respectfully

requests this court consider striking the certificate of service as sham and false causing the entire Motion to Dismiss, in it's entirety, since absent a certificate of service of *any filing*, the entire document is considered defective and fatal to the court accepting it. It is a requirement of this court that both parties be served every filing and truthfully.

CONCLUSION

Their ill motive here is obvious, by signing he certified he served the Relator, it was an attempt to not be faced with an opposition and again by not admitting the true date and method of service, that was utilized, the Relator is faced with unfair prejudice by the appearance that the Opposition filed December 03, 2014 was not timely when in fact it was, based on the true service method and date that Counsel has omitted from the record. This is exactly what caused the Writ of Prohibition to be filed, for false mailings and the perception to prevent being exposed. This continues to occur in Adams County and will continue to inflict injury on those not prepared for such dishonest conduct by those entrusted to protect and display integrity.

Respectfully Submitted



Amanda Wilson Iler, Relator
121 E. Sixth Street
Seaman Ohio 45679
Ph:937.779.6637

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was issued by regular U.S. mail to the Counsel for Respondent, this 18th day of December, 2014 and to the address of 110 West Main Street, West Union Ohio 45693, same date filed in person with the clerk in Adams County Ohio.



Amanda Wilson Iler, Relator
121 E. Sixth St.
Seaman Ohio 45679
Ph: 937-779-6637

AMANDA ILER - Inquiry

From: AMANDA ILER
To: ACPO@adamscountyoh.gov; cincinnati@ic.fbi.gov; lheller@adamscountycour...
Date: 11/17/2014 3:05 PM
Subject: Inquiry

Relator's
exhibit
1

This is an attempt to obtain an actual copy of the entry dated 11/12/2014-the Motion 12(B)(6), in Adams County case CA 999.

While it posts a signed certificate of service, indicating it was issued to me by regular u.s. mail on 11/12/2014 today being 11/17/2014 I still have not received a copy and daily I am having the postal carrier attest to the fact that it has not been received.

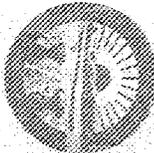
I sure hope it was not intentionally withheld but falsely posted online as a means to 'win' an unopposed dismissal, seeing as it can be construed as mail fraud, which makes it a federal crime.

Oddly, the postage was only \$2.00 for 11-12-2014 which was 4 copies to fourth district court of appeals and the one to me...

You may attach all pages via an attachment back to this email address or someone can hand deliver it to me, at this point I don't care how it is put in my possession but I know it had better be issued asap.

CC: MATTHEW.DONAHUE@OHIOATTORNEYGENERAL.GOV
CINCINNATI@IC.FBI.GOV
LHELLER@ADAMSCOUNTYCOURTS.COM
ACPO@ADAMSCOUNTYOH.GOV

Amanda Iler, ERS II/Caseworker
Ohio Department of JFS, Highland County, Ohio
Fax 937.393.4461
Amanda.Iler@JFS.ohio.gov



ADAM LOONEY
 PROSECUTING ATTORNEY DAVID KELLEY
 COURTHOUSE, ROOM 112
 110 WEST MAIN STREET
 WEST LONDON, OHIO 45693



7012 3050 0000 3769 6603

Amanda Wilson Her
 121 East Sixth Street
 Seaman, OH 45679

4567969402 6003



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1000



45679

U.S. POSTAGE
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 WEST LONDON, OH
 NOV 18 2014
 AMOUNT \$4.00

090-2010-11

PH: 45679

11/19
 11/24
 12/04

Adams County Common Pleas Court

Journal Entries: CA999

Plaintiff:

Wilson Nka Iler, Amanda

Defendant:

Spencer, Judge, Brett M

01/17/2015

- CERTIFIED MAIL # 7196 9009 3500 9591 9482 SERVED TO WILSON NKA ILER, AMANDA

01/14/2015

- ENTRY FILED. (APPLICATION FOR RECONSIDERATION DENIED.)
- NOTICE OF ENTRY AND COPIES FILED.
- COPY OF ENTRY, COPY OF NOTICE OF ENTRY MAILED TO DAVID KELLEY, PROSECUTING ATTORNEY BY REGULAR U.S. MAIL.
- COPY OF ENTRY, COPY OF NOTICE OF ENTRY MAILED TO AMANDA WILSON NKA ILER, 121 EAST SIXTH ST., SEAMAN, OH 45679 BY CERTIFIED MAIL. #719690 0935 0095 9194 82.
- POSTAGE CHARGED
- ENTERING JOURNAL - EACH PAGE
- ISSUING WRITS, ORDERS, NOTICES, EXCEPT SUBPEONA
- CERTIFIED MAIL ISSUED TO WILSON NKA ILER, AMANDA CERTIFIED MAIL # 7196 9009 3500 9591 9482
- RELATOR'S RESPONSE TO RESPONDENTS OPPOSITION TO RECONSIDERATION, CERTIFICATE OF SERVICE, EXHIBITS AND COPIES FILED. (FILED BY AMANDA WILSON ILER.)
- FOUR COPIES OF RELATOR'S RESPONSE TO RESPONDENTS OPPOSITION TO RECONSIDERATION MAILED TO FOURTH DISTRICT COURT OF APPEALS, 14 S. PAINT ST., #38, CHILlicothe, OH 45601 BY REGULAR U.S. MAIL.
- POSTAGE CHARGED

01/05/2015

- RESPONDENT'S OPPOSITION TO RELATOR'S APPLICATION FOR RECONSIDERATION, CERTIFICATE OF SERVICE FILED. (FILED BY DAVID KELLEY, PROSECUTING ATTORNEY.)
- FOUR COPIES OF RESPONDENT'S OPPOSITION TO RELATOR'S APPLICATION FOR RECONSIDERATION MAILED TO FOURTH DISTRICT COURT OF APPEALS, 14 S. PAINT ST., #1400, CHILlicothe, OH 45601 BY REGULAR U.S. MAIL.
- POSTAGE CHARGED

12/29/2014

- FOUR COPIES OF RELATOR'S APPLICATION FOR RECONSIDERATION PURSUANT TO APP.R.26(A)(1)(A) MAILED TO FOURTH DISTRICT COURT OF APPEALS BY REGULAR MAIL.
- POSTAGE CHARGED

12/24/2014

- RELATOR'S APPLICATION FOR RECONSIDERATION PURSUANT TO APP.R.26(A)(1(A) AND CERTIFICATE OF SERVICE FILED. (FILED BY AMANDA WILSON ILERM PRO SE)

12/23/2014

- MAGISTRATE'S ORDER FILED. (THE COURT DENIES THE MOTION TO STRIKE AS MOOT.)
- NOTIC EOF ENTRY AND COPIES FILED.
- COPY OF NOTICE OF ENTRY AND COPY OF MAGISTRATE'S ORDER MAILED TO AMANDA WILSON AND DAVID KELLEY BY REGULAR US MAIL.
- ENTERING JOURNAL - EACH PAGE
- POSTAGE CHARGED
- ISSUING WRITS, ORDERS, NOTICES, EXCEPT SUBPEONA

12/18/2014

- DECISION AND JUDGMENT ENTRY FILED. (RELATORS' PETITION FOR WRIT OF PROHIBITION IS HEREBY DISMISSED.)
- NOTICE OF ENTRY AND COPIES FILED.
- ENTERING JOURNAL - EACH PAGE
- POSTAGE CHARGED
- ISSUING WRITS, ORDERS, NOTICES, EXCEPT SUBPEONA
- COPY OF DECISION AND JUDGMENT ENTRY, NOTICE OF ENTRY MAILED TO AMANDA WILSON ILER AND DAVID KELLEY BY REGULAR U.S. MAIL.
- COSTS ASSIGNED IN THE AMOUNT OF \$ 98.50 TO WILSON NKA ILER. AMANDA
- DEPOSIT APPLIED \$ 98.50
- DEPOSIT REFUND IN THE AMOUNT OF \$ 49.50
- RELATOR'S MOTION TO STRIKE RESPONDENT'S MOTION CIV.R.12(B)(6) 7 BRIEF, DUE TO FALSIFIED CERTIFICATE OF SERVICE, PURSUANT TO CIVIL R.11, MEMORANDUM IN SUPPORT PURSUANT TO CIVIL.R.11 AND CERTIFICATE OF SERVICE FILED. (FILED BY AMANDA ILER, PROSE)
- FOUR COPIES OF RELATOR'S MOTION TO STRIKE RESPONDENT'S MOTION CIV.R.12(B)(6)& BRIEF, DUE TO FALSIFIED CERTIFICATE OF SERVICE, PURSUANT TO CIVIL.R.11 MAILED TO FOURTH DISTRICT COURT OF APPEALS BY REGULAR US MAIL.

12/04/2014

- POSTAGE CHARGED
- POSTAGE CHARGED - POSTING ERROR

12/03/2014

- RELATOR'S OPPOSITION TO RESPONT'S CIV.R.12(B)(6) MOTION TO DISMISS COMPLAINT FOR WRIT OF PROHIBITION, CERTIFICATE OF SERVICE FILED. (FILED BY AMANDA WILSON, REALTOR)
- FOUR COPIES OF RELATOR'S OPPOSITION TO RESPONDENT'S CIV.4.12(B)(6) MOTION TO DISMISS COMPLAINT FOR WRIT OF

PROHIBITION MAILED TO THE FOURTH DISTRICT COURT OF APPEALS
BY REGULAR U.S. MAIL.

- POSTAGE CHARGED

11/12/2014

CIVIL RULE 12 (B)(6) MOTION TO DISMISS RELATOR'S COMPLAINT
FOR WRIT OF PROHIBITION, CERTIFICATE OF SERVICE FILED.
(FILED BY DAVID KELLEY, COUNSEL FOR RESPONDENT)

FOUR COPIES OF CIVIL RULE 12 (B)(6) MOTION TO DISMISS
RELATOR'S COMPLAINT FOR WRIT OF PROHIBITION MAILED TO THE
FOURTH DISTRICT COURT OF APPEALS BY REGULAR U.S. MAIL.

POSTAGE CHARGED

10/23/2014

- CASE FILED
- DEPOSIT - RECEIPT NO. 2142858 IN THE AMOUNT OF \$ 148.00
AMANDA WILSON NKA ILER
- COMPLAINT FOR A WRIT OF PROHIBITION, PRAECIPE, AFFIDAVIT OF
VERITY FILED. (FILED BY AMANDA WILSON NKA ILER, PRO SE.)
- SUMMONS, COPY OF SUMMONS, COPY OF COMPLAINT FOR A WRIT OF
PROHIBITION ISSUED TO CLERK, COURT OF COMMON PLEAS, ADAMS
COUNTY, OHIO.
- RETURN OF SERVICE OF SUMMONS: JUDGE BRETT M. SPENCER - P -
10/23/14.
- FOUR COPIES OF COMPLAINT FOR A WRIT OF PROHIBITION WITH
REPORT FORM C ATTACHED MAILED TO FOURTH DISTRICT COURT OF
APPEALS, 14 S. PAINT ST., #38, CHILlicothe, OH 45601 BY
REGULAR U.S. MAIL.
- POSTAGE CHARGED
- FOR EACH CAUSE WHICH SHALL INCLUDE:
- COMPUTER IMPROVEMENT FUND
- LEGAL RESEARCH FUND
- COURT SECURITY FUND
- POSTAGE CHARGED

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EXHIBIT

**Adams Co. Transcripts
Hearing on July 12, 2011**

54 pgs total

Adams Co Juv.
Case
20035123

Relators Exhibit
54 pages

Adams Co.
July 12th, 2011
Transcripts

COURT OF COMMON PLEAS
JUVENILE DIVISION
ADAMS COUNTY, OHIO

2011 SEP -7 AM 7:58
COURT OF COMMON PLEAS
JUVENILE DIVISION
CLERK OF COURT

AMANDA WILSON

CASE NO. 20035123

Plaintiff

VS.

MICHAEL FARAHAY

TRANSCRIPT

Defendant

* * * * *

APPEARANCES:

JON HAPNER
ATTORNEY FOR PLAINTIFF
127 NORTH HIGH ST.
HILLSBORO, OH 45133

KRIS BLANTON
ATTORNEY FOR DEFENDANT
P.O. BOX 849
WEST UNION, OH 45693

WHEREUPON, THE MATTER CAME BEFORE THE HONORABLE
JAMES SCHLUETER, MAGISTRATE, ADAMS COUNTY COMMON PLEAS
COURT OF ADAMS COUNTY, OHIO, COMMENCING ON THE 12TH DAY
OF JULY, 2011. APPEARING WERE THE ABOVE NAMED PARTIES
AND/OR COUNSEL.

LISA L. FIZER
DEPUTY COURT REPORTER

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>RE-DIRECT</u>	<u>RE-CROSS</u>
<u>PLAINTIFF:</u>				
AMANDA WILSON (NKA ILER)	21			
MATTHEW ILER	31	34	35	
TYLER CANTRELL	38	42		
<u>DEFENDANT:</u>				
MICHAEL FARAHAY	2	16		

1 COURT: Okay, we're on the record in the matter
2 of Amanda Iler and Michael Farahay. The matter appears
3 ready for hearing.

4 Mr. Blanton, what's our situation today?.... ready
5 for hearing?

6 ATTY BLANTON: Yes, sir.

7 COURT: Mr. uh, Hapner?

8 ATTY HAPNER: Yes, Your Honor.

9 COURT: Okay.

10 Uh, so... let's see... Mr. Hapner, did you file your
11 motion first?

12 ATTY HAPNER: Uh, no, Your Honor, I believe they
13 filed a motion for contempt, we filed a motion in
14 response, and then they filed a motion for shared
15 parenting plan, to which we did not respond but we are
16 opposed to.

17 COURT: Okay.

18 Mr. Blanton, go right ahead.

19 ATTY BLANTON: Thank you, Your Honor.

20 I would call Mr. Farahay.

21 COURT: Very well.

22 Sir, I need you to stand and raise your right
23 hand, and be sworn in.

1 Do you solemnly swear the testimony you're about
2 to give today to be the truth, the whole truth, and
3 nothing but the truth, so help you God?

4 MR. FARAHAY: I do.

5 COURT: Thank you.

6 Go ahead, Mr. Blanton.

7 WHEREUPON, direct examination of Michael Farahay
8 by Attorney Kris Blanton was conducted.

9 Q: Mr. Farahay, please state your name- your name
10 and your address for the record, please.

11 A: It's uh, Michael Todd Farahay, 1200 Mineral
12 Springs Road, Peebles, Ohio.

13 Q: How long have you lived there at that Mineral
14 Springs address?

15 A: Since uh, January of 2011.

16 Q: Prior to that where did you live?

17 A: 187 Vine Street.

18 Q: In- in what-

19 A: Peebles, Ohio.

20 Q: And how long did you live there?

21 A: Uh, since 2001.

22 Q: Okay.

23 Who resides with you there at Mineral Springs

1 Road?

2 A: Uh, my wife and son... my wife, Lindsey
3 Farahay, my son Liam Farahay.

4 Q: How old's Liam?

5 A: One.

6 Q: Okay.

7 And you have another child, uh, Mackenzie,
8 correct?

9 A: Correct.

10 Q: And the mother of that child is Amanda uh,
11 Wilson?.... Iler?

12 A: Yes.

13 Q: Uh, now you and Ms. Iler- Ms. Wilson have uh,
14 a custody arrangement where she was custodial parent
15 and you have visitation, correct?

16 A: Correct.

17 Q: I think we were last here back uh,... well,
18 about a year ago, to modify that order, is that
19 correct?

20 A: Correct.

21 Q: Um, since that time, since uh, July of 2010,
22 have there been any issues regarding your time with uh,
23 Mackenzie?.... any interference with your time with

1 Mackenzie?

2 A: In July 2- er, in 2010 I got denied my
3 Thanksgiving visitation. And

4 Q: Okay.

5 A: it was the visitation after that.

6 Q: Tell us what happened on Thanksgiving, the
7 visitation that didn't occur?.... what- what- what
8 happened?

9 A: I went to pick Mackenzie up and Ms. Iler would
10 not let Mackenzie go with me.

11 Q: Okay, where was that at?.... where'd you go to
12 get her?

13 A: At uh, 380 Broadway Street, Seaman, Ohio.

14 Q: And that's where Mackenzie resides?

15 A: Yes.

16 Q: Alright.

17 Uh, how- Before that- Let's- let's go back for a
18 minute. What kind of visitation did you have before
19 that?.... as far as what schedule?

20 A: Uh, depending on what month it is. It's
21 either two weeks out of the month or two- or three
22 weekends out of the month. (inaudible)-

23 Q: Okay.

1 So Rule 16?

2 A: (inaudible)

3 Q: Okay.

4 A: Rule 16.

5 Q: So uh, Thanksgiving come around, 2010, you go-
6 you go to pick up the child?

7 A: (inaudible)

8 Q: Now are you responsible for the
9 transportation?

10 A: Yes, I am.

11 Q: Okay.

12 So you went to pick up the child at the mother's,
13 correct?

14 A: Correct.

15 Q: Alright.

16 And tell us what happened when you got there...
17 specifically.

18 A: I knocked on the door and Mackenzie came to
19 the door.

20 Q: Okay.

21 And was she ready to go?

22 A: She was not ready to go.

23 Q: Okay.

1 Did you talk to uh, Ms. uh, Iler?

2 A: Yes, I did.

3 Q: And what was- What- what happened between the
4 two of you?.... what occurred?.... what was said?

5 A: I just told Ms. Iler I was here to pick up
6 Mackenzie.

7 Q: Okay.

8 A: And-

9 Q: What did she say?

10 A: Ms. Iler told me that she... Mackenzie doesn't
11 want to go, and she's not gonna make her go.

12 Q: Okay.

13 Was it your normally scheduled visitation?

14 A: Yes, it was.

15 Q: Was this uh, the actual Thanksgiving holiday
16 weekend, or was this the weekend before, or-

17 A: This was the actual Thanksgiving holiday.

18 Q: Okay.

19 And that was what you were entitled to under the
20 Rule?.... Thanksgiving?

21 A: Yes.

22 Q: Okay.

23 And uh, did you push the issue? Did you do

1 anything about that, as far as-

2 A: I did call the Seaman Police Department.

3 Q: Okay.

4 What happened out of that?

5 A: They said this is a uh,... they cannot force
6 the issue, that I have to take her to court.

7 Q: Okay.

8 So did you stick around, did you go home, what
9 happened next?

10 A: I went home.

11 Q: Okay.

12 Uh, did you get any other calls that weekend, have
13 any other conversations with Ms. Iler about Mackenzie?

14 A: No, I did not.

15 Q: Alright.

16 So then you said the following weekend, was after
17 Thanksgiving, that- were you supposed to have
18 visitation again?

19 A: Yes.

20 Q: What happened then?

21 A: I was denied visitation again.

22 Q: And how did that come about? Did you go to
23 the house again?

1 A: Yes, I did.

2 Q: And what was done, what was said, at that
3 time?

4 A: Uh, Ms. Iler proceeded to tell me that
5 Mackenzie doesn't want to go, and she's not gonna make
6 her.

7 Q: Okay.

8 So the same- same conversa- Same- same thing
9 happened, that- that uh, Maken- she's... Amanda told
10 you Mackenzie didn't want to go and she's not gonna
11 make her go?

12 A: Right.

13 Q: Alright.

14 And then was there another weekend then that you
15 got your regular visitation back again?

16 A: Yes.

17 Q: Okay.

18 So no other issues other than those two weekends?

19 A: No other issues.

20 Q: And it was basically Amanda saying that
21 Mackenzie didn't want to go and she wasn't gonna make
22 her?

23 A: (inaudible)

1 Q: Okay.

2 Uh, now were you by yourself each time, or was
3 your wife with you? Did that-

4 A: No, I was by myself each time.

5 Q: Is your wife still not permitted to go there
6 and pick up the child, or has that been better?

7 A: She is.

8 Q: Okay.

9 That was an issue earlier, wasn't it?

10 A: Yes, it was.

11 Q: Okay.

12 But both these times you were- you were there to
13 pick up Mackenzie?

14 A: Yes.

15 Q: Okay.

16 Um, as far as your interference with talking with
17 Mackenzie, any other- have there been other incidents,
18 other- other times when you haven't been able to fully
19 talk with Mackenzie?

20 A: (inaudible)

21 Q: Uh, how about phone conversations?

22 A: Uh, I know I've- I'll call and leave
23 messages, but, I mean, every once in a while I'll call

1 Mackenzie's phone, Mackenzie'll answer the phone, I'll
2 talk to her. But (inaudible)-

3 Q: Okay.

4 A: Most of the time.

5 Q: Did Amanda ever tell you anything about your-
6 your phone conversations? She listen to those phone
7 conversations?

8 A: Ms. Iler did tell me one time that she has me
9 recorded talking to Mackenzie over the phone.

10 Q: She records yours and Mackenzie's
11 conversations?

12 A: This is what Ms. Iler told me.

13 Q: You don't know that for sure, that's just what
14 Amanda told you?

15 A: No, I do not know that for sure.

16 Q: Okay.

17 And I- Talking- Speaking of recording
18 conversations then, do you- do you allow Amanda to talk
19 to Mackenzie while she's at your house?

20 A: Ms. Iler can talk to Mackenzie any time she
21 wants.

22 Q: Okay.

23 Does that occur? Does- Is she allowed to have

1 free conversation with Mackenzie?

2 A: Yes, she is.

3 Q: Have you ever recorded phone- phone
4 conversations between Mackenzie and Amanda?

5 A: No.

6 Q: Have you ever recorded conversations between
7 you and Amanda?

8 A: Yes.

9 Q: Okay.

10 Uh, phone conversations?

11 A: No.

12 Q: Okay.

13 What- what do you mean recorded, what do you do?

14 A: I have a voice recorder when I go to pick up
15 my daughter.

16 Q: Okay.

17 So you turn it on when you go to the house?

18 A: Yes.

19 Q: Why do you do that?

20 A: For my protection.

21 Q: Okay. Alright.

22 And then is there- is there an issue where you're
23 recording things that Mackenzie's doing around the

1 house at all?

2 A: No.

3 Q: Okay.

4 Do you have cameras up around the house?

5 A: No.

6 Q: Uh, have there been a complaint about you
7 recording things, or having cameras up in the house?

8 A: No.

9 Q: What do you think that might come from?

10 A: Uh, I know Mackenzie asked wha- Our new house
11 has ADT sign out in front of it.

12 Q: Okay.

13 A: And uh, Mackenzie asked if we had a security
14 system. And I'm always joking with Mackenzie. I was
15 like... oh, yeah, we've also got cameras too.

16 Q: Okay.

17 So do you have cameras up though?

18 A: No, there's no cameras.

19 Q: Okay.

20 There's nothing being recorded or anything?

21 A: No.

22 Q: Okay. Alright.

1 Now you filed also, in addition to your motion for
2 contempt, a- a motion for prepar- proposed sharing-
3 shared parenting plan. What was the purpose of that
4 request? What do you want to have- What do you want
5 to see done out of that shared parenting plan?

6 A: I would like to have more say in my daughter's
7 life.

8 Q: Okay.

9 A: I would like, you know- Cause I know she
10 doesn't do very good in school, I- I would love to be
11 more involved in being able to help.

12 Q: Okay.

13 Do you have the ability to talk to the school
14 people about Mackenzie?

15 A: Yes, I do.

16 Q: So you haven't been restricted from that?

17 A: No.

18 Q: Have there been any restrictions with your
19 relationship with Mackenzie to have any- in any aspect
20 that you can think of, other than... well, anything you
21 can think of?

22 A: Other than visitation.

23 Q: Okay.

1 But you're asking the Court to allow you to be on
2 equal status as far as parenting is concerned?

3 A: Yes.

4 Q: You're not asking to take custody away from
5 Amanda, correct?

6 A: No.

7 Q: Are you asking to take anything away from
8 Amanda?

9 A: No.

10 Q: Do you want to see the- the current visitation
11 order continue to be in effect?

12 A: Yes.

13 Q: Uh, do you get to do the Wednesday visitation,
14 as- as is allowed by Rule 16?

15 A: No, I do not.

16 Q: Why not?

17 A: I work second shift.

18 Q: Okay.

19 Have you ever indi- ever talked to Aman- Amanda
20 about extending some other times to make up for those
21 Wednesday nights?

22 A: I've talked to her about this.

23 Q: What's come out of that?

1 A: Nothing.

2 Q: Have you been denied, or just doesn't- doesn't
3 happen?

4 A: Just- just doesn't happen.

5 Q: Are you asking the Court to extend some extra
6 time to make up for those Wednesday nights?

7 A: I would- Yes.

8 Q: Okay.

9 You paying child support for Mackenzie?

10 A: Yes.

11 Q: Are you current on that right now?

12 A: Yes, I am.

13 Q: As far as your first motion, the contempt
14 issue, are you asking the Court to find her in contempt
15 for not allowing you the visitation on Thanksgiving?

16 A: Yes.

17 Q: Okay.

18 And are you asking the Court to grant, or to
19 allow, or- or approve your shared parenting plan that
20 you proposed?

21 A: Yes.

22 Q: Alright.

23 Anything else you want to tell the Court today?

1 A: No.

2 ATTY BLANTON: No other questions.

3 THEREAFTER, direct examination of Michael Farahay
4 by Attorney Kris Blanton was concluded.

5 WHEREUPON, cross examination of Michael Farahay by
6 Attorney Jon Hapner was conducted.

7 Q: Mr. Farahay, uh, did you have the child last
8 summer uh, when she had a 4-H meeting?

9 A: Last summer, no.

10 Q: And didn't you uh- You never had her last
11 summer when she had a 4-H meeting? I'm sorry... this
12 year, early- earlier this summer.

13 A: Yes.

14 Q: And uh, did you tell her you were too sick to
15 go?

16 A: Yes.

17 Q: And did you take kids swimming later that day?

18 A: Yes.

19 Q: And uh, you've had sort of an indifferent
20 attitude toward Mackenzie's 4-H uh, performance, have
21 you not?

22 A: Uh, can you explain the question?

23 Q: Well, you- uh, you aren't taking her to

1 meetings when you have her, uh, you don't encourage uh,
2 her efforts... I believe it's with a pig?

3 MS. ILER: Mm-hmm.

4 A: I'm sorry I do not know anything about
5 Mackenzie's 4-H. I am not informed about it. The only
6 time I have taken Mackenzie to her 4-H meetings is when
7 Ms. Iler has informed me about'em.

8 Q: And Ms. Iler informed you specifically at- uh,
9 one afternoon that she had a 4-H meeting, isn't that
10 correct?.... when you picked her up? (inaudible)-

11 ATTY BLANTON: Objection.

12 Could we get- Could we get a timeframe, please?

13 COURT: Mr. Hapner, that may be a good idea.

14 ATTY HAPNER: (speaking with client) What time-

15 MS. ILER: Um, all the month of June.

16 (inaudible)-

17 ATTY HAPNER: June, the- May and June, this year.

18 CROSS EXAMINATION CONTINUED:

19 A: Ms. Iler has not given me any schedule for 4-H
20 visita-

21 Q: No, she told you-

22 A: or, 4-H meetings. No, she has not.

23 Q: Uh, did she text you?

1 A: No, she did not.

2 Q: You- you deny all that? Okay.

3 Now, uh, you have an aunt that's a school teacher,
4 is that correct?

5 A: I have an aunt that's a school teacher? No, I
6 do not.

7 Q: Oh, your wife does?

8 A: Uh, my wife has an aunt that works at the
9 school, yes.

10 Q: But she's not a school teacher?

11 A: I do not know if she's a school teacher. I
12 know she works for the school. I know she (inaudible)-

13 Q: Didn't you claim to the GAL that uh, uh, this
14 aunt could help her with her homework, but she's not-
15 but you didn't tell him she's not a teacher?

16 ATTY BLANTON: Objection. Relevance. That is
17 the GAL report, that's not my client's testimony.

18 COURT: Sir, you can answer the question if you
19 understand it, and you know the answer.

20 A: The Guardian Ad Litem?

21 Q: Mm-hmm.

22 A: I told the Guardian Ad Litem that my wife has
23 an aunt that works at the school. If I told him it was

1 a school- she was a school teacher, I'm sorry, I
2 misinformed him. But I know she can help with
3 Mackenzie's school.

4 Q: Do you have an in-law that's a teacher?

5 A: No, I do not.

6 Q: Okay.

7 The uh- Now uh, do you s- Do you ask Mackenzie
8 what her mother is doing when she's with you- when
9 Mackenzie's with you?.... what her mother's doing?

10 A: No, I do not.

11 Q: Where she's working, that sort of thing? Are
12 you denying that?

13 A: No, I do not.

14 Q: Uh, you talk to her about her grades?

15 A: Yes, I do.

16 Q: And wasn't there a- a difference of opinion
17 between you and Ms. Iler uh, about holding her back in
18 second grade?

19 A: Yes, there was.

20 Q: And uh, she was held back, was she not?

21 A: Yes, she was.

22 Q: Okay.

23 And uh, have her grades improved since that time?

1 A: No, they have not.

2 Q: Okay.

3 You take her to soccer games?

4 A: Yes, when I am informed of her soccer games.

5 Q: And when she's at a soccer game, if she sees
6 her mother do you let her talk to her mother?

7 A: Yes, I do.

8 Q: Okay.

9 And uh, you said you take- you carry a tape
10 recorder when you pick up Mackenzie?

11 A: Yes, I do.

12 Q: Do you have that tape recorder with you?

13 A: No, I do not.

14 Q: And you don't have any tapes in- of the events
15 in November?

16 A: No, my voice recorder come up missing.

17 ATTY HAPNER: Thank you. That's all.

18 THEREAFTER, cross examination of Michael Farahay
19 by Attorney Jon Hapner was concluded.

20 COURT: Redirect?

21 ATTY BLANTON: No, no other questions.

22 COURT: Okay.

23 Next witness?

1 ATTY BLANTON: No other witnesses.

2 COURT: Very well. Thank you.

3 Mr. Hapner?

4 ATTY HAPNER: Okay. We'll call Amanda Iler.

5 COURT: Very well.

6 Ma'am, I need you to stand and raise your right
7 hand, and be sworn in.

8 Do you solemnly swear the testimony you're about
9 to give today to be the truth, the whole truth, and
10 nothing but the truth, so help you God?

11 MS. ILER: Yes.

12 COURT: Thank you.

13 Ma'am, you can testify from right there, but let
14 me ask you to speak real loud so we all can hear you.

15 Mr. Hapner, go right ahead.

16 WHEREUPON, direct examination of Amanda Iler by
17 Attorney Jon Hapner was conducted.

18 Q: Amanda, would you state your name and address,
19 please?

20 A: Amanda Iler, 380 Broadway Street, Seaman, Ohio
21 45679.

22 Q: And uh, are you employed?

23 A: Yes.

1 Q: And what do you do?

2 A: I am a caseworker for Department of Job and
3 Family Services in Highland County.

4 Q: Okay.

5 Uh, have you had any uh, training in parenting or
6 that type of thing?

7 A: Actually I'm three... hold on... I'm three hours
8 away from being a licensed therapeutic foster parent...
9 three more hours of classes I will be.

10 Q: Okay.

11 A: And a home study.

12 Q: Okay.

13 Now Amanda, uh, you've heard the testimony given
14 by Mr. uh, Farahay about events in November. Will you
15 tell the Court, please, what transpired those two
16 times?

17 A: Um, from my recollection, it's actually the
18 weekend before Thanksgiving was the first missed visit.
19 Um, I think it was the very first weekend in November,
20 that was his scheduled visit, he had came to me and
21 told me in front of my husband and three other children
22 that he knew that it wasn't working with Mackenzie, and
23 that if she did not want to come she needed to call in

1 advance so he didn't pack the baby up and waste his gas
2 coming over there, and if she called in advance that he
3 would disregard the visit and just catch up on the next
4 one if everything was going okay with her. Um, so,
5 that next weekend that was his he um... she called him
6 at six o'clock in the morning and said she did not want
7 to go-

8 ATTY BLANTON: Objection. Hearsay.

9 Q: Were you present when she called?

10 COURT: Overruled.

11 A: Yes, I was. I was present.

12 COURT: Go ahead with your answer, ma'am.

13 Q: Go ahead.

14 A: I was present. Mackenzie said... mommy, I want
15 you to hear this. She put the phone on speaker phone
16 and she said... she called him-- he had just woke up it
17 sounded like-- and she said... is it okay if I miss this
18 weekend? And at first he- he grumbled about it and
19 said... well, what do you want to do?... why don't you
20 want to come with me? And she said... I just want to
21 stay home this weekend. And he eventually said yes.
22 And- But what was odd about it, is out of nowhere he
23 starts this fake crying, going... you don't know what

1 you're mother's put me through... you have to come to my
2 house... she has to pay for this. So I immediately took
3 the phone and hung it up to keep from exploding. It
4 was uncalled for. Then the next- And actually, after
5 he okayed that, it wasn't him that showed up it was his
6 wife... to pick her up. And his wife was the one that
7 called the cops and said I was restricting a visit.

8 Now the next weekend, when she was throwing a fit,
9 saying she wasn't gonna go, he threatened to snatch her
10 up. And then he went out and called the cops. He was
11 the one present to attempt to pick her up.

12 Q: Okay.

13 Why didn't she go that next time?

14 A: The- the- the weekend after that phone
15 conversation she wasn't feeling good.

16 Q: Okay.

17 And did she eventually see a doctor that weekend?

18 A: To tell you the truth, I can't recall. I can
19 call the doctor's office and see. I have four kids.
20 We constantly have appointments and schedules. I don't
21 recall.

22 Q: Okay.

23 A: I'm not gonna say one way or the other, and be

1 lying.

2 Q: What was- What was she complaining about when
3 she said she wasn't feeling good?

4 A: Um, um, her throat was sore, and an earache.

5 Q: Okay.

6 And uh, did uh, you tell uh, Mr. Farahay that
7 before anybody arrived?

8 A: I told him when he knocked on the door that
9 she wasn't feeling well. She cut me off and said... I'm
10 not going... I'm going back to bed. And he said... so
11 you're withholding her from me?.... I'm calling the
12 cops. Like that's how it is every time he comes to
13 pick her up. It's gotta be dramatic.

14 Q: Mm-hmm.

15 And uh, that was the end of the conversation that
16 time?

17 A: I just said... call'em. I mean, I'm not gonna
18 drag her out when she's sick. I'm not- I mean-

19 Q: Did she go anywhere else that weekend?

20 A: No, we never left the house.

21 Q: Okay.

22 And uh, uh, since last July, in that year, in uh-
23 you- in twelve months he'd had roughly thirty-five

1 visits?

2 A: According to Rule 16, probably...
3 approximately, yes.

4 Q: Okay.

5 Now those the only two there's been any problem
6 about?.... uh, as far as going?

7 A: Yes.

8 Q: Okay.

9 A: There's been a couple of weeks she's- where he
10 was supposed to bring her back and he refused, and I
11 had to have the cops escort me to his house. And
12 that's all on record with the Seaman Police Department.

13 Q: Okay.

14 But uh, other than that- Uh, did he give you any
15 reason why he- he wouldn't return her?

16 A: Um, he told the cops it was my responsibility
17 to transport, because from his understanding, the way
18 he was reading the Rule 16, that when Mackenzie was
19 with him he was the residential parent, he had say-so
20 when she went back. And that's also what he told both
21 officers.

22 Q: Okay.

23 But that got straightened up?

1 A: Yes.

2 Q: Okay.

3 And uh, so the relationship on these visits is not
4 particularly good?

5 A: No, not at all. It's being sugarcoated, I
6 think. But that's just my opinion.

7 Q: Okay.

8 And uh, of those two that she did not make, she
9 was feeling bad one time?

10 A: Yes, that second time she was ill.

11 Q: And the second- And the other time she had
12 called that morning?

13 A: And he said it was okay. Eventually he said
14 it was okay. At first he just said... well, why? But
15 he eventually said that was fine.

16 Q: Okay.

17 So-

18 A: It was not recorded, by the way, either.

19 Q: Okay.

20 Now there was some conversation about cameras and
21 recording. Can you tell us what that's involved?

22 A: Mackenzie... I don't know what the deal is,
23 but she comes on- home almost paranoid, in tears. She

1 actually brought this home from his house, saying...
2 that's all they do, is they try to sit down and have
3 talks with me, and they're recording everything I say.

4 ATTY BLANTON: Objection. Hearsay.

5 COURT: The Court'll disregard it.

6 Mr. Hapner, go ahead with your next question.

7 ATTY HAPNER: Okay.

8 DIRECT EXAMINATION OF AMANDA ILER CONTINUED:

9 Q: You- I assume that's a cell phone of some
10 sort?

11 A: No, that's the recorder.

12 Q: Okay.

13 What's on that recorder?.... if you know.

14 A: It was the- It was a very amateur-like
15 recording of the weekend that him and his wife tried to
16 break into my house and drag me out by the hair of my
17 head... when I called the cops on them. That's- It's-
18 It's kind of muffled, because it sounds like it's like
19 got fabric up against it. You can barely hear it.
20 That's also on file with the police department too.

21 Q: Do you want to play that?

22 A: I don't really know how it works, even if the
23 battery does. He would know more about it than I

1 would.

2 Q: Okay.

3 So, have you heard it before?

4 A: I- I heard it. Mackenzie was playing with it,
5 and I heard it. It's like twenty minutes long, but it-
6 it- That little ordeal was like maybe a minute, if
7 that. But the rest of it's just like someone in the
8 radi- someone in a car, sounds like they have a radio
9 playing. There's no talking. It's mostly static.

10 Q: Okay.

11 Now uh, when uh, you had these confrontations with
12 Michael about uh, Mackenzie visiting, was Matthew
13 there?

14 A: My husband?

15 Q: Yes.

16 A: Um, he wasn't there the weekend that they
17 tried to bombard in the back door, no, it was just me
18 and the kids there.

19 Q: Well, uh, in November of last year?

20 A: Um, I believe so.

21 Q: Okay.

22 Did he hear the conversation with Michael about
23 the uh, call early in the morning (inaudible...)-

1 A: When he said... just call me so he doesn't pack
2 the baby up and waste his gas. And I told him that was
3 completely understandable. Yes, there was three
4 children and my husband out there when he made that
5 statement.

6 ATTY HAPNER: Okay. And uh- Okay. Uh, no
7 further questions.

8 THEREAFTER, direct examination of Amanda Iler by
9 Attorney Jon Hapner was concluded.

10 COURT: Mr. Blanton?

11 ATTY BLANTON: I don't have any questions,
12 Your Honor.

13 COURT: Okay.

14 ATTY HAPNER: Call Matthew Iler (inaudible...)

15 COURT: Very well.

16 COURT AWAITS ENTRANCE OF MATTHEW ILER

17 ATTY HAPNER: (inaudible...) He wants to tell the
18 girl where he is.

19 COURT: I'm sorry?

20 ATTY HAPNER: He wants to tell the girl where he
21 is. I think she's in the restroom.

22 COURT: Sir, around the uh, Court Reporter, up to
23 the witness stand.

1 And before you sit down there I need you to raise
2 your right hand and be sworn in.

3 Do you solemnly swear the testimony you're about
4 to give today to be the truth, the whole truth, and
5 nothing but the truth, so help you God?

6 MR. ILER: Yes.

7 COURT: Thank you.

8 Just have a seat there. And sir, we need to ask
9 you to speak real loud so we all can hear. Thank you.

10 Mr. Hapner.

11 WHEREUPON, direct examination of Matthew Iler by
12 Attorney Jon Hapner was conducted.

13 Q: Would you state your name, sir?

14 A: Matthew W. Iler.

15 Q: And Matthew, are you the husband of Amanda
16 Iler?

17 A: Yes.

18 Q: Have you met Michael Farahay, the- the father
19 of uh, Mackenzie Farahay?

20 A: Yes.

21 Q: Have you- Uh, in the last year or so have you
22 had any discussions with... or, listened to any
23 discussions between Michael Farahay and Amanda Iler,

1 particularly pertaining to visitation?

2 A: Uh, one.

3 Q: Okay.

4 And do you recall when and where that was?

5 A: It was on the back porch of the house we live
6 now. It was over the- when she called. I don't
7 remember what day, I don't remember what time of year
8 that was. I reckon it was November.

9 Q: Okay.

10 And what was the gist of that conversation?

11 A: Well, Amanda told me... I was at work that day,
12 and she said that (unintelligible) called and said she
13 wasn't- told Michael he wasn't- she wasn't coming over
14 that weekend. They said that was fine. Well then they
15 showed up to get her.

16 Q: Okay.

17 Was there a uh- What conversation- What did
18 Michael Farahay uh, say to Amanda?.... if anything.

19 A: Nothing.

20 Q: Okay.

21 Was there some conversation about if she doesn't
22 uh, want to come uh, call me so I don't ma- waste a
23 trip over here?

1 A: That- that was what Ru- That's what they
2 worked out. I don't know. I never heard that.

3 Q: Okay.

4 A: And uh, in November uh, of last year, were you
5 present when uh, Michael Farahay showed up?

6 A: One time I was. We was all on the back porch

7 Q: What ha-

8 A: and he showed up to get her, and she said she
9 wasn't going. And then uh, he said something about
10 snatching her up, and putting her in the Jeep.

11 Q: Uh, did he uh, uh- Was Mackenzie feeling bad
12 that day?

13 A: She might- I'm not a hundred percent sure.
14 She was- I don't know.

15 Q: And did uh- And, was there a second time
16 where she called him early in the morning?

17 A: Yeah, that's when uh, Lindsey came to pick her
18 up that evening.

19 Q: Okay.

20 A: What was the conversation that morning in
21 November?

22 A: I- I wasn't- I was at work.

23 Q: Pardon?

1 A: I was at work.

2 ATTY HAPNER: Okay. No further questions.

3 THEREAFTER, direct examination of Matthew Iler by
4 Attorney Jon Hapner was concluded.

5 WHEREUPON, cross examination of Matthew Iler by
6 Attorney Kris Blanton was conducted.

7 Q: You weren't present for any of the phone
8 conversations between Mr. Farahay and Ms. Iler,
9 correct?

10 A: No.

11 Q: And then she told-

12 A: Supposedly she never talked to-

13 Q: Wait a minute.

14 She told you what was said in the conversation?

15 A: Yes.

16 Q: And there was a claim that he wasn't gonna
17 come after all, right? That's what the- That's what
18 the-

19 A: That wasn't-

20 Q: That's what you were told about the
21 conversation, that he wasn't gonna come because-

22 A: He said that was fine, is what I was told.

23 Q: Yeah.

1 But someone showed up, didn't they?

2 A: Yeah.

3 Q: He showed up?

4 A: Uh, one time it was Lindsey, and one time it
5 was him.

6 Q: So it apparently wasn't okay, right?

7 A: Well, I uh-

8 Q: You don't know, do you?

9 A: I don't know.

10 ATTY BLANTON: Okay. Thanks.

11 No other questions.

12 THEREAFTER, cross examination of Matthew Iler by
13 Attorney Kris Blanton was concluded.

14 COURT: Anything further?

15 WHEREUPON, redirect examination of Matthew Iler by
16 Attorney Jon Hapner was conducted.

17 Q: Uh, had uh, Mackenzie or- or uh, Amanda either
18 one told you that he had said it was okay that she
19 didn't go that day?

20 ATTY BLANTON: Objection. It's hearsay on one
21 part, okay on the other.

22 COURT: Well, Mr. uh, Hapner, why don't we refine
23 that question a little bit better. So the Court'll

1 sustain the question. Go ahead with your next question

2 ATTY HAPNER: Okay.

3 REDIRECT EXAMINATION OF MATTHEW ILER CONTINUED:

4 Q: Uh, on the non- non Thanksgiving weekend in
5 November, uh, when a call had been made earlier that
6 morning, uh, when you got home... when did you get home
7 that day?

8 A: Uh, 4:30 or so.

9 Q: Okay.

10 Was there any conversation that time between you
11 and Amanda, or between you and Mackenzie, that uh,
12 Michael would not come that day, but-

13 A: We just- Yeah, we thought-

14 ATTY BLANTON: Again, objection on the-
15 Hearsay on the conversation with him and Mackenzie.

16 Q: Okay. Well between you and Amanda.

17 COURT: Well... very well.

18 ATTY BLANTON: Withdraw.

19 REDIRECT EXAMINATION OF MATTHEW ILER CONTINUED:

20 A: Okay. We just thought he wasn't showing up.

21 I-

22 Q: Okay.

23 And this is a s- couple of hours before anybody

1 showed up?

2 A: Yeah, it was right after she came home from
3 work.

4 Q: Okay.

5 Did Mackenzie get ready to go that day?.... if you
6 know.

7 A: No.

8 Q: Okay.

9 Was she upset when he appeared?

10 A: She just said she didn't want to go.

11 ATTY HAPNER: Nothing further.

12 THEREAFTER, redirect examination of Matthew Iler
13 by Attorney Jon Hapner was concluded.

14 ATTY BLANTON: Nothing further.

15 COURT: Thank you, sir. You're excused.

16 Mr. Hapner?

17 ATTY HAPNER: We'll call uh, Mr. Cantrell.

18 COURT: Very well.

19 Mr. Cantrell, I need you to raise your right hand
20 and be sworn in.

21 Do you solemnly swear the testimony you're about
22 to give today to be the truth, the whole truth, and
23 nothing but the truth, so help you God?

1 MR. CANTRELL: I do, Your Honor.

2 COURT: Thank you.

3 And have you been subpoenaed today?

4 MR. CANTRELL: (inaudible)

5 COURT: Okay.

6 ATTY BLANTON: Your Honor, before he answer-
7 uh, before he ask him questions, I'd object. Not- In
8 deference to Mr. Cantrell, I- it's not against him.
9 But he's got a report that he's already submitted. I
10 don't know the relevance of his testimony, the purpose
11 of his testimony today.

12 ATTY HAPNER: Well, I- We have to submit his
13 report, and uh, the uh, GAL is here so I- uh, we'll ask
14 him to submit it. First thing- I have one question.

15 WHEREUPON, direct examination of Tyler Cantrell by
16 Attorney Jon Hapner was conducted.

17 Q: Turning- Calling your attention to page nine.

18 COURT: So the Court'll overrule the objection,
19 but the Court isn't gonna entertain going into
20 everything that was done by Mr. Cantrell, as the
21 Guardian Ad Litem, in preparing his report. So go
22 ahead, Mr. Hapner.

23 ATTY HAPNER: Okay.

1 DIRECT EXAMINATION OF TYLER CANTRELL CONTINUED:

2 Q: Uh, Mr. Cantrell, uh, you, the GAL, made this
3 very thorough report, is that correct?

4 A: That's correct.

5 Q: And on page nine you uh, have a statement...
6 Mr. Farahay has suggested one of his in- in-laws, a
7 teacher, could assist in tutoring Mackenzie?

8 A: That's correct.

9 Q: And he told you that she's a teacher?

10 A: Uh, he was talking to me uh, when I was out at
11 his home, about his uh, wife's family, his- I believe
12 it's his wife's aunt, which would make it her- his in-
13 law, and he stated that she would be good at tutoring
14 Lindsey. Uh, I believe I probably uh, incorrectly
15 inferred that she was a teacher. I don't know that he
16 ever specifically told me she was a teacher. I just
17 put two and two together. Uh, I just assumed she was a
18 teacher, which from his testimony uh, may or may not be
19 correct. He said she's an employee of the school, and
20 he said she does tutoring. I just assumed that she was
21 a teacher.

22 Q: Now uh, you never talked to that aunt, did
23 you?

1 A: No, I did not.

2 Q: I noticed you talked to Christian Bradford.
3 Why?

4 A: Because I'm also the Guardian Ad Litem on
5 another case, uh, and he's her sibling, so I went ahead
6 and talked to him... get two things out of the way at
7 once.

8 Q: You talked to Christian about uh, Mackenzie?

9 A: I did a little bit, yes.

10 Q: Okay.

11 A: Not- not to a great detail, but I did a little
12 bit. How their interactions and stuff went at home.

13 Q: Now uh, from your investigation you find that
14 the uh, visitation goes smoothly?

15 A: Uh, for the most part it seems that the uh,
16 visits occur okay. Uh, there was the uh, visit that-
17 uh, in Thanksgiving area there that there was some uh,
18 issues about. Uh, and other than that it seems that
19 the visits occur uh, when they're supposed to. Um, the
20 uh- Mackenzie had told me that she had some concerns
21 with the visits. I listened to her concerns and- and
22 uh, summed it up that a lot of it seemed to stem around
23 the- the new baby and that type of stuff, and the

1 timeframe. And don't know for sure, I wasn't involved
2 prior to that, but from my understanding there may be
3 some, you know, adjusting to that, and I think that's
4 what she's having some major issues with. Uh, I feel
5 overall that the- the visits are occurring okay. Uh-

6 Q: Did she talk to you about missing 4-H visits?

7 A: Uh, both- She did, and her mother as well
8 talked to me about the- missing 4-H visits. And as you
9 noticed in my report, I- I mentioned that... uh, I
10 highly recommend that when she's ever with Mr. Farahay
11 that he- she attends any and all of her uh, extra
12 curricular activities.

13 Q: Okay.

14 And uh, do you- According to your report, do you
15 feel that the uh, situation should remain as it is now?

16 A: Yeah, as far as the uh, visitation, it should
17 remain as it is. Uh, I'm normally one that likes to
18 think that both parents should have some sort of say-so
19 in legal aspects of- of a par- of a child, because I
20 feel the mother and father both had that- should have
21 that right. Uh, in this case howlow- however, um, I do
22 feel that there- Both parties have even told me that
23 they can't get along very well. Um, I feel that both

1 parties are completely capable of making good decisions
2 for Mackenzie, and uh, can make very well decisions,
3 but I don't know if they can work together to make
4 decisions jointly. And so therefore, that's why I
5 recommended that there be no joint legal custody.

6 ATTY HAPNER: That's all.

7 THEREAFTER, direct examination of Tyler Cantrell
8 by Attorney Jon Hapner was concluded.

9 COURT: Mr. Blanton?

10 WHEREUPON, cross examination of Tyler Cantrell by
11 Attorney Kris Blanton was conducted.

12 Q: Uh, who is-- just for the record-- who is the
13 primary caretaker, who's the legal guardian, custodian,
14 of Mackenzie?

15 A: The primary caretaker would be her mother.

16 Q: And in your report it indicates that
17 Mackenzie's currently making C's and D's in school?

18 A: That's correct.

19 Q: And only thing you had- had mentioned was that
20 she needs help- additional help, correct?

21 A: Yeah, I really do feel that she needs some
22 help. It appeared that uh, her grades were pretty much
23 D's uh, the beginning of the year. I don't know if she

1 got some extra help, but at the end of the year she did
2 bring'em up to at least getting C's in everything.

3 Q: And that occurred while-

4 A: But her grade- her grades are struggling. And
5 even Mackenzie tells you that, you know, she- she
6 struggles a little bit with her grades.

7 Q: That occurred while she's lived with the
8 mother, correct?

9 A: Well obviously, yes.

10 Q: Okay.

11 And the point of that paragraph wasn't that Mr.
12 Farahay has someone that can provide the only help that
13 Mackenzie can get, it's just-

14 A: No, I just said that Mr.- The reason that
15 paragraph was there was cause Mr. Farahay had mentioned
16 that he- there was a possible tutor, and I think that
17 no matter who it is, whether it be his in-law or
18 whoever, if anybody gets a tutor it- it would be great.
19 Then if you can get one for free that's even better,
20 cause it saves everyone money.

21 Q: Now did you talk to Mr. Farahay before or
22 after you talked to Ms. Wilson?.... Ms. Iler. Excuse
23 me.

1 A: Um, the first time I actually think I talked
2 to Mr. Farahay first, and then I talked to him last.

3 Q: Okay.

4 When you and Mr. Farahay talked, did- did you make
5 him aware of this 4-H issue?

6 A: Uh, no, cause I'd just found it out the last
7 time, and then I just talked to him just recently and I
8 did not bring it up that time.

9 Q: You had mentioned that you- you're a believer
10 of the fact that the- both parents should have a say in
11 the raising of the child?

12 A: Yes.

13 Q: Uh, does that go both ways where both parties
14 need to inform the other of all things that are going
15 on with the child's life as well?

16 A: Well, yeah, because I think if you don't know
17 what's going on it's impossible for you to make those
18 decisions. So...

19 ATTY BLANTON: No other questions.

20 THEREAFTER, cross examination of Tyler Cantrell by
21 Attorney Kris Blanton was concluded.

22 COURT: Mr. Hapner, anything further?

23 ATTY HAPNER: No further questions, Your Honor.

1 COURT: Thank you.

2 You're excused.

3 Thank you.

4 ATTY HAPNER: We'll rest, Your Honor.

5 COURT: Very well. Thank you.

6 Mr. Blanton, uh, rebuttal?

7 ATTY BLANTON: No rebuttal, Your Honor, just
8 would argue.

9 COURT: Okay. Thank you.

10 Argument?

11 ATTY BLANTON: On the motion for contempt,
12 Your Honor, there- there's an agreement on both sides
13 that the visitations didn't occur. The disagreement
14 is how the visitations did not occur. Uh, I- I think
15 the Court is aware that it's not up to the child to
16 make the decision of whether she goes or not. Uh,
17 there's been no evidence to indicate that uh- Strike
18 that. There's been no evidence to indicate that she
19 was sick, it's just testimony by the- the mother in
20 this case. Uh, I mean, that was at Thanksgiving
21 weekend, that's a pretty big weekend to miss out of...
22 family and- and- and things like that. I would imagine
23 that if it had happened the other way around that we

1 would be in here under the same circumstances,
2 regardless of the child's wishes. The mother would be
3 complaining about this. I think it's only fair to
4 allow the same uh, treatment for the father that would
5 be given to the mother in this situation.

6 As far as our motion for shared parenting plan,
7 there's been no evidence to rebut the- the- the fact
8 that the shared parenting plan is in the child's best
9 interest. Uh, under the statute, the- uh, the father
10 in this case has filed a shared parenting plan... 3109
11 uh, (D)(1)(3). There's been a shared parenting plan
12 submitted to this Court. Uh, there's been no
13 indication from the other side that it's not in the
14 child's best interest, so we're asking the Court to
15 grant that, saying that it's in the child's best
16 interest. We're not asking for a change of custody.
17 We're not asking for a change of his parenting time, or
18 his child support. We're just asking that he be
19 established as the uh, uh, equal parent to this child,
20 as any other father would want to be with his child. I
21 think it's uh- I would want that in my case. I- I
22 would think it would be safe to assume that Ms. I- Iler
23 would want it in her case if she- if she was looking

1 the other way around. Um, he just wants to have equal
2 status with his child.

3 So I would ask the Court to find Ms. Iler in
4 contempt for the missed visitations in the Thanksgiving
5 area. I would ask the Court to grant uh, defendant's
6 motion and- and- and allow the pa- uh, parenting plan
7 to go through. And uh, I would allow- ask for uh, the
8 return of Mr. Iler- Mr. Farahay's uh, tape recording
9 devices that were taken from his residence as well.
10 Other than that I would submit.

11 COURT: Okay.

12 Is there any problem with him getting back his
13 recorder?

14 ATTY HAPNER: Well, he can have his recorder back,
15 Your Honor. The uh- But the- What- We take
16 exception to the idea it's not- that it's in the best
17 interest of both parents to do it. The fact that he's
18 taping this sort of thing's enough uh, to indicate uh,
19 the problems we're having. He admits that he carries a
20 tape with him when he uh, goes to pick up the child,
21 yet he didn't have a tape times he claimed that there
22 were objections.

23 This is a he said she said type of uh, matter. I

1 don't think the contempt is- is well based.

2 On the matter of the shared parenting, uh, is- the
3 only impartial uh, person in this testimony is the uh,
4 GAL, and his recommendation is to leave things as they
5 are.

6 Uh, obviously there's conflicts between the two
7 parents. Uh, the uh- We haven't gone into all the
8 dirt we could throw. There's no point in it. But uh,
9 Mr. Iler uh, has been less than credible about what he-

10 MS. ILER: Farahay. Farahay.

11 ATTY HAPNER: Mr. Farahay-- pardon me-- uh, has
12 been less than credible about what he uh, says about a
13 child. And furthermore, I think the Court should
14 interview the child in-camera uh, concerning her wishes
15 or the affects of the visitation, what's going on
16 there.

17 Uh, we feel that uh- I think uh, what they are
18 trying to slide in in that uh, shared parenting plan is
19 the idea that he claim the uh, uh, dependency uh, for
20 tax purposes.

21 MS. ILER: He already does.

22 ATTY HAPNER: Hmm?

23 MS. ILER: He already does.

1 ATTY HAPNER: Okay.

2 MS. ILER: I'd like to get that revoked.

3 ATTY HAPNER: Well, we haven't filed a motion for
4 that.

5 MS. ILER: Okay.

6 ATTY HAPNER: Uh, therefore, uh, we feel that uh,
7 it- it'd be in- it's not in the best interest of the
8 child to have a shared parenting plan. They already
9 uh- The effect of it wouldn't change anything we have
10 now. And Mr. Farahay ha- has been less than
11 cooperative with the mother. And even- Uh, a three
12 percent failure rate... let's see... yeah, I think it's
13 three- three percent, uh, on the uh, visitation is
14 hardly a matter of contempt.

15 Thank you.

16 COURT: Okay. Thank you, Mr. Hapner.

17 Mr. Blanton, any response?

18 ATTY BLANTON: Just in response, Your Honor.

19 And it- A-again, I think we're missing the point.
20 We're not asking to change anything here. We're still
21 allow- We're still- No one's requesting that he not
22 be named custodial parent. That's still the same with
23 Ms. I- Ms. Iler... excuse me. Uh, still wanting him to

1 have regular visitation. He just wants to have
2 something additional, that would- he doesn't have right
3 now, that would only be fair, uh, and it's in the best
4 interest of the child to allow him to be the equal
5 father to this child, as anybody else.

6 Uh, again, I- even they- even they concede right
7 there that he's not asking to change anything as far as
8 the tax return, the status that's still the same too.
9 The only thing here is it's just a concrete order that
10 says it's shared parenting, he gets to much- as much
11 say in this child's raising that she does. And that's
12 the only thing that- that I would think would be fair
13 for everybody in this situation, cause he is the father
14 of this child. So I would ask that that be considered
15 at this time.

16 COURT: Okay.

17 The Court'll take it under advisement and issue a
18 written decision. Everyone'll get a copy. The
19 decision uh, should be available in approximately two
20 weeks.

21 Thank you, very much.

22 Yes, sir?

23 ATTY HAPNER: Uh, Your Honor, the uh, child is

1 here for the in-camera interview.

2 COURT: Uh-huh.

3 And you want the Court to do that, Mr. Hapner?

4 ATTY HAPNER: Yes, Your Honor.

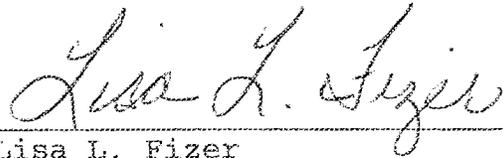
5 COURT: Okay. Be happy to do that.

6 And that'll conclude the hearing.

7 Thank you.

STATE OF OHIO, COUNTY OF ADAMS SS:

I, Lisa L. Fizer, certify that I am the Deputy Court Reporter/Notary Public for the Court of Common Pleas of Adams County, Ohio, and that the transcript of the within is a complete and accurate transcript of the subject matter to the best of my ability and knowledge. Any omissions and errors are not intentional and would be the result of the audio recording system.



Lisa L. Fizer
Deputy Court Reporter/
Notary Public
State of Ohio
My Commission Expires:
March 3, 2013

NOTE: PURSUANT TO COURT ORDER ADAMS COUNTY COURT OF COMMON PLEAS CASE NO. 2002MISC15, THIS TRANSCRIPT IS NOT TO BE COPIED EXCEPT BY PERMISSION AND CONSENT OF THE COURT REPORTER WHO TRANSCRIBED IT.

Transcripts
Nov. 05, 2013

Case
20035123 * 127 pages total

COURT OF COMMON PLEAS
JUVENILE DIVISION
ADAMS COUNTY, OHIO

FILED
ADAMS COUNTY, OHIO
CLERK OF COURT
NOV 15 2013

AMANDA WILSON (NKA ILER)

CASE NO. 20035123

Plaintiff

VS.

MICHAEL FARAHAY

TRANSCRIPT

Defendant

* * * * *

APPEARANCES:

JON HAPNER
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MICHAEL FARAHAY
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WHEREUPON, THE MATTER CAME BEFORE THE HONORABLE
JAMES SCHLUETER, MAGISTRATE, ADAMS COUNTY COMMON PLEAS
COURT OF ADAMS COUNTY, OHIO, COMMENCING ON THE 5TH DAY OF
NOVEMBER, 2013. APPEARING WERE THE ABOVE NAMED PARTIES
AND/OR COUNSEL.

LISA L. FIZER
DEPUTY COURT REPORTER

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>RE-DIRECT</u>	<u>RE-CROSS</u>
<u>DEFENDANT/</u> <u>MICHAEL FARAHAY:</u>				
MICHAEL T. FARAHAY	4	22	38/45	43
LINDSEY FARAHAY	48	56		
CHASE GLEASON	60	65	67	
MATTHEW ILER	69	73/77	81	79
LAURA APPLGATE	83	87	93	
TYLER CANTRELL	96	109		

EXHIBITS

MARKED OFFERED ADMITTED

PLAINTIFF:

EXHIBIT "1" (itemization of medical expenses)	26	--	--
EXHIBIT "2" (explanation of benefits)	29	--	--
EXHIBIT "3" (statement)	30	--	--
EXHIBIT "4" (invoice)	31	--	--
EXHIBIT "5" (statement)	32	--	--

DEFENDANT:

EXHIBIT "A" (receipt)	53	--	--
EXHIBIT "B" (assignments/parent access)	56	--	--
EXHIBIT "C" (text messages)	65	--	--

1 COURT: Okay, we're on the record in the Wilson,
2 uh, Farahay matter. Parties are present with counsel.

3 Uh, Ms. Drinnon, what's our situation today?

4 ATTY DRINNON: Uh, well, Your Honor, I believe
5 we're gonna have a hearing on the motion for uh, to
6 uh,....

7 COURT: Okay. You ready?

8 ATTY DRINNON: modify and change custody.

9 COURT: Uh-huh. You ready to proceed?

10 ATTY DRINNON: I would ask that we have a
11 separation of witnesses, Your Honor.

12 COURT: Very well.

13 Mr. Hapner, any folks here in the courtroom your
14 witnesses?

15 ATTY HAPNER: Yes, Your Honor, we have two in the
16 back.

17 COURT: Okay.

18 Folks, I need to ask you to step out in the
19 hallway and remain there until you're called as
20 witnesses. And while you're out there, please don't
21 discuss the case among yourselves until you're called
22 as a witness.

23 Thank you very much.

1 Ms. Drinnon, go right ahead.

2 ATTY DRINNON: Thank you, Your Honor.

3 Um, at this time, Your Honor, I'll do a brief
4 opening, and then we'll get ready for questioning, if
5 that's alright.

6 COURT: Yes, ma'am.

7 ATTY DRINNON: Uh, we had presented a motion
8 for modifying our change of custody with my client,
9 Michael Farahay, due to uh, being concerned about the
10 living environment at mother's household, that the
11 minor child, which is now thirteen, is residing in.
12 And we're wondering about what's going on there. And
13 of course the grades uh, of the child, because she's
14 not doing well in school, and hasn't been for quite
15 some time. So, we are thinking that a change of
16 environment is needed at this time. Along with uh,
17 evidence presented of the uh, possibly unsafe
18 household.

19 So, um, at this time, Your Honor, we would present
20 testimony, which would uh, support our case for a
21 change of custody.

22 COURT: Very well.

23 Mr. Hapner, any response?

1 ATTY HAPNER: Uh, we do, Your Honor.

2 First of all, uh, the uh, claim that the household
3 is unsafe is scurrilous.

4 Secondly, the child does have some uh, learning
5 problems, particularly in math, that uh, we've been
6 working on that. The teachers are not dissatisfied
7 with her progress.

8 The uh, the home is not unsafe. Uh, Mrs. Iler uh,
9 had a divorce, the previous husband uh, that has failed
10 to maintain his obligations under that divorce decree,
11 and forcing her to move out of that home. Uh, she's
12 now living at a different address. There's been no
13 problem with uh, finding uh, the child for visitation.

14 The uh- We deny each and every other allegation
15 that the uh, Mr. Farahay has made. And we submit that
16 the best interest is... there's been no change of
17 circumstances, and the best interest of the child would
18 be to remain with the mother.

19 COURT: Thank you.

20 Ms. Drinnon, first witness.

21 ATTY DRINNON: I would call uh, Michael, or,
22 known as Todd Farahay.

23 COURT: Thank you.

1 ATTY HAPNER: Your Honor, we asked for in-camera
2 uh, interview with the child. Do you do that before
3 the hearing or after?

4 COURT: After.

5 ATTY HAPNER: Okay.

6 COURT: Is she here?

7 ATTY HAPNER: Pardon?

8 COURT: Is she here?

9 ATTY HAPNER: Yes, she's here.

10 COURT: Okay. Thank you.

11 Sir, I need you to stand and raise your right
12 hand, and be sworn in.

13 Do you solemnly swear the testimony you're about
14 to give today to be the truth, the whole truth, and
15 nothing but the truth, so help you God?

16 MR. FARAHAY: I do.

17 COURT: Thank you.

18 You can testify from right there, but you really
19 need to speak up, okay?

20 MR. FARAHAY: Okay.

21 COURT: Try to talk loud.

22 Ms. Drinnon, go right ahead.

23 WHEREUPON, direct examination of Michael Todd

1 Farahay was conducted by Attorney Tanya Drinnon. The
2 said Michael Farahay having previously been sworn.

3 Q: Would you please state your name and address?

4 A: Uh, my name's Michael Todd Farahay. My
5 address is 1200 Mineral Springs Road, Peebles, Ohio.

6 Q: Who resides in your home?

7 A: Uh, myself, my wife, Lindsey Farahay, and our
8 son, Liam Farahay.

9 Q: Okay.

10 And what is your relationship to Mackenzie
11 Farahay?

12 A: She is my daughter.

13 Q: Okay.

14 How old's Mackenzie?

15 A: Mackenzie's thirteen.

16 Q: Okay.

17 What is your relationship to Amanda Iler?

18 A: That is Mackenzie's mother.

19 Q: Okay.

20 Were you ever married?

21 A: No, we were not.

22 Q: Okay.

23 When did you separate?

1 A: Uh, 2003.

2 Q: Okay.

3 And Mackenzie would have been-

4 A: Three years old.

5 Q: Okay.

6 Uh, so since that time, what has been your
7 visitation schedule with Mackenzie?

8 A: Uh, when we first separated I'd get Mackenzie
9 whenever I wanted. Mackenzie would come over all the
10 time. And then uh, couple years- It went like that
11 for a couple years, and then of course, you know, me
12 and my wife we got engaged, and there started being
13 problems arising there. And so-

14 Q: After the engagement?

15 A: Yeah. Cause I wasn't allowed seeing
16 Mackenzie, so I filed for parental rights to see my
17 daughter.

18 Q: Okay.

19 So when was that, that you did that?

20 A: 2008, I do believe it was.

21 Q: Okay.

22 And since that time, what has been your schedule
23 with Mackenzie?

1 A: It's uh, Rule 16, so I'd have to look at the
2 month, but it's on weekends.

3 Q: Okay.

4 A: And uh-

5 Q: It's not the Wednesday visit?

6 A: No, I don't get the Wednesday visit.

7 Q: Okay.

8 So it's a modified Rule 16?

9 A: Yes, it's a modified Rule 16.

10 Q: Okay. All right.

11 So describe to the Court- How would you describe
12 your relationship with Mackenzie?

13 A: Uh, me and Mackenzie we have a- When she was
14 younger we had a real good relationship. I mean, she
15 would tell- tell me all kinds of stuff, she'd talk to
16 me. And then I've noticed, you know, as she gets older
17 she hasn't opened up as much. She- she won't hardly
18 talk about anything. She don't like to talk about
19 school. She don't like to talk about anything that's
20 bothering her.

21 Q: Okay.

22 Would you describe your relationship with
23 Mackenzie as good, or strained... How would you, you

1 know- Give the Court a (inaudible) idea.

2 A: I would- Strained.

3 Q: Okay.

4 And she's a thirteen year old girl, right?

5 A: Yes, she is.

6 Q: Okay.

7 So it makes it a little more difficult.

8 Um, so today, obviously we're here, you put in a
9 motion for change of custody. What is your main
10 concern right now for Mackenzie?

11 A: My main concern right now for Mackenzie is
12 that she- she is seeing- seeing things that she
13 shouldn't see, and she is failing in school. She-

14 ATTY HAPNER: Object. That's not responsive.

15 COURT: Overruled.

16 Sir, you can- you can continue with your answer.

17 A: She- she's failing in school. She's not doing
18 good at all.

19 Q: So you have concern for her school and grades?

20 A: Yes, I do.

21 Q: Is that correct? Okay.

22 Do you have a concern- You said (unclear) safety,
23 is that a concern?

1 A: Yeah, safety.

2 Q: What do you mean by that?

3 A: Um, one day when I got home from work I had a
4 phone call-

5 ATTY HAPNER: Object.

6 COURT: Overruled.

7 A: There was a message on my answering machine.
8 A person called expressing concern-

9 ATTY HAPNER: Object.

10 COURT: Okay.

11 So, at this point-

12 ATTY DRINNON: I don't think he's saying what
13 they're saying. He just said they're- they were
14 expressing concern, Your Honor. I didn't hear hearsay
15 yet.

16 COURT: Well, he was gonna continue, I think,
17 with that sentence. So, I don't want to hear what
18 somebody said on an anonymous phone call.

19 ATTY DRINNON: Okay.

20 COURT: So, uh, maybe you can go ahead with your
21 next question.

22 ATTY DRINNON: Sure.

23 DIRECT EXAMINATION OF MICHAEL TODD FARAHAY

1 CONTINUED:

2 Q: Talk a little bit more about safety. Not-
3 From your knowledge.

4 A: From my knowledge, I asked Mackenzie about
5 some things that- that's going on in her household.
6 Mackenzie- I asked Mackenzie... is- is there any fights
7 or anything like that going on in her house?
8 Mackenzie's answer was yes.

9 ATTY HAPNER: No. Object again, Your Honor. Move
10 it be stricken.

11 COURT: Overruled.

12 Sir, you can continue with your answer.

13 A: Mackenzie proceeded to tell me that uh-

14 COURT: Okay, sir, I don't want to hear what the
15 child said.

16 Q: So you do have concerns for safety?

17 A: Yes, I do.

18 Q: Where is she residing? Where is Mackenzie
19 residing when she's not with you?

20 A: She's residing with her mom.

21 Q: Do you know where that's at?

22 A: It's at 121 Sixth Street.

23 Q: Okay.

1 And recently have you been picking up uh,
2 Mackenzie in different locations, and/or dropping her
3 off at different locations?

4 A: This past year, no. The year before, yes.

5 Q: Okay.

6 Uh-

7 A: Actually, yes, this year too.

8 Q: Okay.

9 A: I'm sorry. Yes, this year too.

10 Q: What would be the different locations you're
11 dropping her off at?.... her picking her up.

12 A: Uh, dropped her off at uh, the 121 West Sixth
13 Street. I al- have also dropped her off at 380
14 Broadway Street.

15 Q: Who lives there?

16 A: Uh, Matt Iler.

17 Q: Okay.

18 And when you- Are- You're the one responsible
19 for the transportation, is that correct?

20 A: Yes, I am.

21 Q: Okay.

22 So you have concerns about what may go on while
23 she's not in your presence?

1 A: Correct.

2 Q: Okay.

3 Do you have concerns for Mackenzie as far as... I
4 think earlier you said as what she may be witnessing,
5 is that correct?

6 A: Right.

7 Q: Okay.

8 Now as far as Mackenzie goes, have you ever seen
9 any marks on her, any bruises, or anything that would
10 uh, indicate abuse?

11 A: I have not seen anything on Mackenzie, no.

12 Q: Okay.

13 Is Mackenzie's behavior, in your opinion, becoming
14 more difficult?

15 ATTY HAPNER: Object.

16 COURT: Overruled.

17 A: Mackenzie is- Yeah, she's getting more
18 difficult.

19 Q: Okay.

20 Do you have knowledge of any drug abuse going on,
21 uh, whether it be in your household or in Mackenzie's
22 mother's household?..... Amanda Iler's?

23 ATTY HAPNER: Object.

1 COURT: Uh, overruled. He hasn't said anything
2 yet. I don't know what he's gonna say. So we'll
3 overrule the objection.

4 A: There is no drug...

5 COURT: Sir, you can answer.

6 A: drug use in my household. As for Ms.
7 Iler's household, I cannot say.

8 Q: Okay.

9 Do you have any objection to the Court here... with
10 both parties taking drug tests?

11 A: I do not, no.

12 Q: So let's go a little bit to school. How do
13 you feel Mackenzie is doing in school?

14 A: I just had a parent/teacher conference with
15 Mackenzie's teachers. And her English teacher and her
16 Math teacher-- her Language Arts teacher-- I'm sorry--
17 uh, they're very concerned about Mackenzie.

18 ATTY HAPNER: Object.

19 COURT: Overruled.

20 Uh, sir, I don't know if you were finished with
21 your answer or not, but you can continue with your
22 answer. Or Ms. Drinnon, you can ask another question.

23 Q: Okay.

1 What are her grades in those classes?

2 A: Right now she's failing.

3 Q: Okay.

4 And you- How do you know this?

5 A: Cause there's a uh, progress report on line
6 you can go to look at.

7 Q: Okay.

8 Do you go and check her progress reports?

9 A: Yes, I do.

10 Q: Okay.

11 And how often do you check those reports?

12 A: Once, twice a week. Sometimes three times a
13 week.

14 Q: Okay.

15 A: Just to see how she's doing.

16 Q: And is she missing uh, assignments?

17 A: Yes, she is.

18 ATTY HAPNER: I'm sorry. What was that last
19 question?

20 ATTY DRINNON: She's missing assignments.

21 DIRECT EXAMINATION OF MICHAEL TODD FARAHAY

22 CONTINUED:

23 Q: So you have access though to check her

1 progress reports, her school reports and stuff,
2 regularly, is that correct?

3 A: Yes.

4 Q: Okay.

5 How long have these problems been going on, to
6 your knowledge?

7 A: Years.

8 Q: Okay.

9 And you did speak with a teach- her teacher, you
10 said?

11 A: (inaudible)

12 Q: And when was the parent/teacher conference?

13 A: It was last Friday.

14 Q: Okay.

15 Have you at any time gotten tutoring for
16 Mackenzie?

17 A: Yes.

18 Q: Okay.

19 When did that start?

20 A: Uh, every since uh, she got held back in
21 second grade.

22 Q: Okay.

23 And who tutors her?

1 A: Uh, Laura Applegate.

2 Q: Okay.

3 And how often is she being tutored?

4 A: Every- every, you know, every weekend I get
5 her.

6 Q: Okay.

7 Is she being tutored, to your knowledge, when
8 she's not at your residence?

9 A: No, I do not know.

10 Q: Okay.

11 There's no set schedule- or, there's no schedule
12 worked out between you and Amanda then?.... as far as
13 tutoring for Mackenzie.

14 A: No.

15 Q: Okay.

16 Why not?

17 A: I talked to Ms. Iler about tutoring, and uh,
18 she basically told me I- if I want to tutor Mackenzie I
19 have to do it on my own time.

20 Q: Okay.

21 So have you continued the tutoring on your own
22 time?

23 A: Yes, I have.

1 Q: Okay.

2 And is there- Has there been any progress?

3 A: Sometimes it seems like there is, and then
4 sometimes it- it- it doesn't. It's- The- It's not
5 enough- To me it's not consistent enough.

6 Q: Okay.

7 Do you have time- When she's with you do you have
8 time to help her with projects?

9 A: Yes, I do.

10 Q: Okay.

11 Do you help her with projects?

12 A: Yes, I do.

13 Q: Okay.

14 What school does she attend?

15 A: North Adams.

16 Q: Has she always attended North Adams?

17 A: Yes.

18 Q: Okay.

19 Does she actually- Does she actually have Fs in
20 some of her classes?

21 A: Yes.

22 Q: Okay. All right.

23 Do you have insurance coverage on Mackenzie?

1 A: Yes, I do.

2 Q: Okay.

3 Do you know if there's any other policies that
4 cover Mackenzie?

5 A: Right now, no, but there was before.

6 Q: What policy was that?

7 A: Uh, Matt Iler had insurance on her.

8 Q: Okay.

9 Do you provide an insurance card to Ms. Iler for
10 Mackenzie?

11 A: Yes, I do.

12 Q: Okay.

13 Have you ever been told that you owe money on
14 medical bills?

15 A: Yes.

16 Q: Okay.

17 Have you ever been presented with a bill?

18 A: No.

19 Q: Okay.

20 And how are you told about the bills?

21 A: Uh-

22 Q: Do you receive it like a phone call and text?

23 How do you receive that message?

1 A: I've been told in person. I've been told over
2 text messages.

3 Q: But you've never actually had a bill submitted
4 to you?

5 A: I have never actually had the bill give to me
6 to- for me to keep.

7 Q: Okay.

8 When you have insurance on Mackenzie is it just
9 medical?

10 A: I have medical, vision and dental.

11 Q: Okay.

12 And you've maintained this policy, correct?

13 A: Yes, I have.

14 Q: Okay.

15 Are you contacted by the insurance company at any
16 time?

17 A: No.

18 Q: Okay.

19 So you're told an amount that you're- that you're
20 owe- uh, that you owe?

21 A: Yes.

22 Q: Okay.

23 Do you feel that Mackenzie would want to live with

1 you?

2 A: Do I feel that she would want to?

3 Q: Mm-hmm.

4 A: Right now I don't think Mackenzie wants to.

5 Q: Okay.

6 So tell the Court then, why are you here today
7 asking for custody?.... in your own words.

8 A: In my own words, Mackenzie is struggling in
9 school; she is not getting the help she needs with
10 school work, and I can see that bothering her really,
11 really, deeply. And also, Mackenzie has told me that
12 she is seeing her mom get beat up.

13 ATTY HAPNER: Object.

14 COURT: Okay, the Court'll sustain the objection.

15 ATTY HAPNER: It's a hearsay statement.

16 COURT: Court'll disregard it.

17 Ms. Drinnon, go ahead with your next question.

18 ATTY DRINNON: Thank you.

19 DIRECT EXAMINATION OF MICHAEL TODD FARAHAY

20 CONTINUED:

21 A: So I am concerned for her safety. And
22 Mackenzie right now is at a very, very impressionable
23 age, and-

1 Q: What is your wish today then?

2 A: That the Court grant me custody of Mackenzie.

3 Q: That Mackenzie can live with you?

4 A: Yes.

5 Q: Okay.

6 And uh, have you met with her Guard- Guardian Ad
7 Litem, Tyler Cantrell?

8 A: Yes, I have.

9 Q: Okay.

10 So you complied with that, correct?

11 A: Yes.

12 Q: Okay.

13 And you're seeing Mackenzie on weekends now, is
14 that correct?

15 A: Yes.

16 Q: Okay.

17 When was the last time you saw Mackenzie?

18 A: Last weekend.

19 Q: Okay.

20 And do you feel that a joint custody uh, schedule
21 would be appropriate in this case?

22 A: No. No, I do not.

23 Q: Okay.

1 Why not?

2 A: It's- It just wou- It would not work. Uh,
3 there would be too much conflict. There's uh- Me and
4 Mackenzie's mother, we- we don't see eye to eye on
5 things, and it would never work.

6 Q: Okay.

7 A: It's-

8 Q: So you'd be asking that she come live with
9 you?

10 A: Yes.

11 Q: With visitation with her mom?

12 A: Yes.

13 ATTY DRINNON: Nothing further at this time,
14 Your Honor.

15 THEREAFTER, direct examination of Michael Todd
16 Farahay by Attorney Tanya Drinnon was concluded.

17 COURT: Thank you.

18 Mr. Hapner, go right ahead.

19 WHEREUPON, cross examination of Michael Todd
20 Farahay was conducted by Attorney Jon Hapner.

21 Q: Mr. uh, Farahay, uh, where do you work?

22 A: Work at uh, General Electric.

23 Q: And how long have you worked there?

1 A: I got hired at General Electric in 2005.

2 Q: And uh, when was the child support order
3 issued in this uh, case?

4 A: I'm not for sure on that. Maybe 2004.

5 Q: Okay.

6 Has it been chan-

7 A: It might have been before that.

8 Q: Has it ever been changed since then?

9 A: You mean as in what?

10 Q: Increased.

11 A: Yes, it has.

12 Q: Okay.

13 Uh, you- you remember responding to some
14 interrogatories?

15 A: I don't know what you're talking about.

16 Q: Uh, written questions that was sent to your
17 attorney and you responded to'em.

18 A: Yeah. What questions?

19 Q: The question is- I'm going to hand you uh,
20 three copies of your W-10... uh, pardon me, W-2. Uh,
21 start with the year 2010. What was your earned income
22 that year?

23 A: Um, my federal income, uh-

1 Q: Where it says wages, tips and (unclear).

2 A: Fifty-Eight Thousand Dollars.

3 Q: Okay.

4 Fifty-Eight Thousand some odd Dollars?

5 A: Yes.

6 Q: Okay.

7 Now I'll hand what's uh, not marked for
8 identification, but a copy of W-2 from discovery uh,
9 for 2011. What does that show?

10 A: Sixty-Two Thousand Dollars.

11 Q: Okay.

12 Hand you one for 2012, which is the last year you
13 had one.

14 A: Seventy-One Thousand.

15 Q: Okay.

16 So you've- Your wages have increased at least uh,
17 Fifteen Thousand Dollars a year, is that correct?

18 A: Uh, no. My-

19 Q: Well, it went from Fifty-Eight to- to
20 Seventy- One. Maybe Thirteen Thousand.

21 A: Yes.

22 Q: Okay.

23 And uh, you've never asked for an increase in

1 support?

2 A: No.

3 Q: Okay.

4 Now you said also that you were uh, concerned
5 about uh, Mackenzie's welfare, is that correct?

6 A: That is correct.

7 Q: And did- Uh, among her welfare is her medical
8 care, is that correct?

9 A: What is that? I can't hear you. I'm sorry.

10 Q: Her- her medical care.

11 A: Her medical care?

12 Q: Mm-hmm.

13 A: Yes.

14 Q: And uh, have you met your responsibility on
15 her medical bills?

16 A: I have not received any m- Any medical bills
17 that I take Mackenzie to the doctor I pay.

18 Q: I'm sorry? Any medical bills you what?

19 A: When I take Mackenzie to the doctor I pay.

20 Q: Well, not only when you take her, but uh-
21 Amanda is the uh, residential mother, isn't she?

22 A: Yes, she is.

23 Q: Residential parent.

1 And she has to take 'em?

2 A: Um, uh, Ms. Iler has not provided me with any
3 bills.

4 Q: Didn't she give you a bill for a hospital stay
5 and you uh, uh, took it, and she never got it back?

6 A: No, there's never- No.

7 Q: You deny that?

8 A: Yes.

9 Q: Uh, did you pay Twenty-Five Dollars on one
10 bill, one hospital bill?

11 A: Uh, I paid Twenty- I gave Ms. Iler a check
12 for Twenty-Five Dollars to pay for the co-pay, yes.

13 Q: On Children's Hospital?

14 A: Yes.

15 Q: In 2012?

16 A: Yes.

17 Q: Handed you what's marked for identification,
18 Plaintiff's Exhibit "1". Now this is not a bill, it's
19 just a printout on expenses. Would you look at it
20 please?

21 There's several pages.

22 COURT: Mr. Hapner, what exhibit was that?

23 ATTY HAPNER: Sir?

1 COURT: What exhibit was that?

2 ATTY HAPNER: Plaintiff's "1", Your Honor.

3 COURT: Thank you.

4 A: Is this a bill?

5 Q: No, that's just a printout of expenses.

6 A: Okay.

7 Q: How much are the expenses?

8 A: I have no idea. There's- Numbers are all
9 over the place. I mean, you got Five Thousand here,
10 and then you got a negative Five Thousand here, then
11 you have-

12 Q: It's in excess of Five Thousand Dollars, isn't
13 it?

14 A: Well, according to this it's not. Right?
15 That says negative Five Thousand.

16 Q: It shows insurance payments of uh, uh, let's
17 say Four- Forty-Two Twenty, a parent payment of Fifty
18 Dollars. I believe that's when you paid the Twenty-
19 Five Dollars on it.

20 A: What are you looking at here?

21 Q: The first page (inaudible...)

22 A: Parent payment, negative Fifty Dollars, yeah.
23 There's a negative Fifty there.

1 Q: Now I'm handing you pa- a second page, the
2 posting dates of uh, February 2012. Uh, you'll notice
3 a uh, payment arrangement, parent balance. Mid-page.

4 A: Yes, I see it.

5 Q: Okay.

6 Did you make any of those parent arrangements?
7 Make- Pay any of 'em?

8 A: No, I did not.

9 Q: Now uh, Mackenzie need- needed glasses, didn't
10 she?

11 A: Yes, she did.

12 Q: Okay.

13 And uh, Doctor uh, Williams gave her- uh, made
14 glasses for her. Have you paid anything on that uh,
15 optical bill?

16 A: No, I have not.

17 Q: Okay.

18 Do you know how much is due on it?

19 A: Uh, do I know how much is due? Should be
20 around Two Hundred and Thirty Dollars.

21 Q: Your share.

22 A: My share? No.

23 Q: Okay.

1 Uh, look (inaudible) circle on that bill please.

2 I'm gonna have to mark it.

3 (inaudible...)

4 A: Strep throat.

5 Q: That's where she didn't show up because she
6 had the strep throat?

7 A: Will you do- You're just- Okay.

8 Q: Handing you what's marked for identification,
9 Plaintiff's Exhibit "2". That's from GE, isn't it?....
10 on her health insurance?

11 A: Yes. It's an out- out-of-network.

12 Q: Now that- that statement was sent directly to
13 you, wasn't it?

14 A: This statement? No, I never received this
15 statement.

16 Q: Who is it addressed to?

17 A: Michael T. Farahay.

18 Q: That's you, isn't it?

19 A: Yes.

20 Q: That's your address, isn't it?

21 A: Uh, yes it is. I have not received this yet.

22 Q: You're claiming you've not received it?

23 A: (inaudible)

1 Q: When is that bill dated?

2 A: 4-24.

3 Q: Okay.

4 That's last April?

5 A: Yes.

6 Q: And you're claiming as of November you haven't
7 received it?

8 A: I do not remember receiving this.

9 Q: You do not remember receiving it?

10 A: Yes.

11 Q: Okay.

12 But you may have?

13 A: I might have, yes. It's been over a year ago.

14 So...

15 Q: And you haven't paid anything on that?

16 A: No.

17 Q: Handing you what's been marked for
18 identification, Plaintiff's Exhibit "3". That's the
19 form you previously uh, looked at. Again, that's on
20 the optical, the glasses for the child. Isn't that
21 that?

22 A: No, this is for strep throat.

23 Q: (inaudible) The strep throat. Did you pay

1 any of that- any of the uh, uncovered portion of that
2 bill?

3 A: No, I did not.

4 Q: Handing you what's been marked for
5 identification, Plaintiff's Exhibit "4". Uh, not
6 really interested in totals. Those are office visits
7 for Mackenzie, are they not?

8 A: Uh, these two are.

9 Q: What do you- Just look at highlighted
10 portions, which is the co-pay, and tell me if you made
11 any of those payments.

12 A: I don't know if I paid this or not. I have
13 taken Mackenzie to Health Source of Ohio before.

14 Q: Will you look at those and tell us what, if
15 any of those, you paid co-pay? The insurance company,
16 I think, paid the rest of'em.

17 Can you tell me if you paid any of'em in Exhibit
18 "4"?

19 A: No, I cannot- I cannot tell you I paid any
20 of'em.

21 Q: Now, Mackenzie had a session at Children's
22 Hospital, did she not?

23 A: Yes, she did.

1 Q: And uh, for the uh, sake of (inaudible) I'm
2 gonna make these all Plaintiff's Exhibit "5".

3 Handing you what's been marked for identification,
4 Plaintiff's Exhibit "5", which series of bills from
5 Cincinnati Children's Hospital. Did you make any of
6 the co-pays on- on- on Exhibit "5"?

7 A: I have not paid any bills.

8 Q: Okay.

9 A: From Children's Hospital.

10 Q: And uh, Amanda has told you about those bills
11 before, isn't that correct?

12 A: Yes, she has mentioned them before.

13 Q: And uh, you made no effort to either
14 investigate it or to uh, pay them?

15 A: I have not paid any bill. Ms. Iler had not
16 give me any bill.

17 Q: Didn't she give you one bill, which you didn't
18 give back?

19 A: No.

20 Q: Now, uh, you own a uh, property on Vine
21 Street, do you not?

22 A: Yes, I do.

23 Q: Okay.

1 Is it occu- Or, you're living at Mineral Springs?

2 A: Correct.

3 Q: And are you renting the property on Vine
4 Street?

5 A: No, I'm not.

6 Q: It's empty?

7 A: No, it is not.

8 Q: Who's living there?

9 A: My parents.

10 Q: Okay.

11 You're not charging them rent?

12 A: No, I am not.

13 Q: Uh, now you haven't paid the optical bill, uh,
14 any part of the optical bill, for Mackenzie with Doctor
15 Williams'?

16 A: I have not received a bill from that yet
17 either.

18 Q: Uh, you say that uh, Laura Applegate is uh,
19 tutoring Mackenzie?

20 A: This is correct.

21 Q: Uh, who is Laura Applegate?

22 A: Lor- Laurel- Laura Applegate is Mackenzie's
23 aunt.

1 Q: Is what?

2 A: Mackenzie's aunt.

3 Q: Is she a teacher?

4 A: Yes, she is.

5 Q: Is she teaching at uh, North Adams?

6 A: No, she cheat- teaches at Peebles.

7 Q: Uh, is she enrolled in Peebles as a uh,
8 appropriate tutor?

9 A: I have no idea if she is or not.

10 Q: Did you ever ask anybody at North Adams who'd
11 be an appropriate tutor for a child who's having math
12 problems?

13 A: Uh, no, I have not.

14 Q: Uh, when did you talk to Mrs. Iler about uh,
15 tutoring Mackenzie in math?

16 A: I have talked to Ms. Iler back in 2008...
17 2007/2008.

18 Q: And Laura Applegate was tutoring her since
19 then?

20 A: Yes.

21 Q: And she is still having problems with math, is
22 she not?.... even with Laura Applegate tutoring her.

23 A: Mackenzie is still having problems, yes.

1 Q: Okay.

2 Now, you say uh, she hasn't been doing well in
3 school?

4 A: Correct.

5 Q: Uh, didn't- Do you know who uh, Monica
6 Crawford is?

7 A: She's uh, Mackenzie's teacher from last year.

8 Q: Okay.

9 Would you read that please?

10 COURT: Mr. Hapner, has that been marked?

11 ATTY HAPNER: No, Your Honor. It- it's a
12 statement from last year's teacher, and I know you're
13 gonna say it's hearsay. I just want him uh, to look at
14 it.

15 COURT: Okay.

16 ATTY HAPNER: Uh, because it is hearsay we will
17 not offer it.

18 COURT: Oh, okay.

19 CROSS EXAMINATION OF MICHAEL TODD FARAHAY

20 CONTINUED:

21 Q: After reading that letter, isn't it true that
22 Mrs. Crawford felt that uh, Mackenzie was advancing and
23 doing well in schoolwork, and that she's just gonna

1 have to work harder than most kids?

2 ATTY DRINNON: Your Honor, I'd have to object
3 to Mrs. Crawford. Is she testifying?

4 ATTY HAPNER: No, she won't testify.

5 ATTY DRINNON: I mean-

6 ATTY HAPNER: I'm not gonna bring the whole North
7 Adams School System down here.

8 ATTY DRINNON: Okay. I just- I don't see-
9 We don't have her here, it's just a letter. It's not
10 even uh- It's not an affidavit. It's not notarized or
11 anything, Your Honor. At this time we would ask that
12 it-

13 MS. ILER: It is notarized.

14 ATTY DRINNON: Well, we'd ask at this time
15 that it not be submitted, Your Honor.

16 COURT: Well, he hasn't offered it, so uh, sir,
17 you can just answer the question as best you can.

18 CROSS EXAMINATION OF MICHAEL TODD FARAHAY

19 CONTINUED:

20 Q: Isn't it true that Mrs. Crawford, her teacher,
21 felt that she was advancing, that she would just have
22 to work harder?

23 A: Yes, she felt that she was doing a little

1 better.

2 Q: Okay.

3 A: Cause Ms. Crawford-

4 Q: And this- Did you receive some books from
5 North Adams on math? (inaudible)-

6 A: Yes, I did.

7 Q: Did you work with uh, Mackenzie weekends you
8 had her?

9 A: Yes, we worked on them some.

10 Q: Uh, if Mackenzie would brag to you about
11 receiving a B on an assignment, uh, would you tell her
12 that it would be an A if her mother- her mother hadn't
13 interfered?

14 A: No, I would never say that.

15 Q: You deny that?

16 A: Yes.

17 ATTY HAPNER: Uh, no further questions, Your
18 Honor.

19 THEREAFTER, cross examination of Michael Todd
20 Farahay by Attorney Tanya Drinnon was concluded.

21 COURT: Thank you.

22 Redirect, Ms. uh, Drinnon?

23 ATTY DRINNON: Yes, Your Honor.

1 WHEREUPON, redirect examination of Michael Todd
2 Farahay was conducted by Attorney Tanya Drinnon.

3 Q: Uh, he asked you who (unclear...) medical
4 bills, Michael. Do you recall a conversation um, in
5 June of 2012, asking for the medical bills from Ms.
6 Iler?

7 A: Yes, I do.

8 Q: And did you get any copy of medical bills?

9 A: No, I did not.

10 Q: And do you recall a conversation in my office
11 where I asked you to obtain a medical- or, the eye
12 glass bill from Doctor Williams?

13 A: Yes, I do.

14 Q: And did you then proceed to get a hold of
15 Doctor Williams and ask for the bill?

16 A: Yes.

17 Q: Was- was this the bill that you got? And I'll
18 present it to Mr. Hapner here in just a second.

19 A: Yes, it was.

20 Q: Okay.

21 Now what was the amount that you've been told was
22 owed on the eye glass bill?

23 A: Four Hundred and One Dollar and some change.

1 Q: Okay.

2 Now, when you look at this bill, Four Hundred and
3 One Dollars, what does that include?

4 A: Uh, Ms. Iler's examination too.

5 Q: Okay.

6 So what- According to this, and according to
7 Doctor Williams' office, what were you told was
8 actually out-of-pocket expenses?

9 A: I was told I had to pay Two Hundred and some
10 dollars.

11 Q: By who?

12 A: Ms. Iler.

13 Q: No, what were you told by the doctor?

14 A: Oh, Ms- On Mackenzie's?

15 Q: Yes.

16 A: It was Three Hundred and Thirty- Thirty some
17 dollars. Three-

18 Q: That was out-of-pocket expenses?

19 A: Yes.

20 Q: Okay.

21 I think I have the amount over here.

22 And again, you received this after I told you to
23 get a-hold of Doctor Williams' office, is that correct?

1 A: Yes.

2 Q: Okay.

3 \$331.08?

4 A: Yes.

5 Q: Okay.

6 So half of \$331.08's not Two Hundred and some
7 dollars, correct?

8 A: Correct.

9 Q: Okay.

10 Did you inquire about a bill from Children's
11 Hospital?

12 ATTY HAPNER: I'm sorry, a bill from what?

13 ATTY DRINNON: Children's. Children's
14 Hospital.

15 A: Yes, I've asked for a copy of it.

16 Q: Okay.

17 What was done at Children's Hospital?

18 A: Mackenzie had her tonsils removed.

19 Q: Okay.

20 Have you ever received to this date a bill from...
21 what the bill was from Children's Hospital?

22 A: No.

23 Q: Okay.

1 And let's go back to this Exhibit "2". Want you
2 to take a closer look at that. Has that ever been
3 mailed to your home?

4 A: If it has I don't- I do not remember seeing
5 it.

6 Q: What's the date on there?

7 A: 4-24-12.

8 Q: So it's a year ago?

9 A: Yes.

10 Q: It's not a recent bill (inaudible)?

11 A: No, it is not.

12 Q: Okay.

13 And to this date you have not received a bill, is
14 this correct?.... about the Children's Hospital.

15 A: Correct.

16 Q: Only what Ms. Iler has said you owed?

17 A: Right.

18 Q: And she also told you, you owed Two Hundred
19 and some dollars on the eye glasses, correct?

20 A: Correct.

21 Q: And that's not correct, correct?

22 A: That is not correct.

23 Q: Okay.

1 Are you told when Mackenzie goes to the doctor?

2 A: No, not all the time.

3 Q: Okay.

4 And as far as co-pays, um, do you pay co-pays?

5 A: There- I- With my insurance I have now I
6 have no co-pay.

7 Q: Okay.

8 Have you taken Mackenzie to the doctor before?

9 A: Yes, I have.

10 Q: Did you pay the co-pay when you took her?

11 A: Yes, I did.

12 Q: Okay.

13 Did you submit a bill to Amanda for half of that
14 amount?

15 A: No, I did not.

16 Q: Okay, going back to your income, have- has
17 there ever been a modification of child support? Have
18 you ever gone back to the Child Support Age- Agency for
19 modification?

20 A: Yes.

21 Q: Okay.

22 When was that?

23 A: Uh, the last time... I'm thinking maybe three

1 or four years ago.

2 Q: Okay.

3 So it has been reviewed, is that correct?

4 A: Yes.

5 Q: By the Child Support Agency?

6 A: Yes.

7 ATTY DRINNON: Okay. Nothing further, Your
8 Honor.

9 THEREAFTER, redirect examination of Michael Todd
10 Farahay by Attorney Tanya Drinnon was concluded.

11 COURT: Thank you.

12 Mr. Hapner?

13 WHEREUPON, re-cross examination of Michael Todd
14 Farahay was conducted by Attorney Jon Hapner.

15 Q: Did you pay the Fifty Dollar credit to Doctor
16 Williams?

17 A: No, I did not.

18 Q: So uh, the- You didn't pay that, and you- you
19 would owe half of Three Thirty-One?

20 A: No, that is not correct.

21 Q: Well, uh, you said medical insurance.

22 Actually, Mr. uh, Farahay, you have a health savings
23 account?

1 A: Yes, I do.

2 Q: Okay.

3 And you're claiming that as health insurance?

4 A: No, that is not health insurance.

5 Q: Okay.

6 Then you- Uh, so you- Are you deducting- paying
7 anything out of your wages for health insurance?

8 A: Yes, I do.

9 Q: Do you have a check stub with you?

10 A: No, I do not.

11 Q: Okay.

12 Now, uh, you're claiming that uh, the chil- you
13 never got a bill from Children's Hospital?

14 A: No, I have not.

15 Q: Uh, you were served sometime in June uh, with
16 a motion from Amanda, is that correct?

17 A: For?

18 Q: Uh, sometime in June were you served with a
19 motion for contempt, one of which is that the tons- the
20 tonsillectomy and uh, Children's Hospital 2012?

21 A: I'm sorry? State the question again.

22 Q: Did you receive a motion uh, citing you for
23 contempt for not paying the Children's Hospital bill in

1 June of this year?

2 A: Yes.

3 Q: Okay.

4 And you made no inquiry thereafter?

5 A: No.

6 Q: And uh, you also received a motion uh, on the
7 matter of the optical bills uh, for Mackenzie?.... gla-
8 I'll say eye glasses for Mackenzie.

9 A: Yes.

10 Q: Okay.

11 And uh, again, you made no- You talked to Doctor
12 Williams' office and got a copy of the bill?

13 A: Correct.

14 Q: Did you pay it?

15 A: No, I did not.

16 ATTY HAPNER: Okay. No further questions.

17 THEREAFTER, re-cross examination of Michael Todd
18 Farahay by Attorney Jon Hapner was concluded.

19 ATTY DRINNON: Uh, just real briefly, Your
20 Honor.

21 COURT: Okay.

22 WHEREUPON, redirect examination of Michael Todd
23 Farahay was conducted by Attorney Tanya Drinnon.

1 Q: Mr. Farahay, did I advise you that we're in a
2 court proceeding, not to pay the bills?

3 A: Yes.

4 ATTY DRINNON: Thank you.

5 THEREAFTER, redirect examination of Michael Todd
6 Farahay by Attorney Tanya Drinnon was concluded.

7 COURT: So help me understand. What's the
8 dispute about him- him paying his half of the bill?

9 ATTY DRINNON: We- He's not gotten any bills.
10 Until I told him to contact Mr. Williams' office and
11 get a bill. Because we- he has just been told amounts,
12 but there's no proof.

13 COURT: Right. And then when he got that bill
14 from Doctor Williams' office-

15 ATTY DRINNON: Mm-hmm. Well we were coming to
16 court. We just got it the other day.

17 COURT: Well, I mean, is it like he's not... you-
18 you don't think he's gonna have to pay anything on it,
19 or-

20 ATTY DRINNON: No, we're waiting for it to go
21 through insurance.

22 COURT: Okay.

23 Uh-

1 ATTY DRINNON: According to the bill from
2 Doctor Will- Here's an exhibit. The insurance hasn't
3 picked up its part yet.

4 MS. ILER: They denied it.

5 COURT: Okay.

6 MS. ILER: What I was told.

7 COURT: Okay. That's fine. Whatever.

8 Okay, anything further with Mr. Farahay?

9 ATTY DRINNON: No.

10 COURT: Mr. Hapner, any further questions for Mr.
11 Farahay?

12 ATTY HAPNER: No. No.

13 COURT: Hokey dokey.

14 Next witness, Ms. Drinnon.

15 ATTY DRINNON: Um, I would call Lindsey
16 Farahay.

17 COURT: Lindsey Farahay?

18 ATTY DRINNON: Mm-hmm.

19 COURT: Thank you.

20 ATTY DRINNON: You want me to go get her?

21 COURT: Yes, please.

22 ATTY CANTRELL: They advised me she just went
23 to the rest- she just went to the restroom.

1 COURT: Oh.

2 ATTY CANTRELL: So, (inaudible...) tell her.

3 COURT: Well let's take a short break then uh,
4 for us as well.

5 So we'll reconvene in about ten minutes.

6 ATTY HAPNER: It's amazing how we can always pick
7 a witness at that time.

8 EVERYONE LAUGHS

9 COURT ADJOURNS FOR RECESS

10 COURT RECONVENES

11 COURT: Thank you. Just have a seat there.

12 Ma'am, we need you to speak really, really loud.

13 MS. FARAHAY: Okay.

14 COURT: Thank you.

15 Ms. Drinnon, go right ahead.

16 ATTY DRINNON: Thank you.

17 WHEREUPON, direct examination of Lindsey Farahay
18 was conducted by Attorney Tanya Drinnon. The said
19 Lindsey Farahay having been sworn prior to going back
20 on record.

21 Q: Would you please state your name and address?

22 A: Uh, Lindsey Farahay, 1200 Mineral Springs
23 Road, Peebles, Ohio 45660.

1 Q: And what's your relationship to Michael
2 Farahay?

3 A: He's my husband.

4 Q: Okay.

5 And uh, so then what's your relationship to
6 Mackenzie?

7 A: She's my stepdaughter.

8 Q: Okay.

9 Who resides at your home?

10 A: Uh, Michael, myself, and our son, Liam.

11 Q: How old is Liam?

12 A: He's three.

13 Q: Okay.

14 And then what's um- How often is Mackenzie there?

15 A: Um, she's there during the Rule 16-1 parenting
16 schedule. So just weekend visitations.

17 Q: Okay.

18 When Mackenzie is there on the weekends, do you
19 help her with homework?

20 A: Yes, I do, if she has homework to do with us.

21 Q: Does she bring homework very often?

22 A: She doesn't bring it very often, uh, but
23 lately it's been on-line stuff that she's been doing,

1 so I've been helping her with that.

2 Q: Okay.

3 And uh, are you uh, informed, and do you know what
4 kind of grades, or what kind of student Mackenzie is?

5 A: Um-

6 ATTY HAPNER: Object. That would be hearsay, and
7 it's not in the best evidence.

8 COURT: Overruled.

9 Ma'am, you can answer that question.

10 A: Um, just from the progress reports, and um,
11 things that, you know, when she takes the test on-line
12 they're automatically graded, so you can see by that
13 um, she doesn't do very well sometimes.

14 Q: Okay.

15 Do you go on and check her progress reports as
16 well, with Michael?

17 A: Yes, I do.

18 Q: Okay.

19 And do you print off her progress reports?

20 A: Yes, I do.

21 Q: Okay.

22 Is she failing?

23 ATTY HAPNER: Object.

1 COURT: Overruled.

2 Ma'am, you can answer the question if you know the
3 answer.

4 A: Um, she has Fs on papers and tests, and
5 quizzes at times.

6 Q: Okay.

7 I'm gonna present to you, it's a packet of
8 progress reports. Gonna mark this. And tell me if
9 these are the reports that you've printed off.

10 A: Okay.

11 Q: I'm gonna- I'll take'em when you're done...

12 A: Okay.

13 Q: ... and then I'll show Mr. Hapner.

14 Are those the progress reports that you've printed
15 off?

16 A: Yes.

17 Q: Okay.

18 And are they current?

19 A: Uh, yes.

20 Q: Okay.

21 And what are the grades like on there?

22 A: Uh, this one's for math and it's a 49.5, it's
23 an F. Uh, this looks like for Language Arts. It-

1 Well, what was that for? It's a 49. It's an F. Uh,
2 missing work. Uh, Language Arts, 61.61, it's a D.

3 Q: Okay.

4 Is that pretty accurate of what you've been
5 seeing?

6 A: Yes.

7 Q: Okay.

8 And Mackenzie doesn't bring homework very often?

9 A: Not often.

10 Q: Okay.

11 So from the progress reports, did you- um, do you
12 think she's failing?

13 A: I would say so.

14 Q: Okay.

15 Did you attend the parent/teacher conference with
16 Michael the other night?

17 A: No, I'm not allowed to.

18 Q: Okay.

19 So you don't have any knowledge as far as with her
20 teacher, is that correct?

21 A: Correct.

22 Q: Okay.

23 We're going to go now to some medical bills. And

1 the reason I'm asking you about the medical bills is
2 because you're kind of the paperwork keeper, I think,
3 of the family. Would that be an accurate statement?

4 A: Yeah.

5 Q: Okay.

6 Um, first I'm gonna show you what's been marked
7 Exhibit- I think it's Exhibit "2". Do you remember a
8 bill coming to your address?

9 A: No, I- I don't think I've ever seen this.

10 Q: Okay.

11 Do you know anything about any medical bills that
12 Michael and yourself-- cause you pay-- are responsible
13 for?

14 A: What do you- What do you mean, I guess?

15 Q: You have- Do you know anything about an eye
16 glass bill?

17 A: Uh, just through text messaging. That's all
18 we've heard about it.

19 Q: Okay.

20 A: We've never seen a bill for it. I mean-

21 Q: I'm gonna show you what's been marked
22 Defendant's Exhibit "A".

23 A: Mm-hmm.

1 Q: And that's from- Who does that say it's from?

2 A: Uh, that is from the Williams/McConnaughey
3 office.

4 Q: Okay.

5 Is that for eye glasses for Mackenzie?

6 A: Yes.

7 Q: Okay.

8 And were you presented that bill before um, I
9 requested you get a copy of that?

10 A: No. I think this is the one Todd called and
11 requested.

12 Q: Okay.

13 And did you guys just get that?

14 A: Um, I think we got it back in September.

15 Q: Okay.

16 So after court proceedings started?

17 A: Mm-hmm.

18 Q: Okay.

19 And were you ever presented, or do you know of a
20 bill from Children's Hospital in reference to a tonsil
21 surgery for Mackenzie?

22 A: Never seen a bill.

23 Q: Okay.

1 A: Hmm-mm.

2 Q: So you don't know if there's anything that you
3 and Michael would be responsible for?

4 A: Correct.

5 Q: Okay.

6 What's your relationship-- in your words-- like
7 with Mackenzie?

8 A: With Mackenzie? Uh, I think we have a good
9 relationship. She's a really good kid. And when she
10 comes over um, we like to have fun, you know. Uh, I
11 would say we have a good relationship.

12 Q: Okay.

13 And at this time, I- I mean, I know that you
14 understand we're here asking for custody....

15 A: Mm-hmm.

16 Q: ... of Mackenzie.

17 And is that something that you also desire?

18 A: Yes.

19 Q: Okay.

20 And she would be living in your household with
21 yourself, Michael, and your son?

22 A: Yes.

23 Q: Okay.

1 A: Mm-hmm.

2 ATTY DRINNON: Nothing further, Your Honor.

3 THEREAFTER, direct examination of Lindsey Farahay
4 by Attorney Tanya Drinnon was concluded.

5 COURT: Thank you.

6 Mr. Hapner.

7 WHEREUPON, cross examination of Lindsey Farahay
8 was conducted by Attorney Jon Hapner.

9 Q: Ma'am, uh, you say Defendant's Exhibit "B" is
10 a- the stuff you take off the internet on Mackenzie?

11 A: Correct.

12 Q: And uh, I'm looking Accelerated Math Weight 1,
13 right on top of first page. It says Accelerated Math
14 Test 1 of 2, 94%. That's not failing, is it?

15 A: That's just one test though.

16 Q: Okay.

17 And uh, uh, then she missed one on Au- missed
18 (unclear) on her test in October for absenteeism. Uh,
19 she had a reteach review worksheet, 65.38%, and I'm not
20 quite sure what vocabulary word wall quiz is in math.

21 MS. ILER: That's actually a different subject.
22 It's just not together.

23 ATTY HAPNER: Okay. Okay.

1 Q: Uh, she did not do well on that. Uh, but I go
2 through here... uh, spelling test, a 150%. I don't know
3 how you can do that, but uh, she's doing quite well on
4 that, is that correct?

5 A: For that test, yes.

6 Q: And uh, Nike- Dichotomous Key Identification,
7 100%. That- that's doing fairly well, isn't it?

8 A: (inaudible)

9 Q: August the 26th, A Variable Way to Practice,
10 83%. Measurement Lab Safety, 88%. Uh, all- Uh, she
11 has trouble with math. That's apparent to all of us.
12 Is that correct?

13 A: Correct.

14 Q: But otherwise she seems to do reasonably well,
15 isn't that correct?

16 A: Passing, yes.

17 Q: Did you have trouble with math when you were
18 in school?

19 A: Personally, no.

20 Q: Okay.

21 Uh, have you ever denied Mackenzie access to the
22 internet at your- uh, when she's at your place?

23 A: We've denied her access to Facebook.

1 Q: Okay.

2 A: Uh, we don't think that thirteen-year-old
3 children really need to be on Facebook. (inaudible)-

4 Q: If Mackenzie's asked, would she agree with
5 your statement that you assist her with your home- her
6 homework?

7 A: I would assume she would, since I do.

8 Q: Okay.

9 Now did you and Mr. Farahay have a verbal
10 argument, roughly the last weekend in October, that
11 turned physical, while Mackenzie was present?

12 A: No.

13 Q: You deny that?

14 A: I do deny that, yes.

15 ATTY HAPNER: Okay. Thank you. That's all.

16 THEREAFTER, cross examination of Lindsey Farahay
17 by Attorney Jon Hapner was concluded.

18 COURT: Redirect, Ms. Drinnon?

19 ATTY DRINNON: No, Your Honor.

20 COURT: Okay.

21 ATTY DRINNON: Thanks.

22 COURT: Ma'am, thank you very much. You're
23 excused.

1 ATTY DRINNON: Next I would call uh, Chase
2 Gleason.

3 COURT: Very well. Thank you. Uh, get that
4 witness.

5 MS. GLEASON ENTERS COURTROOM:

6 COURT: Ma'am, we need you to come up here around
7 the court reporter, up to the witness chair.

8 That's right around there, right around the
9 recorder.

10 And ma'am, before you sit down there, let me ask
11 you to raise your right hand and be sworn in.

12 Do you solemnly swear the testimony you're about
13 to give today to be the truth, the whole truth, and
14 nothing but the truth, so help you God?

15 MS. GLEASON: (inaudible)

16 COURT: Yes?

17 MS. GLEASON: (inaudible)

18 COURT: Thank you. Just have a seat there.

19 And we need you to speak really loud so we all can
20 hear you.

21 MS. GLEASON: Okay.

22 COURT: Thank you.

23 Ms. Drinnon, go right ahead.

1 WHEREUPON, direct examination of Chase Gleason was
2 conducted by Attorney Tanya Drinnon. The said Chase
3 Gleason having previously been sworn.

4 Q: Would you please state your name and address
5 for the record?

6 A: Chase Gleason, 380 Broadway Street, Seaman,
7 Ohio.

8 Q: And what is your relationship to Michael
9 Farahay?

10 A: Uh, well, I know him because I am dating Matt,
11 which is her ex-husband, and that's how we know each
12 other, through the kids.

13 Q: Okay.

14 So then you're with uh, Matt Iler?

15 A: Mm-hmm.

16 Q: Okay.

17 And have you and Amanda... do you talk?

18 A: Um, we did in the beginning when Matt and I
19 first got together. We no longer do.

20 Q: Okay.

21 And I'm gonna show you what I'm gonna mark here as
22 Exhibits. And one is text messages that was sent to
23 your phone. I want you to identify them for me. And

1 then the other one is an e-mail?

2 A: Um, yeah.

3 Q: Can you i- Take a minute to look at those.

4 A: Yep, those are all it.

5 Q: Okay.

6 And what are those?

7 A: Those are texts where she told me that um, her
8 boyfriend, Dave, had beat her in front of the kids.

9 ATTY HAPNER: Object. Uh, two reasons. One, it's
10 not authenticated. And two, it's hearsay.

11 ATTY DRINNON: It's a text message to her from
12 Amanda.

13 COURT: I'm sorry?

14 ATTY DRINNON: (inaudible) it's her phone,
15 text messages from Amanda.

16 COURT: Okay.

17 Any other argument about that then?

18 ATTY DRINNON: Yeah- Well, yeah.

19 DIRECT EXAMINATION OF CHASE GLEASON CONTINUED:

20 Q: This is your phone that you received text
21 messages from?

22 A: Yes.

23 Q: Okay.

1 And who is it from?

2 A: Amanda.

3 Q: Amanda-

4 A: Iler.

5 MS. ILER: Does it list the phone number?

6 A: (inaudible)

7 COURT: Okay.

8 Anything further on your objections Mr. -

9 ATTY HAPNER: Uh, Your Honor, first of all, uh,
10 she's not a party to it, uh, so therefore it's not an
11 admission against interest. Secondly, it's hearsay.
12 Thirdly, uh, the- uh, it's not authenticated. We don't
13 know where they came from. Anybody can say Amanda put
14 something on a telephone.

15 COURT: Okay.

16 Well, right now the Court'll overrule the
17 objection. The Court'll hear this evidence. Uh, and
18 to the extent that Ms. Iler testifies, uh, I'm sure
19 we'll hear her side of the story.

20 So, uh, Ms. uh, Drinnon, go ahead with your next
21 question.

22 ATTY DRINNON: Thank you.

23 DIRECT EXAMINATION OF CHASE GLEASON CONTINUED:

1 Q: And you said the- the messages contained that
2 there's abuse going on in the household, is that
3 correct?

4 A: (inaudible)

5 Q: Does it state anything about the children?

6 A: Uh, yes, she does say that uh-

7 ATTY HAPNER: Object. Uh, it's not the best
8 evidence.

9 COURT: Okay. Overruled.

10 Uh-

11 Q: What did the message state?

12 A: It said uh... unfortunately-

13 COURT: Ma'am, you can just read the message.

14 A: Just read it?

15 COURT: Yes, ma'am.

16 ATTY DRINNON: Thank you.

17 A: He was gritting his teeth and talking like the
18 da- like the devil.

19 ATTY HAPNER: Can she speak up, Your Honor?

20 A: He was gritting his teeth and talking like the
21 devil. The other day both kids unfortunately witnessed
22 him holding me down on the ground and literally ripping
23 my hair out of my scalp, because I disrespectfully

1 talked to him in an unacceptable manner. Goobie said...
2 uh, that's my mom and you're not supposed to be mean to
3 her.

4 Q: Go ahead.

5 A: I've never been so humiliated in my life to
6 know my kids who see me as strong and independent to be
7 weak and helpless.

8 You want me to read all of them?

9 Q: Go ahead to the next one.

10 A: Okay.

11 Roo came in the bedroom and whispered... I fucking
12 hate him.

13 I didn't even scold her for saying a bad word.
14 She never talks like that, and she needed to release
15 it.

16 Q: Okay. Thank you.

17 And have you seen evidence of abuse?

18 A: Yes, I have.

19 Q: And what have you seen?

20 A: Um, she had a bruise on her arm right here.

21 And she did say that um,-- I guess he used to be an old
22 cop and he's not anymore-- did take a picture of it.

23 So I don't know... She came into the house and she did

1 lift up her shirt, and both Matt and I saw the bruise
2 right here. And that's not the first time. She'd
3 shown me previous to the farm, because she brought me
4 um, job applications out there, before when her and I
5 did talk. And she did show me the bruise then too.

6 ATTY DRINNON: Okay. Thank you.

7 Nothing further.

8 THEREAFTER, direct examination of Chase Gleason by
9 Attorney Tanya Drinnon was concluded.

10 COURT: Could you give those to Mr. Hapner,
11 please?

12 ATTY DRINNON: Oh, hold on just a minute.
13 Cross examine.

14 MS. GLEASON: Okay.

15 WHEREUPON, cross examination of Chase Gleason was
16 conducted by Attorney Jon Hapner.

17 Q: Ma'am, are these- Defendant's Exhibit "C", is
18 the telephone number the source on any of'em?

19 A: Um, no, because I had her saved under my
20 contacts.

21 Q: Okay.

22 The answer's no?

23 A: Now I can get that-

1 Q: The answer's no?

2 A: Yes.

3 Q: Okay.

4 So you don't know really who sent that, do you?

5 A: Yes, I do.

6 Q: How do you know?

7 A: Um, because she's in my contacts. I saved
8 her.

9 Q: Okay.

10 But does it say- Does it- Is there a telephone
11 number saying that that is the person who sent it?

12 A: Um, no, but I can get that.

13 Q: Now, uh, do you know if- if Matthew sent those
14 uh- She was talking about Matthew, or she's talking
15 about uh, Dave, or who?

16 A: Dave.

17 Q: Okay.

18 Now what's your name again?

19 A: Chase.

20 Q: C-H-A-S-E?

21 A: Yes.

22 Q: And your last name?

23 A: Gleason. G-L-E-A-S-O-N.

1 Q: G-L-E-

2 A: A-S-O-N.

3 Q: Okay.

4 Now, uh, you claim you've seen bruises on Amanda?

5 A: (inaudible)

6 Q: But you haven't seen uh, when any injury was
7 inflicted on her? You weren't personally present?

8 A: No, I was not.

9 ATTY HAPNER: Okay. Thank you. That's all.

10 THEREAFTER, cross examination of Chase Gleason by
11 Attorney Jon Hapner was concluded.

12 ATTY DRINNON: Just briefly redirect, Your
13 Honor.

14 COURT: Uh, redirect?

15 ATTY DRINNON: Thank you.

16 WHEREUPON, redirect examination of Chase Gleason
17 was conducted by Attorney Tanya Drinnon.

18 Q: Um, the tex- Mr. Hapner brought up the fact
19 of whether it was Matt, or whether it was David.

20 A: Mm-hmm.

21 Q: And um, further in the messages, does it refer
22 to David?

23 A: I actually think it refers to at the

1 beginning. I know his name is in there, so yes.

2 ATTY DRINNON: Okay. Thank you. Nothing
3 further.

4 THEREAFTER, redirect examination of Chase Gleason
5 by Attorney Tanya Drinnon was concluded.

6 COURT: Okay.

7 Mr. Hapner, anything further?

8 ATTY HAPNER: No, Your Honor.

9 COURT: Okay.

10 Ma'am, you're excused. Thank you.

11 MS. GLEASON: Thank you.

12 ATTY DRINNON: Um, at this time, Your Honor,
13 we would call Matt Iler.

14 COURT: Okay.

15 MATT ILER ENTERS COURTROOM:

16 COURT: Sir, we need you to come around here to
17 the witness chair.

18 Need you to raise your right hand and be sworn in.

19 Do you solemnly swear the testimony you're about
20 to give today to be the truth, the whole truth, and
21 nothing but the truth, so help you God?

22 MR. ILER: Yes, I do.

23 COURT: Just have a seat there.

1 And like I say to everyone, we- you need to speak
2 really loud so we all can hear you.

3 MR. ILER: Okay.

4 COURT: Thank you.

5 Ms. Drinnon, go right ahead.

6 ATTY DRINNON: Thank you.

7 WHEREUPON, direct examination of Matthew Iler was
8 conducted by Attorney Tanya Drinnon. The said Matthew
9 Iler having previously been sworn.

10 Q: Would you please state your name and address?

11 A: My name's Matthew Iler, and I live at 380
12 Broadway Street, Seaman, Ohio.

13 Q: Okay.

14 And how do you know the parties? How do you know
15 Michael Farahay?

16 A: I've known her... childhood.

17 Q: Okay.

18 How do you know Amanda Iler?

19 A: I was- That's my ex-wife.

20 Q: Okay.

21 When did you guys separate or divorce?

22 A: Our divorce was final in January of 2013.

23 Q: Okay.

1 And uh-

2 COURT: I'm sorry? When?

3 A: January 2013.

4 COURT: Okay. Thank you.

5 Q: So do you know Mackenzie?

6 A: Yes.

7 Q: Okay.

8 And she was at one time your stepchild, correct?

9 A: Correct.

10 Q: Okay.

11 Um, do you know um, where Amanda has been residing
12 since she has- Did she leave your home?

13 A: Yes.

14 Q: Okay.

15 Do you know where she's been residing?

16 A: Yes.

17 Q: Okay.

18 Where's that?

19 A: Uh, she first moved to a trailer, at a trailer
20 park in Seaman. Then- then she moved in with David
21 Hughes.

22 Q: Is that in Seaman?

23 A: That's in Seaman.

1 Q: Okay.

2 Do you know where Mackenzie's residing then?

3 A: With her and David Hughes.

4 Q: Okay.

5 Has Amanda ever returned to your address after
6 she's left, since the divorce?

7 A: Twice.

8 Q: Okay.

9 Why?

10 A: Uh, domestic problems in the household.

11 Q: Okay.

12 And how do you- To your knowledge, how do you
13 know there's domestic problems?

14 A: I seen the bruises.

15 Q: Okay.

16 Where were the bruises located?

17 A: On her arms and uh, back.

18 Q: Have you seen Mackenzie since uh, you and
19 Amanda have divorced?

20 A: Yes.

21 Q: Okay.

22 When have you seen Mackenzie?

23 A: We had her all the way up to I got a

1 girlfriend and that kind of stopped.

2 Q: So you actually were-

3 ATTY HAPNER: I'm sorry, I didn't hear that
4 answer, Your Honor. He's not talking loud enough.

5 A: I had- I- I s-

6 COURT: Sir, you need to speak- speak louder.

7 A: I seen her a lot till I got a girlfriend, then
8 it all stopped after that.

9 Q: Okay.

10 So was Mackenzie at your residence even after the
11 divorce?

12 A: Yes.

13 Q: Okay.

14 Did you um- Would Michael drop Mackenzie off at
15 your house?

16 A: Not with me I don't think he did.

17 Q: Okay.

18 Did he pick her up there or anything?

19 A: I think when she- When- The couple times
20 that she moved out from David's.

21 Q: Okay.

22 A: He might have dropped her off there when she
23 was res- residing back from David's.

1 Q: When was the last time you spoke with Amanda?

2 A: I got a threat this morning if I showed up in
3 court. But I never spoke to her.

4 Q: Text message?

5 A: I- I- Yeah, text message.

6 AMANDA ILER: I can get it out.

7 ATTY DRINNON: Nothing further, Matt. Thank
8 you.

9 THEREAFTER, direct examination of Matthew Iler by
10 Attorney Tanya Drinnon was concluded.

11 WHEREUPON, cross examination of Matthew Iler was
12 conducted by Attorney Jon Hapner.

13 Q: Matthew, you current on your mortgage payments
14 at 380 Broadway?

15 A: Yes, I am.

16 Q: You paid'em all up?

17 A: I took-

18 ATTY DRINNON: Your Honor, I'd have to object
19 to the relevance.

20 A: Yeah.

21 ATTY HAPNER: He's under an order in Highland
22 County, Your Honor, for uh-

23 ATTY DRINNON: It's not Adams County Court.

1 COURT: So, overrule the objection.

2 Mr. uh, Hapner, maybe you can show us how this is
3 all relevant at some point.

4 CROSS EXAMINATION OF MATTHEW ILER CONTINUED:

5 Q: Well she had to move out of there because of
6 threatening foreclosure?

7 A: No.

8 Q: Okay.

9 And uh, - (inaudible...) - Uh, now Amanda did a
10 good job taking care of Mackenzie and uh, your child,
11 didn't she?

12 A: Uh, I had'em most the time.

13 Q: You had'em?

14 A: Aman- Yeah, I had- When I come home from
15 work I had'em most evenings, because of tanning bed
16 visits and malls.

17 Q: Isn't it true that uh, Amanda has custody of
18 your child?

19 A: Yes.

20 Q: And isn't it true you didn't uh, uh, try- you
21 dropped any effort to claim custody?

22 A: No.

23 Q: So you- you are admitting in fact that she is

1 a good mother?

2 A: No.

3 Q: You're denying that?

4 A: Yes.

5 Q: Okay.

6 And uh, you're- Uh, you were uh- When did you
7 start having an affair with Chase?

8 A: I never had an affair.

9 Q: The girl before that.

10 A: I never had an affair.

11 Q: What about Nancy Matthews?

12 A: I never had an affair the whole time we was
13 married. That wasn't me. That was her.

14 Q: Didn't Amanda come home one evening and find
15 you there with uh, Nancy?

16 A: No.

17 Q: You deny that?

18 A: Uh, she was moving in with David Hughes at
19 this time. That's where she was coming from.

20 Q: The uh- Have you had communication with uh,
21 Michael several times over the last uh, six or seven
22 months?

23 A: Uh, the past couple months.

1 Q: And you calling- calling on telephone a number
2 of times?

3 You can answer it.

4 A: I don't know what you're asking.

5 Q: Uh, were you talk- calling Mr. uh, Mr.
6 Farahay, or Mr. Farahay was calling you, several times
7 over the last summer?

8 A: Not during the summer. The last couple
9 months. I mean-

10 Q: And didn't you tell the Magistrate in Highland
11 County on August the 5th, when you were in there on
12 contempt, that you had never had any contact with Mr.
13 Farahay?

14 A: No, I don't recall anything... that question he
15 asked.

16 Q: That's your answer?

17 A: Yes.

18 Q: You're under oath now?

19 A: I don't recall that, sir. I don't- If I did,
20 I did. I did talk to him, but not a lot, through the
21 summer.

22 Q: Okay.

23 And what did you talk about?

1 A: Uh, issues going on in the household of uh,
2 her and David Hughes.

3 Q: Okay.

4 So you trying to get even with Amanda?

5 A: No, I'm not getting even. I'm trying- The
6 well being of the children.

7 ATTY HAPNER: Nothing further, Your Honor.

8 THEREAFTER, cross examination of Matthew Iler by
9 Attorney Jon Hapner was concluded.

10 COURT: Thank you.

11 Ms. Drinnon, redirect?

12 ATTY CANTRELL: Your Honor, briefly, uh, in the
13 best interest of the child, something came up uh, just
14 now that I think I need to inquire about briefly, if I
15 may.

16 COURT: Oh, very well.

17 WHEREUPON, cross examination of Matthew Iler was
18 conducted by Attorney Tyler Cantrell.

19 Q: Uh, Mr. Iler, you stated that you received a
20 threatening text message this morning.

21 A: Yes.

22 Q: Do you have that text message with you?

23 A: Yes.

1 Q: Is it on your phone?

2 A: Yes.

3 Q: Can you get it out and allow us to see it,
4 please?

5 A: Yes.

6 (unclear...) come back on.

7 Here it is.

8 ATTY CANTRELL: May I approach the witness,
9 Your Honor?

10 COURT: Yes, sir.

11 Q: Now, sir, that says it was from Amanda, uh,
12 and would you read that text message?

13 A: Let it be known if you appear in court today
14 and conflict- inflict harm on my child it will be
15 brought to Highland County that you will be committed
16 prejer (as spoken) and the opening lied to the enturn-
17 entire courtroom and you printed phone call records
18 proving. I love to see you sit in jail next Monday.

19 Q: Do you have anything in your phone that would
20 show that- that Amanda that that text message came
21 from, what number that came from?

22 A: Yeah, it's under contacts.

23 Right here.

1 Q: What is that number?

2 A: Uh, (937) 779-6637.

3 ATTY CANTRELL: Thank you.

4 I have nothing further, Your Honor.

5 THEREAFTER, cross examination of Matthew Iler by
6 Attorney Tyler Cantrell was concluded.

7 COURT: Okay.

8 So, sir, I'm not sure I understood what the
9 message said. Can you read the message again in the-
10 in its entirety?

11 MR. ILER: Let it be known if you appear in
12 court, inflict harm on my child, it will be brought to
13 Highland County that you committed perjury and openly
14 lied to the entire courtroom, and your printed phone
15 call records prove it. Love to see you sit in jail
16 next Monday.

17 COURT: Okay.

18 Mr. Hapner, do you want to look at the message?

19 ATTY HAPNER: Yeah, I want to look at it.

20 WHEREUPON, re-cross examination of Matthew Iler
21 was conducted by Attorney Jon Hapner.

22 Q: Where does it say anything about uh, the
23 telephone number that message was sent from?

1 A: Contact. Right there.

2 Actually, it's calling her now.

3 Q: Bring it up again.

4 A: Right there. It's a blue one.

5 Q: That's an information thing, that's not uh, on
6 the- That's the general information (inaudible)-

7 A: It's Veri- It's Verizon. It's- That's where
8 it came from.

9 Q: And the uh- It's telling you that if you
10 inflict harm- cause harm to be inflicted on Mackenzie
11 that you'll be cited for perjury in Highland County?

12 A: Yeah.

13 Q: Okay.

14 And you have committed perjury, haven't you?

15 A: No.

16 Q: You deny that?

17 A: I don't know what you're talking about.

18 Q: Uh, you lied directly under oath in Highland
19 County about your contact with Mr. Farahay, didn't you?

20 A: I don't remember when that was brought up in
21 Highland County.

22 ATTY HAPNER: That- That's all.

23 THEREAFTER, re-cross examination of Matthew Iler

1 by Attorney Jon Hapner was concluded.

2 COURT: Okay.

3 Ms. Drinnon, anything else?

4 WHEREUPON, redirect examination of Matthew Iler
5 was conducted by Attorney Tanya Drinnon.

6 Q: Just- What's your purpose for being here?

7 A: (unclear) -

8 ATTY HAPNER: I'm sorry, what's the purpose of
9 what?

10 ATTY DRINNON: For him being here.

11 ATTY HAPNER: Well you're the one that called him.

12 ATTY DRINNON: No. No.

13 MS. ILER: She's asking him.

14 ATTY DRINNON: No, I'm asking Matt what his
15 pur-

16 What's your purpose for being here, Matt?

17 A: The well-being of the children.

18 Q: Mackenzie in particular?

19 A: Mackenzie and- right now.

20 ATTY DRINNON: Okay. Thank you.

21 Nothing further.

22 THEREAFTER, redirect examination of Matthew Iler
23 by Attorney Tanya Drinnon was concluded.

1 COURT: Okay.

2 Well sir, that message on the phone there, that's
3 only- When you mentioned a threat earlier, that's the
4 only threat you're talking about?

5 MR. ILER: That was the first thing- Yeah.

6 COURT: Okay.

7 There aren't any other messages, are there?

8 MR. ILER: No.

9 COURT: Okay. Thank you.

10 Mr. Hapner, anything else?

11 ATTY HAPNER: No.

12 COURT: Uh, Mr. Cantrell, anything else?

13 ATTY CANTRELL: No, Your Honor.

14 COURT: Ms. Drinnon?

15 ATTY DRINNON: No, Your Honor.

16 COURT: Okay.

17 Thank you, sir.

18 MR. ILER: Thank you.

19 COURT: You're excused.

20 ATTY DRINNON: I'm gonna call um, Laura
21 Applegate.

22 Can you send Laura in, Matt?

23 MR. ILER: Yeah.

1 ATTY DRINNON: Thank you.

2 MS. APPELEGATE ENTERS COURTROOM:

3 COURT: Ma'am, I need you to come on up here
4 around the court reporter, up to the witness chair.

5 And then before you sit down I need you to raise
6 your right hand and be sworn in.

7 Do you solemnly swear the testimony you're about
8 to give today to be the truth, the whole truth, and
9 nothing but the truth, so help you God?

10 MS. APPELEGATE: I do.

11 COURT: Thank you.

12 Just have a seat right here.

13 And we need you to speak really loud so we all can
14 hear you.

15 MS. APPELEGATE: Okay.

16 COURT: Thank you.

17 Ms. Drinnon, go right ahead.

18 ATTY DRINNON: Thank you.

19 WHEREUPON, direct examination of Laura Applegate
20 was conducted by Attorney Tanya Drinnon. The said
21 Laura Applegate having previously been sworn.

22 Q: Would you please state your name and address?

23 A: Laura Applegate, 475 Mendenhall Road, Peebles,

1 Ohio.

2 Q: Okay.

3 On- What is your profession?

4 A: I am a third grade teacher for Adams County
5 Ohio Valley Schools.

6 Q: Okay.

7 And uh, how do you know Michael Farahay?

8 A: Michael Farahay is my neice's husband.

9 Q: Okay.

10 And do you know Mackenzie?

11 A: Yes, I do.

12 Q: Okay.

13 And have you been working with Mackenzie on her
14 studies?

15 A: Um, yes, I have. The- When um, Mackenzie is
16 with her father um, during- on the weekends and during
17 the summer we have visits where we work on var- just
18 various things.

19 Q: Okay.

20 A: A lot of OAA type things, and study skills,
21 and things that she's having trouble with.

22 Q: Okay.

23 So it's- Is it tutoring?

1 A: Yes.

2 Q: Okay.

3 And how off- How long have you been doing this?

4 A: Um, over five years.

5 Q: Okay.

6 And how often would that be that- in that five
7 years?

8 A: When- Typically, whenever he has her, every,
9 you know, on the weekends. Um, this past summer when
10 he had her for the weekly visits we tried to meet like
11 once or even sometimes twice a week.

12 Q: Okay.

13 And are you aware of her grades currently in
14 school?

15 A: Um, specific grades, no. Um, but uh, one of
16 her teachers has e-mailed me with issues that she felt
17 like were important for her to get some extra help
18 with, yes.

19 Q: Okay.

20 And do you have um, communication then with
21 teachers?.... her teachers?

22 A: Yes, direct e-mails.

23 Q: Okay.

1 And has there been, um, in your opinion, an
2 improvement in Mackenzie's studies?

3 A: In- Well, I would have to probably say that
4 there- there is progression, but not the type of
5 progression that she should probably have.

6 Q: And she's in seventh grade, is that correct?

7 A: Correct.

8 Q: Okay.

9 Is she at a seventh grade level?

10 A: No. Um, her teachers have even expressed
11 that. So...

12 Q: And um, are you willing-

13 A: In Language Arts and Math.

14 Q: Okay.

15 That's her two subjects?

16 A: Mm-hmm.

17 Q: Okay.

18 Um, are you willing to uh, tutor more?

19 A: Um, I have said in the past that I would even
20 be willing to do it weekly, uh, you know.

21 Q: Mm-hmm.

22 A: We've tried to set that up but it didn't work
23 out, because he doesn't have cus- you know, he doesn't

1 have her- access to her during the week like that.

2 ATTY DRINNON: Okay. Alright.

3 Nothing further, Your Honor.

4 THEREAFTER, direct examination of Laura Applegate
5 by Attorney Tanya Drinnon was concluded.

6 WHEREUPON, cross examination of Laura Applegate
7 was conducted by Attorney Jon Hapner.

8 Q: Uh, ma'am, you're a third grade teacher?

9 A: That is correct.

10 Q: When did you get your Bachelor's?

11 A: I received my Bachelor's Degree four years
12 ago, from the University of Cincinnati.

13 Q: Okay.

14 A: And I was never not on the Dean's List.

15 Q: Well, I'm not worried about being on the
16 Dean's List, ma'am. But, uh, you became a certified
17 teacher four years ago?

18 A: Three years ago.

19 Q: Three years ago.

20 A: Mm-hmm.

21 Q: Okay.

22 And uh, - But you claim you've been tutoring
23 Mackenzie for five?

1 A: Yes. I was an educational aide prior to going
2 back to college for four years to get my teaching
3 degree. I was an educational aide for six years.

4 Q: Okay.

5 So-

6 A: I've been professionally tutoring students for
7 even longer than the five years.

8 Q: Okay.

9 And is Mackenzie willing to work hard?

10 A: Um, Mackenzie works- does work hard when she
11 is with me, yes.

12 Q: Okay.

13 And uh, are you aware that her sixth grade teacher
14 felt that she was uh, doing well, that she simply has
15 to work harder than most students?

16 A: Um, her sixth grade teacher?

17 Q: Sixth grade teacher.

18 A: Okay. Well, she's in seventh grade now, and
19 the seventh grade teacher expressed that she's very
20 behind in Math and Language Arts. So, that's the-
21 that's the latest correspondence I've received from an
22 educator.

23 Q: Okay.

1 Then you- Uh, do you know Monica Crawford?

2 A: Yes, I do.

3 Q: And would you read this letter, please?

4 (inaudible...)

5 A: Okay, well, can you- Did Mackenzie's mother
6 write this summary, or did the teacher write it?

7 Q: Look at the signature on it.

8 A: Okay, but it says I asked Mackenzie's mother
9 to write a summary. So is this Mackenzie's mother's
10 summary?

11 Q: No, that's Mrs. Crawford. Now, read it
12 please.

13 COURT: First of all, ma'am, if you have any
14 reasonable question as to from whom that letter uh,
15 came from, you don't have to have- answer any questions
16 about it.

17 Mr. Hapner, is it disputed apparently, or is there
18 a problem with who the letter came from?

19 ATTY HAPNER: Pardon? Uh, she's questioning-

20 MS. APPLGATE: I just didn't understand the
21 wording.

22 ATTY HAPNER: She's questioning it, Your Honor.

23 COURT: Okay.

1 ATTY HAPNER: I didn't- I didn't-

2 MS. APPLGATE: I didn't understand the
3 wording.

4 COURT: Okay.

5 So ma'am, if you want to answer questions about
6 it, and you're secure that that letter comes from the
7 person that it purportedly comes from, then you can
8 answer these questions about it.

9 Mr. Hapner, go ahead.

10 All subject to any other objections.

11 CROSS EXAMINATION OF LAURA APPLGATE CONTINUED:

12 Q: Ma'am, would you agree that the sixth grade
13 teacher, Mrs. Crawford, uh, felt that Mackenzie's doing
14 reasonably well, but was really having problems with
15 math?

16 A: From that letter, yes. But from the e-mail
17 she sent me last year, prior to sending the books, no.

18 Q: You don't have those e-mails with you?

19 A: Do you have them? (speaking to Attorney
20 Drinnon)

21 ATTY DRINNON: No, (inaudible...)

22 A: You don't?

23 ATTY DRINNON: Yes.

1 A: Okay. Because she did send me- She was very,
2 very cooperative and sent me a whole set of books, half
3 of which we left at Mackenzie's father's house, and
4 half of which I kept, so that they would have something
5 to work on there.

6 Q: Okay.

7 And do you know, from your own knowledge, that
8 they worked on'em at his house?

9 A: I obviously am not at his house, so you'd have
10 to ask him that. I- I know that we worked on'em this
11 summer when she was with me.

12 Q: You worked on'em in the summer?

13 A: The books that Mrs. Crawford sent, yes.

14 Q: When's the last time you tutored Mackenzie?

15 A: Friday night.

16 Q: But before that?

17 A: Uh, would be two weeks prior. Or, two or-

18 Q: And before that?

19 A: Uh, uh, my daughter had a baby actually, so it
20 wouldn't have been that weekend. You-

21 Q: Well, that- that's pretty critical reason.

22 A: Yes, my daughter had a baby the wee- the last
23 weekend that she had it, so it would be prior to that

1 when they had'em.

2 Q: Are you saying that you uh-

3 A: Yeah, I don't have a calendar in front of me,

4 so-

5 Q: Okay.

6 But you're saying you do it every two weeks?

7 A: So I really don't want to answer that question
8 unless I have a calendar in front of me, because I want
9 to be honest.

10 Q: Uh, put it this way. You're saying every two
11 weeks you've recru- uh, with few exceptions, you
12 tutored her?

13 A: Um, well you have to also understand that this
14 is weekend tutoring.

15 Q: Mm-hmm.

16 A: And so there have been weekends that they have
17 had plans, you know. There may have been hit and miss
18 in that. If I had the opportunity to have a regular
19 schedule during the week, which is what I do with all
20 of my tutoring students... Mackenzie is the only student
21 that I tutor on the weekend.

22 Q: Isn't it true that she- even with your
23 tutoring she's still having problems with math?

1 A: Um, well, but I see progress. There's been-
2 I- I mean, I think- I think tutoring is essential to
3 any student who's having problems.

4 ATTY HAPNER: Thank you. That's all.

5 THEREAFTER, cross examination of Laura Applegate
6 by Attorney Jon Hapner was concluded.

7 COURT: Okay.

8 Ma'am- Ma'am, hold on.

9 MS. APPLGATE: Okay.

10 COURT: Redirect?

11 WHEREUPON, redirect examination of Laura Applegate
12 was conducted by Attorney Tanya Drinnon.

13 Q: Just uh, in your opinion, with working with
14 Mackenzie, do you think she needs to continue tutoring?

15 A: Oh, most definitely.

16 Q: Okay.

17 A: She- she needs a tutoring- Uh, I'd- I'd
18 actually- Probably one- even more so than what she's
19 getting right now. She needs something regular.

20 Q: Steady?

21 A: Steady. Yeah.

22 ATTY DRINNON: Thank you. Nothing further.

23 THEREAFTER, redirect examination of Laura

1 Applegate by Attorney Tanya Drinnon was concluded.

2 COURT: Uh, hold- hold on.

3 Mr. Cantrell, anything?

4 ATTY CANTRELL: No.

5 COURT: Okay.

6 Thank you very much.

7 MS. APPLGATE: Thank you.

8 COURT: Okay.

9 Ms. Drinnon, next witness.

10 ATTY DRINNON: Yes.

11 Can I have just one brief moment to talk with Mr.
12 Hapner and Mr. Can-

13 (speaking to Attorney Cantrell) It's (inaudible)
14 your guardian ad litem testimony. Do you want to go
15 now, or do you need to go- Is that-

16 ATTY CANTRELL: Before I go I'd like a restroom
17 break.

18 ATTY DRINNON: Okay.

19 COURT: Okay.

20 So, we'll take another break. I'll uh, take care
21 of my eleven o'clock as well. If uh, anybody shows up
22 on it.

23 ATTY HAPNER: Your Honor, I- I have some other

1 commitments this afternoon. Uh, this was scheduled for
2 two hours. I don't know how much longer-

3 COURT: Well, when is your other commitment, Mr.
4 uh-

5 ATTY HAPNER: I'm- I'm sorry?

6 COURT: When is your other commitment?

7 ATTY HAPENR: Uh, one o'clock.

8 COURT: And where is that?

9 ATTY HAPNER: In Hillsboro.

10 COURT: Oh, okay.

11 So, if we can we'd like to go on maybe till 11:30.
12 Would that be okay, at least?

13 ATTY HAPNER: Okay.

14 COURT: Okay, that's what we'll do.

15 ATTY HAPNER: I'll get a ticket.

16 MS. ILER: How long of-

17 COURT: Huh?

18 MS. ILER: How long of a recess?

19 COURT: Just a few minutes. Uh, maybe uh-

20 ATTY HAPNER: (speaking to Attorney Drinnon) You
21 want to talk to me?

22 COURT: Till eleven-

23 ATTY DRINNON: I just want to see-

1 COURT: Till eleven o'clock.

2 ATTY HAPNER: Okay.

3 ATTY DRINNON: Thank you, Your Honor.

4 COURT ADJOURNS FOR RECESS

5 COURT RECONVENES

6 COURT: Okay, go right ahead.

7 ATTY DRINNON: Um, Your Honor, at this time I
8 would call the Guardian Ad Litem, Tyler Cantrell.

9 COURT: Thank you.

10 Mr. Cantrell.

11 Do you solemnly swear the testimony you're about
12 to give today to be the truth, the whole truth, and
13 nothing but the truth, so help you God?

14 ATTY CANTRELL: I do, Your Honor.

15 COURT: Thank you very much.

16 Just have a seat.

17 Ms. Drinnon, go right ahead.

18 WHEREUPON, direct examination of Attorney Tyler
19 Cantrell was conducted by Attorney Tanya Drinnon. The
20 said Tyler Cantrell having previously been sworn.

21 Q: Would you state your name for the record?

22 A: Tyler Cantrell.

23 Q: And what's your profession?

1 A: I'm an attorney and also a guardian ad litem.

2 Q: Okay.

3 And what's your um, relationship to this case?

4 A: Uh, this case, I was recently appointed as
5 guardian ad litem, in the most recent filing for change
6 of custody. I was also involved as the guardian ad
7 litem on a previous filing for a change of custody,
8 approximately 2011.

9 Q: Okay.

10 And tell me- Uh, tell us, I guess, a little bit
11 about what you did in order to fulfill your duties.

12 A: Uh, part of my duties, as required by the
13 Superintendent's Rule, is I speak to the parties uh,
14 separately. I speak to the child alone. I see the
15 parties with the child. I also visit everyone's home.

16 Q: Okay.

17 A: As well as speak to teachers, and get reports
18 from the school, and anything else I feel necessary.

19 Q: And did you do that in this case?

20 A: Yes, I did.

21 Q: Okay.

22 So, I guess, tell me a little bit about- Who did
23 you speak with first?

1 A: I talked to Mr. Farahay first.

2 Q: Okay.

3 And when was that?

4 A: I can't tell you the exact date without my
5 notes in front of me.

6 Q: Okay.

7 A: Sometime in October, I believe it was.

8 Q: Okay.

9 Did you visit his home?

10 A: Yes, I did.

11 Q: Okay.

12 And did you meet with um, Amanda Iler?

13 A: Yes, I did.

14 Q: Okay.

15 Did you visit her home?

16 A: Yes, I did.

17 Q: Okay.

18 And then you said you spoke with Mackenzie too, is
19 that correct?

20 A: Yes, on...

21 Q: Okay.

22 A: ... couple different occasions.

23 Q: Alright.

1 Well tell me a little bit about- Uh, at this
2 point in time, I mean, I know you understand that my
3 client is wanting to have Mackenzie come live with him?

4 A: Yes.

5 Q: And what is your opinion on, uh, at this
6 point, where Mackenzie should be?

7 A: Well that's not a complicated question. Uh,
8 there's several issues in regards to that. Uh, first
9 of all, uh, when the parties uh, come and talked to me
10 there was a couple issues. Uh, one, her grades and her
11 schooling. Uh, two, alleged domestic violence, um,
12 and/or possible drug usage. And uh- And then three,
13 kind of just the overall status of the divorce and
14 everything that Ms. Iler had went through. Um, and so
15 that's what I tried to focus on and- and determine
16 those issues.

17 Uh, I think from the hearing today, and- and
18 everyone I think admits, that Mackenzie's grades could
19 be much better. Uh, her schooling, especially in math,
20 is- is very low. Um, and then Language Arts, she has
21 some issues. Um, Mackenzie's capable of doing well,
22 uh, but she's gonna need some extra help. And I think
23 even the letter that was passed around from the sixth

1 grade teacher shows that even the teacher said she has
2 to work harder than normal students. So she can't get
3 by by just, you know, kind of sitting around and not
4 doing anything. She has to work extra hard. Uh, her
5 grades, she needs help. Uh, I recommended in my report
6 that she have weekly tutoring. I think that's
7 necessary. Uh, from my discussions with Mackenzie, and
8 looking at what the teachers have sent me, and- and
9 those type of documents, uh, I feel that if Mackenzie
10 doesn't get help now that she's gonna struggle when it
11 comes to high school to passing those tests. I- I know
12 uh, Ms. Iler told me that they were uh, seeking a
13 counselor. She did meet with her on October the 28th, I
14 believe the date was. Um, I- When I talked to
15 Mackenzie about that, the initial one was just kind of
16 a base feeling, you know, what's going on. Um, I think
17 that's gonna help. Uh, Ms. Iler uh, also had indicated
18 that uh, they were trying to get an IEP for her. I
19 think that's needed. Uh-

20 ATTY DRINNON: (coughing) Sorry. I'm really
21 sorry.

22 ATTY CANTRELL: That's okay. You alright?

23 ATTY DRINNON: Yeah, I think so. I choked on

1 my mind. I'm sorry.

2 A: Uh, Ms. Iler indicated that they're trying to
3 get an IEP. I know she had had some issues with the
4 school uh, getting that. And uh, being involved with
5 several other kids and my own, I know sometimes getting
6 the school to understand an IEP is needed is- is
7 difficult. Um, and she probably does need one. Um,
8 she needs help on a lot of her school work.

9 Q: Can I briefly interrupt? When you say
10 counseling, what kind of counseling you talking about?

11 A: Uh, it's my understanding she was coming-
12 seeing a counselor to see if she had any behavioral or
13 educational issues. Um, and I don't know that- She's
14 not- obviously not diagnosed with anything at this poi-
15 at this point. But uh, I don't know if there's
16 anything there. I'm not uh, certified to make those
17 determinations.

18 Q: Do you know who the counselor was, or where it
19 was located?

20 A: They told me it was in Cincinnati, but I
21 cannot remember the name.

22 Q: Okay. Alright.

23 So- so she needs help with school?

1 A: Yes, that's for sure.

2 Q: Okay.

3 How do you think that should um, happen? What do
4 you think should happen?

5 A: Well I think she's gonna have to get tutoring.
6 Uh, and I think that uh, she's gonna probably need an
7 IEP at school. I can't- I'm not certified to make
8 that determination, but from everything I see she's
9 struggling in school and- and there's only one way to
10 help her, and that's get tutoring and also for the
11 school to give her some extra resources if they need
12 to.

13 Q: Okay.

14 Well what did you think of my client in
15 particular, Mr. Farahay's home, and- with your visit
16 with him?

17 A: Uh, in- in regards to your client, I think the
18 home was uh, the same as the last time. Uh, it was a
19 well maintained home. It's suitable for a child. Um,
20 her bedroom's decorated appropriately for her age
21 group. Uh, there was nothing that I seen of any safety
22 concerns or any... nothing of the home concerned me.

23 Q: Okay.

1 And um, what about Ms. Iler's home?

2 A: Same thing there. Uh, Mackenzie's room was
3 uh, uh, decorated. She's not living in the same home
4 as my previous experience with'em. Uh, she's now
5 living with Mr. Hughes. Uh, I think it's on Broadway
6 Street.

7 MS. ILER: (unclear)-

8 A: Sixth. Okay. Sixth Street. Uh, the old one
9 was on Broadway.

10 And uh, it's a well maintained home as well. Uh,
11 it was appropriately uh, decorated, and appropriate for
12 a child. I seen no safety concerns at the home.

13 Q: Okay.

14 And what did you think about um, Mackenzie and
15 Michael's relationship?

16 A: Better than what it was the last time I was
17 involved. Uh, last time I was involved there- it
18 seemed to be extremely strange, and espe- strained, and
19 especially in regards to Mackenzie's stepmother. It
20 was very hard feelings there. Still not saying they're
21 cuzy- co- cozy and coddely- cuddly, but uh, they- it is
22 much better now. Mackenzie did not have um, the
23 negative attitude that she once did. Um, she still has

1 some hard feelings, but it is a much improved
2 relationship.

3 Q: Okay.

4 And what about with Ms. Iler?

5 A: Uh, Ms. Iler and Mackenzie have a very strong
6 relationship. Uh, I mean, they are- They depend on
7 each other, I do believe. Uh, it does worry me at some
8 point, because I wonder... there is a fine line between
9 being a parent and having a good relationship with your
10 child, and being too friendly. Uh, there are some
11 concerns uh, about maybe sometimes that line gets a
12 little blurry. Uh, but they have a very strong
13 relationship. Mackenzie uh, thinks the world of her
14 mother.

15 Q: Okay.

16 So your report actually refers to... it said, it
17 appears that they are more friends than parent and
18 child, is that correct?

19 A: Yeah, that'd be correct.

20 Q: Okay.

21 Um, are there any adjustment issues for Mackenzie
22 at either home?

23 A: Uh, not really. I mean, it is a new home that

1 she's living in with her mom. Dad's house obviously is
2 the same. There's nothing really changed over there.
3 There is a uh- The child that's there, her little
4 brother, was born when I previously was involved, he's
5 now just older. Uh, really no changes there. In
6 regard- In regards to mom's home, it is a new home.
7 Uh, mom has since divorced uh, the previous husband,
8 Matt Iler. Um, so she's got a new home, a new place.
9 But Mackenzie seemed that that wasn't an issue. There
10 was no concerns with she wasn't getting along or
11 anything like that.

12 Q: But what's your opinion on joint custody with
13 the parties?

14 A: I don't think it's possible.

15 Q: Okay.

16 Why not?

17 A: Uh, I think ideally it would be very good for
18 Mackenzie, uh, but unfortunately at this point I don't
19 think the parties uh, are capable of really getting
20 along. Uh, there's very strong feelings, uh, both
21 ways, against each other, and I just don't think they
22 could get along uh, to do a joint custody, even though
23 that probably realistically is the best thing for

1 Mackenzie.

2 Q: Okay.

3 So what would be your recommendation?

4 A: My recommendation would be: a) that uh,
5 Mackenzie needs to have more time with her dad. Um,
6 that's very for sure. Um, I don't see any negatives
7 coming from that.

8 Uh, when I first looked at the case, and if you
9 look at it from just the outside looking in, um, her
10 grades are down, there's some issues going on there
11 that dad I think is probably a little better suited to
12 address those issues.

13 Uh, mom, for the most part, she's got a boyfriend,
14 but she's a single mom. She works in Highland County.
15 Uh, she drops her kids off in the morning and goes to
16 work, and she doesn't get home until about 5:30. Uh,
17 that's two hours Mackenzie's kind of there watching her
18 younger brother. There's nothing necessarily wrong
19 with that. Uh, Mackenzie is mature enough, in my
20 opinion, to take care of a child. But that is a big
21 burden on a child that is struggling with school. She
22 needs as much time, to make sure homework's done and
23 those things, as possible.

1 So from looking at the outside, the dad is
2 probably better suited to address the school issues
3 than mom would be. Uh, however, I think mom can make
4 some changes and get some tutoring, and those type of
5 programs, and resolve those issues, to kind of even
6 that out.

7 Uh, and then when you look at the rest of the
8 issues, uh, the home life, uh, dad, again, is a little
9 more stable at this point. Mom's had about two or
10 three different houses recently. She went through a
11 divorce. Not that any of that is necessarily anything
12 she did wrong. Um, she does love her child. Both
13 parents do, very much. Um, but overall, dad would be a
14 little more stable. However, there is the ultimate
15 issue that just because one place may be a little bit
16 better, what type of impact that would have on the
17 child. And I think at this point that if you placed
18 Mackenzie in that home, I think her mental and
19 emotional health would greatly be altered. Um, I know
20 every child would be resentful at first, but I think it
21 would go beyond that point, and I worry that if you
22 would place Mackenzie in dad's home that she would
23 likely uh, act out and probably would become a

1 delinquent child in regards to her attitude and
2 behavior, both at school and at home. Um, and that was
3 my initial recommendation. Uh, and that was under the
4 assumption that uh,... well not really an assumption but
5 everything that I had at that point.

6 The uh, alleged domestic violence that was
7 occurring at mom's house, um, I talked to Mackenzie
8 about that. Um, she's usually very open with me. Uh,
9 actually, I think more so than she is probably with her
10 dad and mom at some times. Um, and she always talks to
11 me and tells me anything she- anything I ask. Um, I
12 remember when I got to that point Mackenzie acted very
13 differently. Um, it was noticeably different than she
14 ever did before. So, when I did all my investigations
15 and everything, I came to the conclusion that I think
16 some arguments were going on at that point at mom's
17 house. I did not believe they were uh, physical in
18 nature. How- And it concerned me that arguments were
19 going on, but I didn't think they were physical.
20 However, after sitting here in court, um, seeing the
21 threatening text message that was sent,-- I know it's
22 not threatening in I'm gonna hurt you or anything like
23 that-- but I found that odd, uh, and then watching the

1 body language and the uh, overall reactions to some of
2 the testimony, I have to be- say now that I do believe
3 that there was likely more of a physical altercation,
4 or physical arguments, going on at mom's house than
5 what I believed prior to today. Uh, so with that in
6 mind, I would have to say at this point it- it probably
7 would be better that Mackenzie be placed with her
8 father.

9 ATTY DRINNON: Uh, thank you.

10 Nothing further at this time.

11 THEREAFTER, direct examination of Attorney Tyler
12 Cantrell by Attorney Tanya Drinnon was concluded.

13 ATTY HAPNER: Uh-

14 COURT: Mr. Hapner.

15 WHEREUPON, cross examination of Attorney Tyler
16 Cantrell was conducted by Attorney Jon Hapner.

17 Q: Mr. Cantrell, uh, do you have any teenage
18 children?

19 A: I have a seven year old.

20 Q: Okay.

21 A: And then I have two sisters that were four and
22 eight years younger than me, so I've dealt with
23 teenagers.

1 Q: Well, what I'm getting at is you've never had
2 a girl uh, eleven, twelve, thirteen years old?

3 A: I was twenty, living at my home, I had a
4 thirteen year old sister, so yes.

5 Q: Okay.

6 Uh, you ever notice her emotional behavior?

7 A: Yes.

8 Q: And it- it would vary wildly from day to day,
9 wouldn't it?

10 A: Yeah. Matter of fact, at one point in time
11 uh, she was con- talking about killing herself and I
12 intervened and protected my sister. So I know all
13 about those type attitudes.

14 Q: So uh, you- you're claiming that uh, uh,
15 Mackenzie's pre- present uh, circumstances are
16 dangerous to her?

17 A: I think so. Uh, it- If you take everything
18 in regards.

19 Q: In what respects? In what respect?

20 A: Well, a) the uh, arguments or violence that's
21 going on around her. Uh, I do believe there is some
22 there. I know she's never been abused, or never been
23 hit or anything else, but you know, when that's going

1 on around you it only takes one time uh, to her be
2 affected with that.

3 Two, uh, her grades. Um, now that's not
4 necessarily saying that that's mom's fault on the
5 grades, or dad's fault, either one. Uh, but at this
6 point not enough steps have been taken to increase
7 those grades. Um, I know she's had some tutoring here
8 and there, but those grades are not improving. Uh,
9 they're very similar to what they've been for years.
10 Um, and steps have to be taken, and have not been taken
11 to this point. Something has to change to make those
12 grades go up. More tutoring or something. Somebody's
13 got to make that step and get it done. At this point
14 mom's been the primary custodian and has her during the
15 week, and those steps aren't being done.

16 Q: And uh, mom is a single mother?

17 A: Yes, that's correct.

18 Q: And she has responsibility of the two
19 children?

20 A: Yes, that's also correct.

21 Q: And uh, she also uh, has- She's employed?
22 She's not a stay-at-home housewife?

23 A: No, she works a fulltime job uh, for Highland

1 County.

2 Q: Okay.

3 And on November the 4th, which I believe was
4 yesterday, you uh, faxed us your GAL report.

5 A: A supplemental one, yes.

6 Q: Yeah. In which you uh, feel that uh... you
7 recommended at that time that she stay--Mackenzie-- stay
8 with her mother.

9 A: So long as certain regards to her schooling
10 was met, yes.

11 Q: And uh, I noticed that Mrs. Drinnon didn't ask
12 you about whether uh, Mr. Farahay agreed with your
13 assessment as to visitation, so forth.

14 A: I would say he probably didn't agree with it.

15 Q: Okay.

16 And of course you know Mrs. uh, Iler isn't gonna
17 agree with your recommendation that you just made?

18 A: Right. And I don't make recommendations
19 because one side or the other agrees with it. I make
20 it because I think that's what's in the best interest
21 of the child.

22 Q: Okay.

23 Now sir, on the uh, GAL report you actually did

1 not find any uh, physical abuse of Amanda Iler, did
2 you?

3 A: That's right, I did not find any.

4 Q: Didn't find any physical abuse of uh,
5 Mackenzie?

6 A: That's correct.

7 Q: Uh, you didn't have- There weren't any
8 particular arguments uh, uh, or problems. In fact,
9 most of the tension here is between the parents, uh,
10 Amanda and- and uh, Matt... I don't want to say Matthew,
11 it's uh-

12 MS. ILER: Michael.

13 Q: Michael.

14 A: In regards to the tension between them in what
15 regards?

16 Q: Uh, they don't get along?

17 A: Well that's obvious, yes.

18 Q: Yeah. And uh, if they don't get along, why
19 would you take a child from one c- one circumstance,
20 place'em in another where that they- you know they
21 don't get along to start with?

22 A: Well that really has no implication on where
23 the child should be placed and what's best for them.

1 Uh, just because the parents don't get along doesn't
2 mean that the child should be placed in one home or the
3 other, in regards to the relationship with the parents.

4 Q: Well the child's been in one home all her
5 life, isn't that correct?

6 A: That's correct. And at this point her grades
7 are down and she's being subjected, in my opinion, to
8 uh, at least observing physical violence.

9 Q: Well, even observing physical violence doesn't
10 mean that- that there wouldn't be physical violence in
11 the other home?

12 A: Uh, I've not seen any evidence of that.

13 Q: Okay.

14 But uh- And in- in fact, Farahay's made a great
15 effort to impress you, isn't that correct?

16 A: Actually, no. They make very little effort.
17 Uh, when I'm- When I went to their house, they left
18 the room and I talked to Mackenzie for quite some time.

19 Q: Okay.

20 Now uh, you- you were the GAL before in the
21 previous one?

22 A: That's correct.

23 Q: And you felt that the mother should be the

1 one?

2 A: That's correct.

3 Q: And uh, now you're changing your mind?

4 A: That's correct.

5 Q: But you haven't seen anything to- Uh, there's
6 no drug problem?

7 A: Uh, there's alleged drug problem. I think the
8 Court should uh, drug test both parties, as well as
9 their significant others, to insure of that issue.

10 Q: Well, uh, there ha- She's never been
11 arrested, charged, or anything else, (unclear)-

12 A: No, I don't believe she'd be able to have her
13 job if there was an issue with being charged.

14 Q: Okay.

15 And uh, you understand that she holds a
16 responsible position?

17 A: Yes.

18 Q: And- and you uh, found no change of
19 circumstances in Mackenzie's location, is that correct?
20 That her home is basically the same, uh, living with
21 her mother but the uh- there's a different significant
22 other?

23 A: Well she's living in a different home. Uh,

1 she moved to a trailer at one point, and then to the
2 home she's in now.

3 Q: And that's-

4 A: She's still living with her mother, yes. But
5 everything else is different.

6 Q: Uh, but it isn't a change of circumstance?

7 A: I- I believe it's different than what it was
8 before, yes.

9 Q: Well, uh, in your- Uh, let me find this
10 thing.

11 A: You're likely referring to the home- the home
12 life section there.

13 Q: Mm-hmm.

14 A: In regards to where I uh, state that basically
15 the uh, mother's situation is not much different in
16 regards to she still cares for her daughter, she's
17 still got a job, the daughter still lives there with
18 her little brother. Um, but ultimately it's in a
19 different home. Uh, I'm not saying that it's a
20 dramatic difference, but it's not the same place as it
21 was before.

22 Q: Well it's not a material change of
23 circumstances.

1 A: I wouldn't say it's a super big change, no.

2 Q: And uh, you're not certain in your own mind
3 whether living with her father would be good for
4 Mackenzie?

5 A: I can't say without a doubt that if she lived
6 with her father everything would be fixed, no, I can't
7 say that. Uh, but I think from everything I've seen
8 that I think it's most likely that that would be the
9 best place for her to succeed.

10 Q: But you're basing it on school grades?

11 A: I'm basing it on school grades, attitudes,
12 discussions, uh, everything that I've observed.

13 Q: Um, but you have- Now if I understand this
14 correctly, you've never observed any physical abuse of
15 Mrs. Iler or Mackenzie?

16 A: That's correct.

17 Q: You haven't observed any drug use? She's
18 never been charged, from your uh, research, with any
19 kind of drug offense?

20 A: No, and I don't believe that she is using
21 drugs.

22 Q: Okay.

23 So drug- The drug thing is simply a smoke screen?

1 A: Yeah, I don't believe that there's any drugs
2 going on, no.

3 Q: Okay.

4 And uh, you- you're- you're concerned primarily
5 with the grades particularly in math?

6 A: Math and Language Arts. Math and Language
7 Arts. (spoken louder)

8 Q: Okay.

9 Uh, but the rest of her grades are re- are
10 reasonably decent?

11 A: They could improve.

12 Q: Yeah, but they're reasonably decent?

13 A: The- the grade card I got from the school,
14 there was uh, only one or two Bs and the rest were Cs
15 or Ds. So....

16 Q: Cs is still reasonable. You've heard of
17 gentleman C, haven't you?

18 A: Uh, I- I suppose if that's your
19 interpretation.

20 Q: Yeah.

21 Uh, well she's not a National Merit Scholar under
22 any circumstance?

23 A: No.

1 Q: And she's taking IE- IEP testing. Uh, that's
2 indication that she does have educational problems,
3 isn't that correct?

4 A: If she was given an IEP, yes.

5 Q: And her mother has uh, been attempting to uh,
6 address that, is that correct?

7 A: Most recently, yes. And she has in the past
8 too, but nev- one was never granted.

9 Q: I'm sorry, what?

10 A: She has also- She's done it most recently in
11 the last month or so. And then in the past uh, she has
12 tried too, but uh, the school at that point said it was
13 not needed.

14 Q: Okay.

15 So it's the school rather than the mother?

16 A: In that regards, on IEP, yes.

17 ATTY HAPNER: Okay. I have no further questions.

18 THEREAFTER, cross examination of Attorney Tyler
19 Cantrell by Attorney Jon Hapner was concluded.

20 COURT: Thank you.

21 Redirect, Ms. Drinnon?

22 ATTY DRINNON: No, Your Honor.

23 COURT: Okay.

1 Thank you very much.

2 So, I guess we'll have to recess and reconvene at
3 a new hearing date.

4 ATTY DRINNON: I have no further witnesses, so
5 we would rest.

6 COURT: Okay.

7 So, that's what we'll do, we'll get a new hearing
8 date and uh, we'll try to make it as soon as possible.

9 ATTY HAPNER: Okay. Thank you, Your Honor.

10 COURT: Mr. Hapner, how long do you think your
11 case will take?

12 ATTY HAPNER: Every bit as long as the pla- uh,
13 the defendant's.

14 COURT: So at least a half day.

15 ATTY HAPNER: Pardon?

16 COURT: At least a half day.

17 ATTY HAPNER: Uh, not more than that, Your Honor.

18 COURT: Okay. Thank you very much.

19 ATTY DRINNON: Thank you, Your Honor.

20 ATTY CANTRELL: Your Honor, in regards to when
21 the Court makes that hearing date.

22 COURT: Uh-huh.

23 ATTY CANTRELL: Uh, I know that they have

1 requested that the- Miss Mackenzie be uh, interviewed
2 by the Court. If possible, could the Court do that at
3 3:00 or 3:30 so that she doesn't have to miss any more
4 school?

5 COURT: That's what-

6 MS. ILER: Would now-

7 ATTY CANTRELL: (inaudible...)

8 MS. ILER: She's here.

9 ATTY CANTRELL: Okay. Just I don't think she
10 needs to miss any more school.

11 MS. ILER: Right.

12 COURT: Yeah, that's what I will do.

13 MS. ILER: She's-

14 ATTY DRINNON: And Your Honor, did you want to
15 address the issue of having drug tests for all the
16 parties?

17 COURT: Oh, yeah. Uh, any objection to a drug
18 screening test today, Mr. Hapner?

19 ATTY HAPNER: No.

20 COURT: Okay.

21 ATTY DRINNON: But I would suggest it for the
22 parties and the significant... whoever's in the
23 household... the other adults.

1 COURT: Well, uh, it would be best if they would
2 participate, but the Court doesn't feel the Court has
3 the authority to order it. If they could do that uh,
4 the Court would appreciate it.

5 ATTY HAPNER: What is- It's Five Dollars a
6 (unclear)?

7 COURT: Uh, I think in this case it would be
8 taxed as costs.

9 ATTY HAPNER: Okay. In Highland County they have
10 to pay-

11 COURT: Or- or paid for. I'm not sure what the
12 rules of the probation department are.

13 ATTY CANTRELL: I don't believe they charge it
14 to them, Your Honor. I think they just put it to the
15 costs of the case.

16 COURT: Okay. That would be fine.

17 MS. ILER: Mackenzie's here now, sir. She's
18 missed school. So is it- We gonna do the in-camera
19 now, or-

20 COURT: Ma'am, I really don't want to do that
21 until later, so...

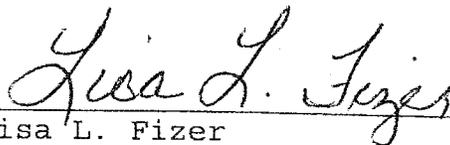
22 But she won't need to miss any more school. She
23 can come after school the next time.

1 MS. ILER: Okay.

2 ATTY HAPNER: Okay. Then we'll be doing it in the
3 afternoon, I take it.

STATE OF OHIO, COUNTY OF ADAMS SS:

I, Lisa L. Fizer, certify that I am the Deputy Court Reporter/Notary Public for the Court of Common Pleas of Adams County, Ohio, and that the transcript of the within is a complete and accurate transcript of the subject matter to the best of my ability and knowledge. Any omissions and errors are not intentional and would be the result of the audio recording system.



Lisa L. Fizer
Deputy Court Reporter/
Notary Public
State of Ohio
My Commission Expires:
March 3, 2018

NOTE: PURSUANT TO COURT ORDER ADAMS COUNTY COURT OF COMMON PLEAS CASE NO. 2002MISC15, THIS TRANSCRIPT IS NOT TO BE COPIED EXCEPT BY PERMISSION AND CONSENT OF THE COURT REPORTER WHO TRANSCRIBED IT.