

Thirteenth Court of Appeals
Corpus Christi and Edinburg

In re: Jennifer Flores-Lamb, Relator

No. 13-11-018-CV

October 11, 2010 Hearing Transcript (Afternoon)

Jennifer Flores-Lamb respectfully files this Emergency Petition for Mandamus.

Parties and Counsel

- 1) Jennifer Flores-Lamb (Relator) represented by

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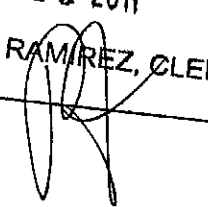
- 3) Judge Dick Alcala (Respondent)

%Aransas County District Clerk
301 N. Live Oak
Rockport, Texas 78382
Phone: 361-790-0128

[Judge William Adams initially made the Order at issue complained about here, but he recused himself days after the hearing at issue. Judge William Adams signed the Order at issue just a few hours before he recused himself knowing he would be recusing himself. The Order was signed ex parte with no involvement by counsel of Jennifer Flores-Lamb – this Order and another similar one]

Oral Argument Requested

DELIVERED
JAN 18 2011
13th COURT OF APPEALS

FILED
IN THE 13TH COURT OF APPEALS
CORPUS CHRISTI
JAN 18 2011
DORIAN E. RAMIREZ, CLERK
BY 

CAUSE NO. A-10-7127-FL

IN THE INTEREST) IN THE COUNTY COURT
OF) AT LAW
TITUS MATA) ARANSAS COUNTY, TEXAS

THE HONORABLE WILLIAM ADAMS
PARTIAL TRANSCRIPT FROM HEARING
AFTERNOON SESSION
OCTOBER 11, 2010

BE IT REMEMBERED that on the 11th day of October, 2010,
the above-entitled and numbered cause came on for trial
before the said Honorable Court, HONORABLE WILLIAM
ADAMS, Judge Presiding, in Aransas County, Texas.
Proceedings were had by stenograph machine.

APPEARANCES

REPRESENTING ANDREW MATA:

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REPRESENTING JENNIFER FLORES-LAMB:

Mr. David A. Sibley
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 ORIGINAL

1 THE COURT: Okay. I apologize for my red
2 face and my lateness. I ran at lunch and it's still too
3 hot to do that at lunch. I tried to stop sweating
4 before I came in, but I couldn't quite do it.

5 I'm going to call back to order
6 A-10-7127-Fl, In the Interest of Titus Mata. Mr. David
7 Sibley is present. Ms. Lanette Joubert is also present.
8 We heard some premotion motions before the lunch break.
9 I think we're ready to get to the three motions to
10 modify.

11 MS. JOUBERT: Yes, Your Honor.

12 THE COURT: Who filed the first motion?
13 Mr. Sibley did.

14 MR. SIBLEY: Well, actually, I think they
15 filed the first one. But, first, Your Honor, some
16 information has come our attention that we think could
17 be literally life threatening to more than one person.
18 We'd like to address this with the Court.

19 THE COURT: In private?

20 MR. SIBLEY: In private.

21 Well, with the court reporter. But we
22 think the courtroom should be cleared.

23 THE COURT: So that she can hear you, you
24 want her to take this down?

25 MR. SIBLEY: I would really rather that

1 certain people not be present.

2 (Discussion off the record.)

3 THE COURT: Okay. Back on the record.

4 And both lawyers are present. I had an AG
5 attorney, as well.

6 MR. GONZALES: May I approach, Judge?

7 THE COURT: Sure.

8 MR. GONZALES: Judge, I was here on that
9 motion to quash the request for records that Mr. Sibley
10 had filed. We spoke about it and we agreed to get him
11 the records as soon as possible. And he also agreed to
12 release the witness that he called, Sylvia Trevino. I
13 just want to make sure that was okay before we leave,
14 Judge.

15 THE COURT: Yeah. As far as I understood,
16 we took care of this a long time ago.

17 MR. GONZALES: Well, he had also
18 subpoenaed her as a witness.

19 THE COURT: Yeah. You didn't need a
20 ruling on your motion.

21 MR. GONZALES: No, I don't, Judge. We can
22 get a Rule 11 filed. And I'll get the records as soon
23 as we get them redacted.

24 MR. SIBLEY: The only thing I would add --

25 THE COURT: I thought I was done with it

1 once you told me you didn't need a ruling.

2 MR. SIBLEY: I'm sorry. What's your name
3 again?

4 MR. GONZALES: Roman.

5 MR. SIBLEY: Mr. Roman indicated he didn't
6 mind me saying he's heard of the book and he thinks it's
7 common knowledge.

8 MR. GONZALES: I think so, Judge. I've
9 heard about it. It's been on the CALLER TIMES on blogs.

10 THE COURT: What are you talking about?

11 MR. GONZALES: The book they were talking
12 about earlier.

13 THE COURT: Oh, a book.

14 MR. GONZALES: Yes, Your Honor.

15 THE COURT: Well, you don't need me to
16 make a ruling on your motion. As far as I'm concerned,
17 you're done. You're welcome to stay.

18 MR. GONZALES: No, Judge. I've got to get
19 back to Alice. But I'll get the records to him.

20 THE COURT: All right. Thank you,

21 MS. JOUBERT: And you'll get me a copy?

22 MR. GONZALES: You're requesting a copy?
23 I know it's his subpoena.

24 MS. JOUBERT: I'm requesting a copy.

25 MR. SIBLEY: Could I ask that we bring out

1 of order the MHMR witnesses so they can be excused?

2 THE COURT: All right. Hold on. Any
3 opening statements on this motion?

4 MS. JOUBERT: Your Honor, I have a brief
5 opening statement. And that is that my client had
6 previously before all this emergency stuff came up but
7 before we found out that Ms. Flores-Lamb was
8 interrogating the child and then acting on the
9 imagination of the child, my client had already
10 requested that the Court change the conservatorship of
11 this child based on the fact he is in real harm at this
12 point with a very, very unstable mother. She has no
13 job. She is indigent. She is living, basically, on my
14 client's child support, which he pays like clockwork.

15 And we believe that she is on a huge
16 campaign to alienate this child from his father. And if
17 this continues, it's going to severely damage this
18 child. The whole thing is like we all fell down a
19 rabbit hole. It is really, really bizarre that they
20 would bring this motion based on the imagination of the
21 child. And if she's going to go this far, God only
22 knows what this child endures on a daily basis.

23 So we are asking that you modify the
24 orders with regard to custodianship right now and allow
25 my client to have this child as the primary conservator

1 during the pendency of this case.

2 We are not requesting that she pay child
3 support.

4 MR. SIBLEY: Thank you, Your Honor. The
5 undisputed evidence will be that the lady who's going to
6 take care of the child, if they get what they want, is
7 suicidal the vast majority of the time, severely
8 bipolar. She's psychotic, homicidal, suffers severe
9 depression, as well as bipolar. She was sexually abused
10 as a child. At times, she talked incoherently, what
11 they call word salad. She takes Prozac at times and
12 takes severe sedative anti-anxiety medicines.

13 THE COURT: This is what you expect the
14 evidence to show. Right? You're going to have
15 something to back all these claims up?

16 MR. SIBLEY: Oh, absolutely. Absolutely.

17 THE COURT: This is the care-giver that
18 the father leaves the child with?

19 MR. SIBLEY: Absolutely. And this is why
20 discovery is important. Sometimes that's how you get to
21 the truth.

22 THE COURT: Do you have an objection?

23 MS. JOUBERT: The objection, Your Honor,
24 is going to be any kind of medical records of Ms.
25 Alvarez since those have been excluded at this time.

1 MR. SIBLEY: Obviously, if the care-giver
2 is psychotic, that's relevant to the best interest of
3 the child.

4 THE COURT: She's talking about medical
5 records. Maybe we have some testimony for first-hand
6 knowledge from somebody. We'll see.

7 Go ahead.

8 MR. SIBLEY: Thank you.

9 The mother was placed in a situation she's
10 in by these lawyers -- I get to make my opening
11 statement.

12 MS. JOUBERT: Your Honor, I'm going to ask
13 the Court --

14 MR. SIBLEY: There was no discovery, no
15 argument, no nothing.

16 THE COURT: Mr. Sibley, let's get some
17 ground rules here. I'm going to run this very strictly.
18 If somebody has an objection, stand up, object. When
19 that happens, the other side needs to stop talking.
20 Make your objection. I'll make a ruling on it and then
21 we can continue on. But I don't want to hear any
22 unnecessarily loud voices or personal attacks, talking
23 to each other. Communicate to me and I'll talk to the
24 lawyers so we can try to cut down on all this
25 animosity and fussing and fighting and so I can hear

1 the testimony, look at the documents or whatever
2 evidence the lawyers have to make my decision based on
3 what I think are the facts with the weight that I
4 consider necessary to give those facts. Not on emotions
5 or animosity or vendettas. I'm not going to do that.

6 So stand up if you've got an objection.

7 MS. JOUBERT: The objection, Your Honor,
8 is anything that occurred prior to October 29th, 2009,
9 which is the time that the decree was entered --
10 actually, you could go back to August of 2009, which is
11 when the mediated settlement agreement was --

12 THE COURT: I understand. We're going to
13 stick with the substantial and material change and best
14 interest of the child. So we can't go in and relitigate
15 things before the prior order. You understand that.

16 MR. SIBLEY: And some of this is after
17 that order.

18 THE COURT: Afterwards is fine. But you
19 understand this is a modification so we're not going to
20 go back before the prior order. And you understand
21 that. Right?

22 MR. SIBLEY: No. And let me explain why.

23 THE COURT: Okay.

24 MR. SIBLEY: At the prior order, Aunt
25 Eva was never an issue. This was not something that was

1 litigated earlier.

2 THE COURT: It doesn't matter. There's
3 still an order. It could have been or should have been,
4 whatever. We still have an order. And I can't go back
5 to hearing stuff from a prior order. A substantial and
6 material change from the prior order.

7 MR. SIBLEY: Well, plenty of this is
8 after.

9 THE COURT: Okay. Well, that will be
10 fine, as long as it's relevant.

11 Go ahead, Mr. Sibley.

12 MR. SIBLEY: All right. Their plan, which
13 was obviously developed after an insufficient
14 investigation, is to put the child in the care of a
15 woman, who is very, very sick.

16 And with respect to why she has economic
17 problems, the evidence will show that she was misled at
18 the mediation. She was misled by an individual, who we
19 assert says he can't even be required to produce the
20 book.

21 In any event, she was told that she had
22 two choices. Either to leave without the child --

23 MS. JOUBERT: Your Honor --

24 THE COURT: Let's stick to what's
25 happened --

1 MR. SIBLEY: I'm trying to.

2 THE COURT: -- subsequent to the last
3 order. If she didn't like what happened on the last
4 order, you could have appealed it or asked for a new
5 trial or whatever. This is a modification based on
6 subsequent happenings or alleged happenings from the
7 last order. And you know I'm not just making this up.
8 This is what the law says. You know that.

9 MR. SIBLEY: The -- well, I'll skip that
10 for now.

11 The mother is in a situation where her
12 family is in Austin. She has no family here.

13 MS. JOUBERT: Your Honor --

14 MR. SIBLEY: That is the present.

15 MS. JOUBERT: None of that has changed,
16 Your Honor.

17 THE COURT: Try to let him finish. You
18 can put on testimony --

19 MR. SIBLEY: She's put in this position.
20 And she's done very well in that position. The
21 undisputed evidence is going show to the child is doing
22 very, very well while he's in her care and that there's
23 nothing wrong with this child at all, other than the
24 child is being treated aggressively by the father at
25 certain

1 times culminating in -- the evidence will show -- a
2 meeting at the restaurant. And the evidence -- it's not
3 an imaginary meeting. We have the ticket from the
4 restaurant. We have a great deal of evidence of what
5 happened at the restaurant. And it's consistent with
6 the tactics used by -- and this is not relitigating
7 something in the past. It's a pattern that shows what
8 happened afterwards to make false accusations, which is
9 where Mr. Rains come in. We have ten years of false
10 accusations, which we believe is part of that book.

11 In any event, a false accusation was made
12 as documented by several witnesses and as documented by
13 several video tapes and as documented by statements made
14 to a professional psychologist, the statements
15 including tell them mommie touched you. Tell them
16 mommie hit you. Tell them that you saw mommie kissing
17 David and in bed with David, both of which have been the
18 subject of a hearing in another court, which they lost
19 their motion on.

20 THE COURT: That was before it got
21 transferred here?

22 MS. JOUBERT: That was the 347th.

23 THE COURT: Was that the court that
24 transferred it to me or was that ancillary --

25 MS. JOUBERT: No.

1 MR. SIBLEY: That was a malpractice case.

2 MS. JOUBERT: That's the ancillary action
3 that Ms. Flores-Lamb has filed against me and her
4 attorney and Mr. Kelly.

5 MR. SIBLEY: And they with no evidence at
6 all alleged there is some type of romantic relationship.
7 And the people in the audience were laughing during the
8 hearing because it was so ridiculous.

9 In any event, she is doing a fine job of
10 caring for this child. The problems are not her fault
11 in terms of why she's indigent. She has more than
12 enough support where her home is, which is Austin,
13 Texas.

14 The father is abusing the child. And we
15 have actual tapes of that where he abuses the child in
16 the form of, it's your mommie's fault, ten times in one
17 conversation. It's your mommie's fault. The evidence
18 will show in one visitation out of a year of
19 visitations, a short week, she thought it was Wednesday.
20 It was actually Thursday. She's 30 minutes late. And
21 he has a tirade to the child about the mother -- you
22 know, your mother's fault. Your mother's fault. And
23 there will be other evidence along those lines that he
24 is doing exactly what they're accusing her of doing,
25 trying to alienate the child from her both by these

1 aggressive phone conversations and culminating in
2 this -- actually, trying to have her charged with a
3 crime.

4 THE COURT: And what do you want the
5 Court to modify? From what to what?

6 MR. SIBLEY: We want there to be
7 supervised visitation so that he cannot be aggressive
8 with the child in this manner. Being derogatory about
9 the mother and other aggressive behaviors.

10 He will literally -- the evidence will
11 show the child says he needs to go to the bathroom. He
12 needs to go to the bathroom. No, son. You've got to
13 talk to me for ten minutes. There is a lot of
14 inappropriate things going on in these phone calls.

15 THE COURT: Okay. She wants supervised
16 visitation only. And what else?

17 MR. SIBLEY: As part of the temporary
18 orders, that's it. Ultimately -- and the one-year
19 limitation does not apply with respect to changes of
20 terms of possession. It changes the party who is
21 entitled to primary -- designate the primary residence
22 of the child.

23 We want the geographic restriction be
24 lifted so that she can go to Austin and proceed with her
25 life.

1 THE COURT: And lift the geographic
2 restriction.

3 MR. SIBLEY: And we want the electronic
4 communication limited because it's excessive. Every
5 single day. The calls becoming traumatic to the child.
6 And there is many examples of that.

7 THE COURT: Do both sides agree as to
8 what the order says right now? Do we have any dispute
9 about that?

10 MS. JOUBERT: No. I don't think we have a
11 dispute. But, Your Honor, the lifting of the geographic
12 restriction would be for a final hearing since that is
13 an ultimate issue in this case.

14 MR. SIBLEY: I agree with that.

15 THE COURT: You're not expecting me to do
16 it on temp orders.

17 MR. SIBLEY: That's true. But I am
18 Asking you to set a prompt trial date. Because this
19 needs to be tried promptly in our opinion.

20 THE COURT: Okay. We can do that.

21 Okay. You want to call your first
22 witness?

23 MS. JOUBERT: Call Andrew Mata.

24 THE COURT: Good afternoon. Why don't you
25 come on up. We'll get you sworn in first.

1 ANDREW MATA

2 was duly sworn.

3 THE COURT: Come on up. The lawyers have
4 some questions for you.

5 DIRECT EXAMINATION

6 BY MS. JOUBERT:

7 Q State your name for the Court, please.

8 A Andrew Mata.

9 Q And you're the father of Titus?

10 A Yes.

11 Q And since this case was settled in August of
12 2009, have you had your regular visitation with Titus?

13 A No.

14 Q What has happened, as far as those
15 visitations?

16 A They stopped my Thursday nights to visit him
17 here in Rockport so we came to trial.

18 Q Have you been able to visit all the times that
19 you wanted to be able to visit with the child?

20 A No.

21 Q Why not?

22 A I've not been allowed through them that I can't
23 see him at certain times.

24 Q Are there times that Ms. Flores-Lamb just
25 simply refuses to let you have the child even though you

1 show up and try to pick him up?

2 A Yes.

3 Q And what sort of relationship do you have with
4 your child?

5 A A real good one. I love my son very much.

6 Q Does he have a good time with you?

7 A Yes, he does.

8 Q Does he sometimes resist going with you?

9 A Not at all.

10 Q Does he ever resist going home to his mother?

11 A No.

12 Q Do you know anything about a meeting that
13 supposedly you and Titus and Judge Galvan and Mr. Dudley
14 and Mr. Kelly and I attended at the Mandarin Garden
15 restaurant in Corpus Christi on September 18th in the
16 afternoon?

17 A No.

18 Q Have you eaten any kind of meals at the
19 Mandarin Garden restaurant?

20 A No.

21 Q Have you ever been there?

22 A I've been there before, yes.

23 Q When was the last time you were there?

24 A It's been several months.

25 Q Have you ever seen Judge Galvan there?

1 A No.

2 Q Have you ever seen me there?

3 A No.

4 Q Have you taken your child there?

5 A Yes, I have.

6 Q When was that?

7 A A few months back.

8 Q Have you ever seen Mr. Dudley there?

9 A No.

10 Q Or Mr. Kelly?

11 A No.

12 Q This affidavit that your former wife supplied
13 indicates that she has some sort of personal knowledge
14 of you and the child and the rest of the people I just
15 named being at the Mandarin Garden restaurant that day.
16 Do you have any idea how she could have come up with
17 that idea?

18 A Maybe asking my son.

19 Q Do five year olds sometimes have imaginary
20 things happen?

21 A Yes. Certainly.

22 Q And does your son sometimes have an imagination
23 that gets a little off beat?

24 A Yes, he does. He doesn't lie so ...

25 Q Do you always believe everything that he says

1 that he thinks happened?

2 A Yes and no. I mean, I know when -- I can ask
3 him certain things and he can change his mind in the
4 next two minutes.

5 Q Has he -- in the past, has he had some
6 imaginary things happen?

7 A No.

8 Q Do you take his word for it if you don't have
9 some sort of independent knowledge of the fact?

10 A Yes.

11 Q If he had told you such a tale, would you have
12 wanted to investigate?

13 A Definitely, yes.

14 Q And did you know anything about this meeting at
15 all?

16 A No. It never took place. I was never there.

17 Q Have you ever told your child to say that his
18 mommie touched him?

19 A No. Certainly not.

20 Q Have you ever told the child to say that
21 somehow or another she's abused him?

22 A No.

23 Q Do you believe that all this stuff that she's
24 now alleging is a form of abuse?

25 A Yes. Towards him.

1 Q Why do you think that?

2 A She's actually told -- to my understanding -- I
3 never talk about the case. I just have a good time with
4 him. And these accusations that never happened or that
5 I've done or said are coming up. And the only person
6 saying that is my son.

7 Q Have you ever abused your child?

8 A No. Definitely not. I love my son too much.
9 I would never do that to my son.

10 Q And have you ever told him not to hold his
11 mommie's hand?

12 A Definitely not.

13 Q You don't talk to the child about this case at
14 all?

15 A Not at all.

16 Q I think we have orders that nobody is supposed
17 to talk to him about --

18 A When he's with me, it's our time and that's
19 it. Nothing is talked about this case at all.

20 Q What do you do with your son?

21 A We spend a lot of time together. We play at
22 the house and go eat and to movies and parks. And I
23 just try to give him the best time I can in the short
24 time I have him.

25 Q And the house that you take him to is the

1 house that he came into when he was born; is that
2 correct?

3 A Right. When we're together, yes.

4 Q And does he enjoy having his house?

5 A Oh, definitely. He has his own room. And he
6 knows it's his room when he comes by. It's his house,
7 also when he comes to stay with me.

8 Q The allegation is that you are going to -- if
9 you get temporary custody of your son today, that you
10 would have him with your sister, Eva, all the time; is
11 that correct?

12 A No.

13 Q The child is in school. Right?

14 A Yes.

15 Q Where would he attend school if he's with you?

16 A Casa Linda.

17 Q And so he would be in school from morning until
18 some time in the afternoon?

19 A About 2:45, yes.

20 Q And then after that, do you have some sort of
21 after-school care that he would be in?

22 A I believe there is like a latch key program
23 that I can keep him in until I got off from work.

24 Q However, Aunt Eva was taking care of the child.
25 We've already established that she took care of the

1 child most of his life until you all divorced?

2 A Yes.

3 Q And does she have other children?

4 A No.

5 Q So she would take care of him by himself?

6 A Yes.

7 Q And do you believe that your sister is somehow
8 or another psychologically impaired?

9 A No. Definitely not.

10 Q Do you know if she has ever attempted suicide
11 or homicide or anything of that sort?

12 A No. Of course not.

13 Q You do know that she had a serious automobile
14 accident and had some problems from that?

15 A Yes, I do. Yes.

16 Q But she's never been hospitalized for any kind
17 of mental problems that you know of?

18 A No. She's capable of doing several things like
19 other people are.

20 Q And as a matter of fact, when she took care of
21 your child prior to the separation and divorce, she did
22 so at the request of Ms. Flores-Lamb, did she not?

23 A Yes.

24 Q And are you asking the Court to allow you to be
25 the temporary managing conservator of your son?

1 A Yes.

2 Q Do you believe at this time, the emotional and
3 physical situation that he's in with his mother impairs
4 his emotional or physical development?

5 A Yes, I do.

6 Q Why do you think that?

7 A At times when he's with me, I feel like he's
8 kind of shut out and he doesn't really want to speak
9 sometimes to where like he's not himself. And, you
10 know, it bothers me but, yet, I don't -- because she
11 went to ask him questions like I guess something is
12 going on or what's wrong? Like once I get these
13 allegations through the Court that I've done this and
14 done that, it really does bother me because they're
15 putting him in the middle of it. And he's just a little
16 kid. He shouldn't go through that.

17 Q Do you believe that a child should be sat down
18 by his mother and her attorney and done a video
19 interview of him?

20 A Definitely not. That's leading him. He's only
21 five years old. That's interrogating him, basically, to
22 where he probably could be scared and says what they
23 want to hear. He's too little. He's just six years
24 old.

25 Q Do you interrogate him when you get him in your

1 possession?

2 A No.

3 Q Do you ask him about what mommie's doing?

4 A No. Definitely not.

5 Q Do you ask him about what her lawyer is doing?

6 A No.

7 Q Do you talk about his mother and her lawyer?

8 A No.

9 Q You just have fun with your child?

10 A Yes. I do want to stress that as far as when I
11 have my conversations with him on the phone, it's just
12 basic questions. How are you? What did you eat today?
13 How's it going? Nothing out of the ordinary that can be
14 twisted or changed around that I'm pursuing something or
15 trying to put something in his mind for him to say.
16 Just standard questions. The only thing I feel like is
17 going wrong is it's standard questions you would ask a
18 child when he's not with you the majority of the time
19 like any parent would. And that's what I do.

20 Q So recently, have you been able to talk to him
21 on a regular basis?

22 A Yes. For a few minutes. And I know he's a
23 child so he basically don't want to talk very much. And
24 I understand that. And, you know, I'll make a comment
25 like, you know, daddy wants to talk to you. But I never

1 force him. And I say, that's fine. And I love him very
2 much. And I'll talk to him the following day.

3 Q So you're able to say good night to him?

4 A Yes. For the brief time that I talk to him.

5 Q And you say, did you have a good day?

6 A We have ten minutes and maybe it might be five
7 minutes or six minutes, depends how he feels. Three
8 minutes.

9 Q Have you always been able to talk to your
10 child pretty much daily since the time of the decree?

11 A Off and on.

12 Q Did she always let you talk to him when you
13 called?

14 A At times, I get messages that he's either too
15 tired or he might be asleep, which I don't pursue it. I
16 can understand that. He's energetic. He's six years
17 old. So I never really questioned that. I just believe
18 that's the case and I'll go from there.

19 MS. JOUBERT: Pass the witness.

20 THE COURT: Mr. Sibley.

21 MR. SIBLEY: Thank you.

22 CROSS-EXAMINATION

23 BY MR. SIBLEY:

24 Q So the order says you pick the kid up at
25 school. Right?

1 A Yes.

2 Q And you've done that once in over a year's time
3 period. Right?

4 A Yes.

5 Q And, in fact, that time, you had one of your
6 sisters pick up the child. Right?

7 A Right.

8 Q You've never personally picked up the child
9 when school let out as the order provides, have you?

10 A I have before but not all the time. My job
11 doesn't allow me to do that.

12 Q You told me a second ago you've never done it,
13 didn't you? Are you changing your testimony?

14 A I've done it a couple of times.

15 THE COURT: He didn't say that. He says
16 once or some.

17 THE WITNESS: Once or twice.

18 Q (By Mr. Sibley) Well, that one -- okay.

19 A Could be twice.

20 Q Even though the orders say that you pick the
21 kid up at school, she was letting you pick the kid up at
22 her house for months and months or, in fact, a year?

23 A She allowed that, yes.

24 Q Right.

25 And you started picking the kid up at her

1 house on Thursdays after Judge Galvan couldn't
2 understand why you weren't doing that?

3 A Because I was working. I work full-time.

4 Q Right.

5 And he said, basically, you can do an hour
6 or two after --

7 A I think we both agreed on it, that I could do
8 it not the Judge himself.

9 Q Before the Judge had that conversation with
10 you, though, you hadn't been seeing the child at all on
11 Thursdays. Right?

12 A No.

13 Q No, you had not been or, no, that's not
14 correct?

15 A I -- let me see No, I haven't.

16 Q All right. So until that conversation in court
17 one day, you were seeing the child every other weekend.
18 First, third and fifth weekends. Right?

19 A I was able to see the child on Thursdays -- are
20 you talking about weekends, my other weekends?

21 Q I'm talking about before that day in court with
22 Judge Galvan, you were seeing the child every other --

23 A Every other weekend, right. But not on
24 Thursdays.

25 Q Right. And then after that conversation, you

1 started seeing the child on Thursday starting at 6:00
2 p.m., even though the order said --

3 A For a couple of hours.

4 Q At school.

5 A No. No. It was allowed for me to pick him up
6 after work at his residence for a couple of hours.

7 Q Well, the order doesn't say that, does it?

8 A No. We talked about it and we both agreed on
9 it with the Judge also there. That was our agreement.
10 At one point, it was allowed to do that.

11 Q All right.

12 A I know what the agreement says, to pick him up
13 at 2:45. But I wasn't able to do that. So we both
14 agreed with the Judge there that it was okay for me to
15 pick him up after 6:00 o'clock and visit with him for a
16 couple of hours. Verbally. I don't think you denied
17 that or refused it. We came out to that agreement.

18 Q All right. So up until the last couple of
19 weeks, you have picked the child up at 6:00 o'clock on
20 Thursdays?

21 A Yes.

22 Q And after this alleged meeting at Mandarin
23 Garden, that stopped?

24 A Right.

25 Q So, really, the only time you were denied a

1 Thursday visit was after the alleged meeting at Mandarin
2 Garden. Correct?

3 A Yes. I'm not denying that.

4 Q So there is no pattern here of her denying you
5 visitation, is there?

6 A Yes, there is. There has been incidents. Not
7 on those days, but there is incidents when I've gone to
8 pick up my son and he's not there for me to pick him up.

9 Q That happened once?

10 A No. It happened twice.

11 Q Twice. Okay.

12 A One was of a holiday, I believe that wasn't
13 remembered from one day to another. Before that is when
14 I filed a police report. I went to pick up my son and
15 he wasn't there when it was my time.

16 Q There is -- the first, third and fifth weekend
17 can be kind be kind of confusing until you get used to
18 it. Right?

19 A Not necessarily. Not to me. I go from one to
20 another --

21 Q So you're saying twice.

22 THE COURT: One at a time if you want a
23 good record, please.

24 MR. SIBLEY: Okay. Thank you.

25 Q (By Mr. Sibley) Twice you're saying in the

1 course of over a year, she wasn't there. Once on a
2 weekend and once on a Thursday. Correct?

3 A That I can remember, yes.

4 Q And we've been in continuous litigation since
5 this divorce, haven't we?

6 A Yes.

7 Q And wouldn't you think that if it happened more
8 than that, we would have letters and documents and
9 different things like that?

10 A Yes. But it's not for the same thing, though.
11 It's always something else that comes up.

12 Q Well, will you agree with me that there is no
13 written documentation of any problems with visitation,
14 other than possibly for those two occasions?

15 A Possibly, yes.

16 Q You're not aware of any documentation on other
17 occasions, are you?

18 A No. Not in my understanding, no.

19 Q And are you saying that you never make
20 mistakes thinking it's Wednesday when it's really
21 Thursday when it's a short week?

22 A Maybe a few. A few days went by but not from
23 one day to another.

24 Q You never thought it was Wednesday when it was
25 really Thursday? That's never happened to you?

1 A Not myself in that situation. Because I knew
2 I had to pick up my son or he was supposed to be there.
3 I usually plan things and I'm aware of things before my
4 visitation to make sure I'm there at a certain time to
5 pick him up and take him back. So I'm constantly
6 thinking, this is the time I should be there so I can
7 spend my time with him.

8 Q So whether you're perfect or not, we're pretty
9 much in agreement that you can only think of two times
10 when there were problems in over a year. Right?

11 A That I can remember, yes. Without thinking
12 further back.

13 Q And isn't it a fact that after the time that
14 she thought it was Thursday -- that she thought it was
15 Wednesday when, in fact, it was Thursday, she offered to
16 give you a make-up day, didn't she?

17 A After the fact that I waited there for a few
18 hours and she never would return my text or call.

19 Q A few hours?

20 A It was at least almost two hours that I was
21 there waiting.

22 Q Is that definitive testimony?

23 A No. It's the truth. And I texted and I found
24 out.

25 Q You really want to stick by that. A few hours,

1 huh?

2 A At least an hour, hour and a half when I was
3 there to visit him.

4 Q All right. So these two incidences are the
5 pattern of denying you visitation we're talking about.

6 A Are the what?

7 Q That's the pattern you're talking about. Two
8 incidences in roughly a years time?

9 A That I can remember, yes.

10 Q You talk to the child unless he's asleep or --
11 I guess you said tired on a few occasions. You talk to
12 the child, basically, almost every night, don't you?

13 A Yes.

14 Q On his birthday -- well, I guess it wasn't his
15 birthday; but when he had his birthday party, you
16 understood he'd be really tired after having a birthday
17 party, don't you?

18 A I wasn't aware of the party. With my party or
19 her party?

20 Q No. Her party.

21 A I wasn't aware he was having a party with her.

22 Q Okay. But that night is an example of when
23 you didn't get to talk to the kid. Right?

24 A Right.

25 Q And it was explained to you, wasn't it, that he

1 was very tired because he had an outdoor birthday party
2 with a moon jump and all that kind of stuff. Right?

3 A Right.

4 Q And that doesn't really surprise you that
5 sometimes he'd be asleep, a six-year-old kid?

6 A Oh, no. I'm not denying that. I didn't pursue
7 that or make a second call or that he better call me or
8 anything. I understand that.

9 Q So as I understand it, your complaints are that
10 two visits were missed -- now, first of all, do you know
11 how you calculate the weekends, how that works? What if
12 the week on the first day of the month occurs on
13 Saturday? Do you count that one?

14 A So far as the weekend?

15 Q Right.

16 A Well, I would say yes. I mean, we go by month
17 -- weekends go by the first and third and last month.

18 Q How do you know when it's the right weekend?
19 Did somebody make a calendar for you with the weekends?

20 A No. I kind of -- you know, you get a pattern.
21 Like I said, I started thinking of times that I know I
22 have to be there at certain times and days.

23 Q Like how do you know? Because sometimes, you
24 have two weekends in a row. I mean, to me, it's kind of
25 complicated. How do you figure it out?

1 A It's kind of hard. Especially on a divorce
2 decree, the way it's worded and weekends and holidays.

3 Q So it's kind of hard --

4 MS. JOUBERT: Your Honor, object as to
5 relevance. I don't know where we're going here.

6 MR. SIBLEY: Well, he's trying to say --

7 THE COURT: Let's stick to substantial
8 and material and the best interest of the child, if you
9 can.

10 MR. SIBLEY: I think he opened the door to
11 saying that she was denying him visits. I'm trying to
12 say I think it was an honest mistake the few times it
13 happened.

14 THE COURT: Okay. Well, just ask him.
15 You can save that for your argument or put her on. Just
16 ask him questions and let's move on. Don't argue the
17 case right now, if you would, please. Try not to be
18 argumentative at this point, please.

19 And I understand you're cross-examining
20 him.

21 Q (By Mr. Sibley) Would it surprise you to know
22 that you calculate the weekends based on Friday not
23 Saturday?

24 A I'm sorry? I didn't hear that.

25 Q Do you know whether you calculate the weekends

1 on Friday or Saturday?

2 MS. JOUBERT: Your Honor, same objection.

3 MR. SIBLEY: If I can just ask just one
4 more question.

5 THE COURT: Okay.

6 Q (By Mr. Sibley) I mean, you understand how a
7 mistake can be made, don't you?

8 A Sure.

9 Q Okay. So I think we've established that she
10 hasn't been bad about visitation. She made two mistakes
11 and she gave you a make-up on one of those. Right?

12 A I think she has when she knows it's my time to
13 visit him and be with him. As far as myself, when I
14 know it's her visitation, he's always there when he
15 should be at the time.

16 Q I'm trying to understand --

17 A I'm always -- I'm trying to be right about that
18 for myself to make sure I'm complying. I'm taking him
19 when he's supposed to be and picking him up when he's
20 supposed to be.

21 Q Can you agree with me that she's done well over
22 the course of a year, making two mistakes over the
23 course of a year?

24 A To my knowledge, yeah.

25 Q Now, why do you think she may need a

1 psychological examination?

2 A For me being accused of what my son has said or
3 this alleged meeting.

4 MR. SIBLEY: If I may approach the
5 witness, Your Honor.

6 THE COURT: Okay.

7 Q (By Mr. Sibley) Is this your signature on the
8 affidavit there?

9 A I don't see it. My signature?

10 Excuse me. Uh-huh.

11 Q Would you agree with me the date on that
12 affidavit is July 21st?

13 A Uh-huh.

14 Q You said she was in need of -- or you felt she
15 may be in need of a psychological examination long
16 before the alleged meeting on September 18th at Mandarin
17 Garden. Correct?

18 A Uh-huh.

19 Q So when you signed the affidavit on July 21st,
20 2010, what was your factual basis for the statement you
21 made that she may be in need of a psychological
22 examination?

23 A Like I say, as far as me towards my son or what
24 I've said or what I've done towards him.

25 Q What accusations?

1 A Stuff that I've gotten through the mail, that
2 I've done this or he said that I did this.

3 Q Mail?

4 A Well, through the courts.

5 Q Are you talking about letters through the
6 mail? What do those letters say that you thought has a
7 need for a psychological examination?

8 A Me, as far as saying stuff, as far as my son,
9 that I have said negative stuff about myself or her that
10 I've never done or said.

11 Q Anything else?

12 A No.

13 Q You can't remember anything specific?

14 A One of those I recall -- I can think of one
15 about her saying herself that she was dying or was going
16 to die or something to that extent on one. I can't
17 really tell you which one it was. That kind of scared
18 me.

19 Q Maybe you can show that to me sometime.

20 THE COURT: To sum up your testimony, you
21 think she needs psychological -- or you're requesting it
22 because she's made what you consider outrageous
23 accusations against you?

24 THE WITNESS: Yes. And my son, of
25 course, being in the middle of it and supposedly was

1 there.

2 THE COURT: You think she needs to be
3 evaluated because she's making crazy-type accusations.

4 Okay. Let's move on.

5 MR. SIBLEY: Thank you.

6 Q (By Mr. Sibley) And what specific crazy
7 accusation of something about dying that you can't
8 identify?

9 A That was the comment that was made.

10 THE COURT: Yeah. He's already told me
11 everything he knows unless you know of anything else.

12 THE WITNESS: No.

13 THE COURT: All right.

14 Q (By Mr. Sibley) Is there any other reason you
15 think custody should be changed, other than two mistakes
16 over the course of a year and her making accusations
17 that you can't identify, specifically?

18 A Not that I know of.

19 Q Would you agree with me that whatever went on
20 between y'all two as husband and wife, that she's a good
21 mother?

22 A Yes.

23 Q And if all these lawsuits were put aside, I
24 think you would consider yourself to be a good father?

25 A Yes.

1 Q And if things were put in a position where both
2 of you were sustainable, y'all could get along, couldn't
3 you?

4 A Definitely. For my son's sake, yes. Sure.
5 That's what I'm trying to do here now.

6 Q Isn't it true that the entire rub here is her
7 not being able to go where she needs to go to continue
8 with her life?

9 A She don't need to go there to continue her
10 life. She can do it here. She can obtain a job and
11 better herself for herself and my son here.

12 Q All right. You have your family here in
13 Corpus. Right?

14 A Not everybody. But I do.

15 Q A large portion of them are in Corpus. Right?

16 A Yes.

17 Q And some of them are in Austin?

18 A Yes. And Houston. I have a sister that lives
19 in Houston.

20 Q And you have your job in Corpus?

21 A Yes.

22 Q And so, basically, if we really get down to
23 brass tacks, you have your job and you have your family
24 and your house. But you don't want to let her have her
25 job and her family where --

1 A She has family here. Not direct family. But
2 she's got aunts and uncles. She can find a job here.
3 She don't have to go to Austin to find it. Yes, she
4 might have a degree where she can find a job there; but
5 she can find one here. She has in the past when we were
6 married and she can do it now, too. She just has to
7 make that attempt.

8 Q Is it your testimony that she can survive based
9 on whatever they pay as a secretary?

10 A Well, with my income that I give her for child
11 support and another job, yes, I think so.

12 Q And you know that there's over 78,000 people
13 unemployed in Nueces County?

14 A Not to my knowledge. Because if you want
15 something for yourself, you would look every single day
16 for a job. Not wait for it to come to you.

17 Q Do you disagree that Army Depot stopped hiring
18 before the credentials she worked very hard to earn?

19 A Do what?

20 MS. JOUBERT: Your Honor, he's going very
21 far afield. And he's asking things that my client has
22 no personal knowledge of and not relevant to this
23 hearing.

24 MR. SIBLEY: It is. She, in her own
25 motion, says that one of the reasons she's --

1 THE COURT: Sustained. I don't think he
2 knows about the Army Depot. Let's move on, Mr. Sibley.
3 Try to make your point and then move on.

4 Q (By Mr. Sibley) Can you identify for me one
5 job that provides insurance and provides a living wage
6 for a woman and a child who receives \$500 child support
7 a month that would pay --

8 A I'm not an expert on that. I can't -- I'm sure
9 there is. I bet there is.

10 Q That's kind of the point. You're not an
11 expert.

12 A I'm sure there is. I mean, she's smart enough
13 to get a good job herself.

14 Q And what's the basis --

15 A She has in the past. When she was at Del Mar,
16 she had the benefits.

17 Q Do you know whether Del Mar is hiring people
18 or rehiring people at this time?

19 A I don't

20 Q So, basically, you have some type of gut
21 instinct that she could find a job that would be
22 adequate to support her and provide insurance for the
23 child?

24 A Definitely. She has other talents, not just
25 that one that she has her degree from. She worked other

1 jobs before we got married and has had other jobs. Not
2 just that one that she's going for.

3 Q All right. In order to -- I believe the Judge
4 will agree with this. In order to change the person
5 with rights to designate the primary residence at this
6 point less than a year after a previous order, you have
7 to show a substantial risk to the child's well being.
8 And what would that be? Physical or emotional.

9 A Emotional, definitely.

10 Q And is that based on anything, other than what
11 you've already told us?

12 A Based on what I've heard and as far as the
13 accusations and this secret meeting we've had and stuff
14 that I've told him about not giving him money and other
15 things, which are not true. It's very emotional.

16 Q Where did anybody ever deny that you were
17 paying your child support?

18 A I'm sorry?

19 Q Are you saying that someone denied that you're
20 paying your child support?

21 A No. I'm not saying that.

22 Q Well, you said not giving money.

23 A At one point, I was told or got through the
24 divorce that he had asked me for some money for them to
25 eat, and I denied them.

1 Q Oh, pre-divorce.

2 A Yeah. I'm saying stuff that's come up to par
3 to this point that I've said or done. And he's being
4 involved, which never happened. So, yes, physically and
5 mentally -- mentally-wise, he's going through a lot.

6 Q Well, I mean, the Judge found you hadn't paid
7 the temporary support and gave you credit for certain
8 amounts. Do you remember that?

9 A What?

10 Q Do you remember Judge Galvan finding you didn't
11 pay the temporary support and giving you credit for
12 certain amounts? I mean, we've been through that. You
13 didn't pay the temporary child support, did you?

14 A I did. I did pay it, even though --

15 Q You disagree with the Judge's ruling is what
16 you're saying?

17 MS. JOUBERT: Your Honor, that's res
18 judicata. It's been heard by Judge Galvan.

19 MR. SIBLEY: He's the one that raised the
20 issue. He said that it's crazy that he claimed that he
21 wasn't paying them money. The Judge found he wasn't
22 paying money.

23 THE COURT: Next question, please.

24 MR. SIBLEY: Thank you.

25 Q (By Mr. Sibley) Anything else you want to

1 tell the Judge on why this child is in serious danger
2 either emotionally or physical that would justify a
3 change in custody less than one year after a previous
4 order?

5 A No. Just what I've told you earlier.

6 MR. SIBLEY: Nothing further.

7 MS. JOUBERT: Just briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. JOUBERT:

10 Q Mr. Mata, is it true that in one of our prior
11 hearings, your former wife testified that she was under
12 so much stress, she was losing her hair?

13 A Yes.

14 Q And that she was having to wear a wig. And she
15 actually raised the wig to show that she was almost
16 bald?

17 A Yes.

18 Q Do you think that living with a mother with
19 that kind of stress is a good idea for this child?

20 A No.

21 Q Are you concerned that the child will continue
22 to be in the center of his mother's attention and all of
23 this talking about the case, as long as this child is
24 with his mother?

25 A Yes.

1 Q Are you asking the Court to change that?

2 A Yes.

3 Q So you can give him some relief?

4 A Yes. Definitely.

5 MS. JOUBERT: Pass the witness.

6 RE-CROSS-EXAMINATION

7 BY MR. SIBLEY:

8 Q So the child shouldn't live with a mother who
9 is having a problem with losing her hair? That's what
10 you just said. Right?

11 A Yes.

12 Q And are you telling the Court that you never
13 felt stress as a result of the divorce and all that's
14 related to it?

15 A I do. But I don't let my son know about it or
16 he's in the middle of it. I've never set up anything
17 that happened when he was in her care or things that
18 have happened. Things that I hear are so untrue and
19 unbelievable.

20 THE COURT: You're not saying that the
21 amount of hair has anything to do with --

22 THE WITNESS: No.

23 THE COURT: I didn't think so. I couldn't
24 resist.

25 THE WITNESS: I go through a lot of

1 stress myself, but I know how to contain it where I
2 don't involve other people.

3 THE COURT: Let the record reflect Mr.
4 Mata is bald, as well.

5 THE WITNESS: For several years.

6 THE COURT: Okay. Go ahead.

7 Q (By Mr. Sibley) Other than her loss of hair,
8 is there any other reason that you're going to assert
9 that she's suffering more stress than what a person
10 would be expected to suffer in circumstances like this?

11 A No.

12 Q And, of course, you don't know biologically
13 speaking whether it's stress or hereditary or whatever,
14 do you?

15 A Not to my knowledge.

16 Q I guess you didn't lose your hair due to
17 stress?

18 A No. It's inherited. My dad starting losing it
19 and I started losing it.

20 Q Now, you clearly feel the child shouldn't be
21 with someone who's under stress. Right?

22 A Not -- I mean, no.

23 Q I'm sorry?

24 A No.

25 Q And you were here this morning when your lawyer

1 and, I guess, your sister was saying that she was
2 suffering anxiety?

3 A At one point, yes.

4 Q And isn't it a fact that your sister suffers a
5 lot more than just anxiety?

6 A No.

7 Q You deny that she's bipolar, she has suicidal
8 ideations, including with plans sometimes of homicidal
9 ideations, taking anti-psychotic drugs? Excuse me.
10 Anti-psychotic drugs at times, et cetera, et cetera?
11 Is that something you knew about?

12 A No. She's never taken that to my knowledge.
13 She's like anybody else. She can obtain herself and she
14 can get a job if she wants to and she can take care of
15 my son if she wants to. I trust her very much since the
16 beginning. We both did at one time. And I still do.

17 Q Well, if she's telling medical professionals
18 that she's considering killing herself and killing
19 others, that she's hallucinating --

20 A No, she hasn't. That's what you say.

21 Q But I gather you haven't been present when
22 she's gone to MHMR, have you?

23 A Or trying to kill herself. That never
24 happened.

25 Q If that was true and it's a surprise to you,

1 would that affect your willingness to have her
2 supervising this child?

3 A If it was true. Definitely. Like a father, I
4 want to make sure my son is cared for.

5 Q What would it take to convince you that it was
6 true?

7 A Me being around her has convinced me.

8 Q What?

9 A Me being around her has convinced me. My son
10 being around her.

11 Q Well, would you pay attention to medical
12 records prepared by MHMR doctors?

13 A No.

14 Q You wouldn't?

15 A I would. But I'm saying I know she can care
16 for my son. And that's what you're trying to ask me.

17 Q I'm asking you if you were presented with
18 medical records from MHMR doctors or whatever their
19 credentials are saying that she has these conditions,
20 she's taking these serious medications, etcetera,
21 etcetera, would that affect your willingness to leave
22 the child with her?

23 A I would be concerned, yes.

24 Q And I guess you can agree that when Ms.
25 Flores-Lamb was allowing the child to be cared for by

1 Eva, she didn't know any of this, did she?

2 A She knew about the accident. She knew she was
3 on medication.

4 Q I'm not asking about the accident. I'm asking
5 about the suicidal --

6 A These things that they're saying, I have no
7 knowledge of that.

8 Q And neither did she, as far as you know?

9 A It never happened, to my knowledge. Never
10 suicidal or try to kill herself.

11 MR. SIBLEY: Nothing further.

12 MS. JOUBERT: Nothing further.

13 THE COURT: Thank you very much, sir. You
14 can step down.

15 Next witness.

16 MS. JOUBERT: Call Jennifer Flores-Lamb.

17 THE COURT: Raise your right hand, please.

18 JENNIFER FLORES-LAMB

19 was duly sworn.

20 THE COURT: All right. Have a seat. And
21 the lawyers are going to ask you some questions.

22 CROSS-EXAMINATION

23 BY MS. JOUBERT:

24 Q State your name for the Court, please.

25 A Jennifer Flores-Lamb.

1 Q And how are you employed?

2 A I'm not employed.

3 Q And you now live in Aransas County; is that
4 correct?

5 A Correct.

6 Q I do not have a signed copy of an affidavit;
7 but, apparently, you signed an affidavit somewhere in
8 the neighborhood of September 23rd and filed an
9 application for emergency temporary orders. And that
10 affidavit supported the application; is that correct?

11 A Let me check on that.

12 That is correct.

13 Q And the affidavit says that you appeared before
14 a notary and the facts stated in the application are
15 true. And then you indicate that you have personally
16 heard the things described in the letters.

17 Did you, at any time, personally see the
18 child at the Mandarin Garden restaurant with Judge
19 Galvan?

20 A No. I didn't personally see him, but I believe
21 what he's saying.

22 Q Well, you indicated in your affidavit that the
23 motion that was filed, this application, says that you
24 interviewed the child and that you did it in a video
25 interview; is that correct?

1 A That's correct.

2 Q And so describe how all this came about. Did
3 the child just voluntarily tell you that he had had
4 dinner with me and Judge Galvan?

5 A No.

6 Can I move this forward?

7 THE COURT: Yes.

8 THE WITNESS: I was working with Mr.
9 Sibley. We were trying to get stuff ready to move this
10 case forward here. And his behavior towards Mr. Sibley
11 was very distant. He wouldn't acknowledge Mr. Sibley
12 and tell him hi. And he's normally not like that. He's
13 very comfortable. Mr. Sibley had helped us
14 tremendously. And we considered him a friend of the
15 family. So I asked him what was wrong. How come he
16 didn't respond to Mr. Sibley.

17 And the child proceeded to tell me that
18 his father had told him, do not talk to Mr. Sibley.
19 He's an evil lawyer. I don't want you saying hi to him
20 any more.

21 And, then, that, in turn, led to -- that
22 he was told, also, not to be holding my hand any more
23 because I was a bad mother. And he also revealed that
24 same night that he was told by you, Ms. Joubert, that
25 you were feeding him these lies, that he needed to start

1 lying about me. That I had touched him. That I had
2 been hitting him. That I had got in the bed with Mr.
3 Sibley. And that he had seen me kiss Mr. Sibley.

4 Q Well, let me ask. You then proceeded to
5 interview this child on video tape?

6 A That night that he told us, when I went home,
7 yes, I did want to get that documented on video.

8 Q So who was present for this interview?

9 A It was just me and the child.

10 Q And you had a video tape player and you video
11 taped it?

12 A Correct.

13 Q And you asked the child questions?

14 A I asked him to try to get him to talk about
15 what happened. I was being very careful not to probe or
16 direct him.

17 Q As a matter of fact, both you and the child's
18 father have both been admonished not to talk to this
19 child about the case, haven't you?

20 A That was after this happened. We did get
21 orders signed after this exhibit.

22 Q And so you've continued to talk to the child
23 about the case, haven't you?

24 A No, I haven't.

25 Q Did you consider it appropriate for you to sit

1 the child down with a video camera and start asking him
2 about this supposed meeting?

3 A That's not the setting that you're describing.

4 Q Did you consider it appropriate?

5 A I considered it appropriate because I wanted to
6 document what had happened. I believed what he was
7 saying. It was very detailed. And I believe it
8 happened to him.

9 Q Are you aware of the fact that children five
10 years old can sometimes fantasize.

11 A Well, he's six years old.

12 Q Okay. Six years old.

13 He can sometimes fantasize?

14 A I'm aware of that, but I don't know of him
15 fantasizing about anything. This was too elaborate. He
16 gave very much detail. And I -- even if he's half
17 accurate, it's not my job to not believe him. I'm his
18 mother. I have to believe what happened to him was
19 true. And he repeats the story.

20 Q Well, as of the time that you got this video
21 tape, did you do anything to investigate and find any
22 independent evidence of such a meeting?

23 A Yes, I did.

24 Q What did you do?

25 A I went to the restaurant where he said that the

1 ate. And I obtained a receipt. And he, actually,
2 pointed out the table that he stated you were also
3 present. And I talked to the waiters who waited on that
4 table.

5 Q Are they present today to say that they have
6 ever seen me at that restaurant?

7 A One of the waiters is present.

8 Q Do you have the receipt that you say -- who
9 paid for the dinner, by the way?

10 A Well, it was paid in cash. But the waiters and
11 the owner pretty much said that they recalled Titus
12 being there. I hadn't said anything. The waiter said,
13 this child was here. He sat here. I just can't
14 remember everybody else because I left early and then
15 the second waiter took over. And I do have the receipt.

16 Q And it was paid by cash, but it doesn't say by
17 whom?

18 A No.

19 Q Did you do anything else to independently
20 investigate this?

21 A No. I took the child -- I did take the child
22 to get evaluated by an expert.

23 Q Who was that?

24 A Dr. Beckham.

25 Q And was Dr. Beckham appointed by this court?

1 A No, she wasn't.

2 Q So you just took the child to Dr. Beckham on
3 your own?

4 A Dr. Beckham has seen Titus before. And he is a
5 patient of Dr. Beckham.

6 Q How long has he been seeing Dr. Beckham?

7 A He's probably visited with her probably about
8 four times.

9 Q Four or five times?

10 A Four times.

11 Q Four times?

12 A Uh-huh.

13 Q Did you ever inform Mr. Mata that the child was
14 seeing a psychologist?

15 A No, I didn't.

16 Q And was this prior to or after the supposed
17 meeting of September 18th?

18 A Some of the visits were prior. And, then,
19 after the 18th, he had a consult with her.

20 Q When did you start taking the child to Dr.
21 Beckham?

22 A I believe the first visit was sometime last
23 year.

24 Q Can you give me ball park time? Month? You're
25 saying '09 was the last time prior to September 18,

1 2010. You said the only other time the child had seen
2 Dr. Beckham was prior to 2010.

3 A No. He's had at least probably four visits.
4 I'm not completely accurate on that.

5 Q How many of those were subsequent to September
6 18th.

7 A Probably two.

8 Q So prior to September 18th, the child had seen
9 Dr. Beckham twice; is that correct?

10 A I believe so.

11 Q And did you inform Mr. Mata, as required in the
12 orders, for you to inform him and consult with him about
13 the child's well being --

14 MR. SIBLEY: I'm going to object.

15 THE WITNESS: The orders say that he can
16 be taken to the doctor independent. And he has the
17 right to do that, too. That's how the order reads.

18 Q (By Ms. Joubert) Right. But he only can do
19 that if he has knowledge of the child attending that
20 doctor, does he not?

21 A That's not what I read.

22 Q But you never told him the child was going to
23 see Dr. Beckham?

24 A No. The child -- I took the child because I
25 was concerned. And as a good mother, I thought he

1 needed to have somebody to talk to and make sure he was
2 okay. And prior to this incident, I wanted to make sure
3 that he was okay with everything going on and the abuse
4 that he's been getting from his dad on the phone,
5 which is not just a one-time incident. It's everyday.
6 He does not know how to communicate with the child.
7 It's either interrogating, brow beating or he's like
8 what are you doing? What's going on?

9 Q Well, he's just asking the child how his day
10 is going, isn't he?

11 A No. What he's doing is calling under the guise
12 to get information about our whereabouts.

13 Q He knows where you are, doesn't he?

14 A He wants to know where we're at.

15 Q Well, you filed the pleading saying --

16 A I'm not talking about my physical location, my
17 home address. I'm talking about where we're at when he
18 calls.

19 Q Now, you have now accused through your
20 pleadings Judge Galvan and Bill Dudley and Bill Kelly
21 and me of child abuse; is that correct?

22 A I believe it's child abuse. I believe the
23 child. He named you and the others as members of the
24 conspiracy that was conspiring to create a false
25 conviction of sexual abuse. As you know, that was the

1 only way to take the child from me. Not on the merits.
2 You were going to create a false conviction.

3 Q Have you ever been accused by anyone in this
4 case, myself, my client or either Mr. Dudley or Mr.
5 Kelly of sexually abusing the child?

6 A Not until this point. The child informed me
7 that you guys were plotting to do this.

8 Q Have we, up to this time, this very moment,
9 ever accused you of that?

10 A No.

11 Q Then, all of this is all supposition and the
12 whole application is based on supposition, is it not?

13 A I don't know what that word means.

14 Q It means you think this is happening and it's
15 supposed to be happening. But it didn't happen, did it?

16 A I believe my child. He told me this is what
17 happened. It's my job to believe what happened to him.
18 Do you understand that?

19 Q I'm asking the questions, Ms. Flores-Lamb.

20 At any time, have you filed any kind of
21 accusation with the Texas Judicial Review Commission
22 concerning Judge Galvan?

23 A I haven't done that. I don't know what -- what
24 are you --

25 Q Are you aware of the fact that the pleadings

1 that you have filed have been filed by your attorney
2 with the Texas Judicial Conduct Commission?

3 A If he has, I don't know. This hearing is
4 specifically to determine if what happened to the child
5 is true and what is the Court going to do about it.
6 It's child abuse.

7 Q At any time, did you or Mr. Sibley or anybody
8 in his employ call either me, Judge Galvan, Mr. Kelly or
9 Mr. Dudley to say, did you ever have a meeting, such as
10 what you have described?

11 A That I'm aware, no. And what would you say if
12 we did call? You would say, no, you're insane. The
13 child is making it up.

14 Q Did you, at any time, consider it appropriate
15 to at least talk to Judge Galvan before sending the
16 papers to the Judicial Review Commission?

17 A From what I am aware, communications have been
18 made prior to anything that was filed.

19 Q Then who, in your knowledge, communicated with
20 Judge Galvan concerning this supposed meeting? Who
21 communicated with him?

22 A My attorney did.

23 Q So you think Mr. Sibley talked with Judge
24 Galvan?

25 A Through writing, yes. Through electronic

1 communication.

2 Q Do you have a copy of that electronic
3 communication?

4 A Yes.

5 MR. SIBLEY: If I may. Here is at least
6 one of them.

7 THE WITNESS: Thank you.

8 Q (By Ms. Joubert) May I see the communication,
9 please?

10 A Yeah. This is one of the communications. I
11 know there has been a few. I just can't find them.

12 Q I'm showing you what is marked as PX-1. Can
13 you identify it, please?

14 A Yes. It's one of the electronic
15 communications.

16 MS. JOUBERT: I offer PX-1.

17 (PX Exhibit No. 1 was offered.)

18 THE COURT: Show opposing counsel.

19 MS. JOUBERT: You just gave it to me.

20 THE COURT: Any objection to it?

21 MR. SIBLEY: No.

22 THE COURT: It's admitted.

23 (PX Exhibit No. 1 was admitted.)

24 MR. SIBLEY: That's not the one you just
25 gave me.

1 Q (By Ms. Joubert) As a matter of fact, prior to
2 the filing of this application, on or about the 23rd of
3 September, between September 18th and September 23rd,
4 did anybody communicate with Judge Galvan concerning his
5 supposed child abuse of this child?

6 A I'm sure there has been communication.

7 Q No. No. Tell me, do you have personal
8 knowledge of anybody communicating with Judge Galvan
9 between September 18 and September 23rd concerning his
10 alleged child abuse of this child?

11 A I'm telling you that there was electronic
12 communication done.

13 Q Can you show me some dated prior to September
14 23rd?

15 A I can't even find it. It might be on the
16 table.

17 Q As a matter of fact, between September 18th,
18 2010 and September 23rd 2010, do you have any personal
19 knowledge of anyone inquiring with regard to me as to
20 whether or not this alleged meeting took place?

21 A You need to repeat that. I'm sorry.

22 Q Between the time of the alleged meeting, which
23 was September 18th, 2010 and September 23rd, 2010, which
24 is when you filed your application claiming this meeting
25 took place, do you have any personal knowledge that

1 anyone contacted me to verify that this meeting took
2 place?

3 A We received notice from the child on the
4 evening of September 22nd. The meeting took place
5 during his weekend on the 18th.

6 Q Then between the time you talked to the child
7 and the time you filed this emergency application, did
8 anybody contact Judge Galvan about this supposed
9 meeting?

10 A I'm certain of it. I'm certain he's been cc'd
11 on everything that concerns him.

12 Q That is not the question.

13 Did anybody contact to verify with Judge
14 Galvan that this meeting took place prior to filing your
15 emergency application?

16 A To my knowledge, he has been contacted
17 electronically. I don't know of any other contact and
18 why you're focusing on Judge Galvan.

19 Q Do you have any proof of that?

20 A Do I have any proof of what?

21 Q That he was contacted prior to you making the
22 allegation.

23 A I think it's on the table.

24 Q Can you go get it, please.

25 THE COURT: Mr. Sibley, can you hand it to

1 her, please.

2 MR. SIBLEY: I'm not sure I know where it
3 is.

4 THE WITNESS: I have a big bag here.

5 THE COURT: Okay. Go over there and find
6 it.

7 MR. SIBLEY: Well, I've got a letter dated
8 September 22nd on my computer.

9 THE WITNESS: These are the two that I
10 believe he was cc'd a copy. This one actually has his
11 name on it.

12 Q (By Ms. Joubert) May I see those, please?

13 A Yes. And this one he was cc'd a copy.

14 Q Can you identify what has been marked as PX-2
15 and PX-3, please? And tell me the date of each.

16 A PX-2 is dated Thursday, September 23rd. And
17 PX-3, Wednesday, September 22nd.

18 MS. JOUBERT: I offer PX-2 and 3.

19 (PX Exhibit Nos. 2 and 3 were offered.)

20 MR. SIBLEY: No objection.

21 THE COURT: 2 and 3 are admitted.

22 (PX Exhibit Nos. 2 and 3 were admitted.)

23 Q (By Ms. Joubert) As a matter of fact, PX-3 is
24 addressed to Nelda Gonzales Ramos and Judge Adams. And
25 PX-2, which is dated September 23rd, is addressed to

1 Judge Galvan; is that correct?

2 A I believe so, yes. Can I look at it one more
3 time?

4 September 23rd, yes. Judge Galvan.

5 Q So, therefore, nothing was filed or said to
6 Judge Galvan before this alleged child abuse accusation
7 took place, was it?

8 A Like I said earlier, I became aware of it the
9 evening of the 22nd. Judge Galvan was notified that
10 morning.

11 Q And the pleading was filed on the 23rd. So
12 you're saying that between the 22nd and the 23rd, you
13 collected all this supposed first eyewitness evidence
14 concerning this meeting; is that correct?

15 A Based on what the child said, yes. I took the
16 interview that night and we came over here.

17 Q Other than the imagination of the child, did
18 you independently determine that any such meeting took
19 place prior to -- that is, without the testimony of the
20 child, did you, otherwise, investigate at all before
21 you filed on September 23rd this supposed allegation of
22 child abuse?

23 A I believe I had gone to the restaurant early
24 that morning before we filed that. And that confirmed
25 and corroborated the story when I got those receipts.

1 Q And did you have photographs to show the
2 supposed witnesses as to who was present?

3 A We downloaded some pictures. Yours wasn't on
4 the internet. But he knows you. And he knows who Judge
5 Galvan is. So based on the pictures of the attorneys
6 that he named, we printed those and I inquired with the
7 wait staff if they had seen any of these people on this
8 particular day.

9 Q And would it surprise you to know that I
10 haven't been in that restaurant in probably 20, 25
11 years?

12 A It wouldn't surprise me that you would lie
13 about something like that. I don't think that
14 restaurant has been in business for 20, 25 years.

15 Q And did it surprise you to know that Mr. Dudley
16 and Mr. Kelly both testified that they haven't been in
17 that restaurant in years and years and years?

18 A I didn't hear them testify that at all. That
19 wasn't even presented. They didn't testify at all
20 whether they were there or not.

21 Q I believe they did.

22 A No. What they testified is they didn't have
23 the book. They didn't testify whether they were there.

24 Q The record will speak for itself.

25 Well, you have now filed this application.

1 And you're saying at this point that the only evidence
2 you had on it was your talking to the child. And have
3 you also filed -- you've indicated that you have filed a
4 report with CPS and the Corpus Christi police. Did you
5 include Judge Galvan in your report of child abuse to
6 CPS?

7 A To CPS, I'm not sure.

8 Q Did you include me in your application for
9 some sort of services through CPS? Did you include me
10 as abusing your child?

11 A We included everybody. Yes, you were included
12 because he named you. And he knows who you are. And he
13 said that dad has taken him to your office. He knows
14 who you are.

15 Q And you've taken him to my office.

16 A The only time I took him to your office is
17 because you agreed for us to pick up the property that
18 was divided to me from your office.

19 Q That's correct.

20 A He was with me because I take care of him.

21 Q And you also brought him to court the last time
22 you were in court with Judge Galvan.

23 A That was because you set up a meeting to have
24 some orders on -- I think it was summer visitation. And
25 you wanted that hearing within an hour. I had to

1 commute from Rockport to Nueces County. Within that
2 hour, I didn't have time to get child care. So, yes, I
3 brought him with me.

4 Q And so he's been with you and he's been
5 involved with you in all sorts of actions in this case,
6 has he not?

7 A What do you define as actions?

8 Q Well, you've included him in court hearings
9 and in coming to my office to pick up property. And
10 you've now included him in making accusations against
11 Judge Galvan, Mr. Kelly, Mr. Dudley and myself with
12 regard to what you're calling child abuse.

13 A Those two instances were the ones where he was
14 with me. I take care of him. So, yes, he's going to be
15 with me. And, no, I didn't put that in his mind what
16 you're thinking. He told me what happened. I believe
17 him. There's no way that he concocted something like
18 that.

19 THE COURT: No way?

20 THE WITNESS: I don't believe that he
21 could create that kind of story. I believe, Your Honor,
22 that this happened to him.

23 Q (By Ms. Joubert) But at this point, you've
24 got four people that were supposedly there saying that
25 it never happened. And, yet, you're going to believe

1 your child, your six year old?

2 A Yes, I'm going to believe my child. I mean, if
3 it was the other way around, wouldn't you believe the
4 child if I was involved in something like that? Of
5 course you would.

6 Q As a matter of fact, don't you think it's
7 reasonable for you and/or your attorney to investigate
8 such serious allegations prior to making -- prior to
9 filing the pleadings?

10 A We did investigate what we obtained to
11 corroborate his story. He has met with a child
12 psychologist.

13 Q That's not the question.

14 A This child was abused.

15 Q Ms. Flores-Lamb, if you would --

16 A That's why it was an emergency. That's what
17 brought about this hearing.

18 THE COURT: I tell you what. Let her ask
19 questions. And then you answer the questions. Then
20 stop talking.

21 Q (By Ms. Joubert) Ms. Flores-Lamb, I said prior
22 to filing these serious allegations against a sitting
23 district judge and three attorneys, did you not consider
24 it appropriate to investigate before filing your
25 pleadings?

1 A I'm telling you I believe the child.

2 THE COURT: I take that as a no. A five
3 year old or six year old told you this and you filed a
4 petition and you didn't investigate it is what you're
5 saying. Right?

6 THE WITNESS: Well, we did investigations
7 in terms of the restaurant. And we communicated with
8 them.

9 THE COURT: Well, then, say that when she
10 asks you that. You did investigate it?

11 THE WITNESS: Yes. Correct.

12 THE COURT: Before you filed the
13 pleadings?

14 THE WITNESS: Correct.

15 THE COURT: Okay. She says she did.

16 Q (By Ms. Joubert) But you didn't investigate
17 with anybody that was allegedly there?

18 A We communicated with you. You guys haven't
19 responded. I even sent a text that day that he was not
20 allowed to pick him up. And I didn't get a response.

21 THE COURT: You're saying you did try to
22 talk to the lawyers and ask them if they were there
23 before you filed the pleadings?

24 THE WITNESS; That's my understanding.

25 THE COURT: She said she did try to

1 contact you.

2 THE WITNESS: They have not responded. So
3 that's an admission.

4 THE COURT: All right. Next question.

5 Q (By Ms. Joubert) Did you try to call my
6 office --

7 A Why would I communicate with you?

8 THE COURT: You just said that you did.

9 Q (By Ms. Joubert) -- to find out if any of
10 these allegations --

11 A Electronic communication has been done through
12 Mr. Sibley.

13 Q So you don't know if Mr. Sibley tried to call
14 my office to speak to me?

15 A I don't know that.

16 Q And did you investigate whether or not Mr.
17 Sibley had tried to corroborate any of these allegations
18 independent of your child prior to filing the petition?

19 A I'm not aware of that.

20 Q Do you understand that allegations of child
21 abuse are extremely serious?

22 A Yes, I do.

23 Q And do you understand that -- and I understand
24 you've filed allegations with the State bar. I guess
25 you've got some sort of allegation against me and Mr.

1 Kelly and Mr. Dudley with the State bar?

2 A I haven't filed anything. I don't know where
3 you're getting your information. I have not filed
4 anything.

5 Q Well, are you aware of the fact that a bunch of
6 this stuff that Mr. Sibley has filed has gone to the
7 State bar?

8 A I'm not aware of that.

9 Q So you haven't filed anything personally?

10 A No. But I'm planning to.

11 Q You are planning to?

12 A Yes.

13 Q You have absolutely no personal knowledge of
14 anything in your affidavit or in your pleading, do you?

15 A I believe my child. I'm the mother of this
16 child. I believe what he's telling me. That's my
17 personal knowledge. What he tells me, I'm going to
18 believe. I don't have any reason to -- even if his
19 story is half accurate, this is terribly abusive what
20 you did to him. What you all did to him.

21 Q Do you understand the question, Ms.
22 Flores-Lamb? I'm asking you to answer just the
23 question.

24 MR. SIBLEY: Your Honor, I'm going to
25 object to her tone of voice.

1 THE COURT: Overruled.

2 Q (By Ms. Joubert) The question is: Do you have
3 any personal knowledge; that is, having seen it with
4 your own eyes, any of the allegations contained in your
5 affidavit or in the application for emergency orders?
6 Do you have any personal knowledge? Yes or no.

7 A My child, yes. My child.

8 Q Do you understand --

9 A He's afraid of his father.

10 Q You are not answering the question, Ms.
11 Flores-Lamb.

12 THE COURT: She's nonresponsive. You
13 might want to move on.

14 You can try again, if you want. But
15 you've asked her several different times and she won't
16 answer the question.

17 Q (By Ms. Joubert) Do you understand --

18 THE COURT: That's telling the Court you
19 don't have any personal knowledge. You only have
20 knowledge through what your six-year-old son told you;
21 is that correct? You didn't see any meeting at the
22 restaurant, did you?

23 THE WITNESS: No, I did not.

24 THE COURT: Next question, please.

25 MS. JOUBERT: Pass the witness.

1 THE COURT: All right. Mr. Sibley.

2 MR. SIBLEY: Thank you.

3 DIRECT EXAMINATION

4 BY MR. SIBLEY:

5 Q Do you have personal knowledge of everything
6 stated in this affidavit?

7 A Correct.

8 Q And, in fact, did you ever say in that
9 affidavit that you saw what happened at the restaurant?

10 A I never said that.

11 Q So the things you did say in that affidavit,
12 you have personal knowledge of. Correct?

13 A Right.

14 Q Do you have personal knowledge that your child
15 told you these things?

16 A Yes, I do.

17 Q Do you have personal knowledge that your child
18 was acting unusually, which gave rise to you learning
19 about these things?

20 A Correct.

21 Q And you have personal knowledge that the child
22 said these things more than once?

23 A Correct.

24 Q Were you ever afraid that a police car might be
25 coming to your front door because of these allegations?

1 A Yes, I was. And I'm very grateful that my son
2 felt he could tell me the truth.

3 Q Do you have knowledge that mainly men go to
4 prison everyday based on what five and six-year-old
5 children say?

6 A Correct.

7 Q They get \$200,000 bonds placed on them. Right?

8 A Correct.

9 Q And they stay there if they can't afford to
10 bond out until they go to trial?

11 A Correct.

12 Q And would you be able to afford a \$200,000 bond?

13 A No.

14 MS. JOUBERT: Your Honor, I have no idea
15 what this is relevant to at all.

16 MR. SIBLEY: She's sitting there saying
17 it's ridiculous to believe a five or six-year-old child.

18 THE COURT: Five year olds make outcries
19 on sexual abuse all the time. And, of course, if judges
20 believe them, they put people in jail with high bonds.

21 MR. SIBLEY: Absolutely. So why shouldn't
22 we believe a five year old when he makes this type of
23 allegation.

24 THE COURT: I understand your point.
25 Let's move on.

1 Q (By Mr. Sibley) Now, has Ms. Joubert
2 identified any sentence in this affidavit that is not
3 believable or is questionable in any way or in any form?

4 A No.

5 Q Is there any part of this affidavit that's not
6 strictly true and you have personal knowledge of what's
7 being said?

8 A This is all true.

9 Q All right. Did your son have any knowledge of
10 these allegations that supposedly -- some allegations
11 without a factual basis that there is some type of
12 romantic relationship between you and me?

13 A No. Absolutely not.

14 Q Did that come from you in any form or fashion?

15 A No. I try to keep him out of the conflict.

16 Q So how would he know that -- does that have
17 any truth to it?

18 A No, it doesn't.

19 Q Is there anything that the child ever saw that
20 would suggest that to the child?

21 A No. Absolutely not.

22 Q Did anything happen, whether he saw it not,
23 that would suggest that?

24 A No.

25 Q So would he know even to think about such a

1 thing without hearing it from Ms. Joubert or her client
2 or somebody along those lines?

3 A Right. Somebody brainwashed him and fed him
4 these lies. And that's what he told me. Ms. Joubert
5 did.

6 Q Well, apparently, the brainwashing didn't
7 work. Somebody tried to brainwash him.

8 A Correct.

9 Q Are you aware of anybody else who has been
10 repeatedly accused of this?

11 A He specifically named Judge Galvan. Judge
12 Galvan told me to say that I was a bad mother.

13 Q And was your quality as a mother ever at issue
14 before having --

15 A Never at issue. Never.

16 Q Is it your job -- are you God? Do you know
17 what's true and what's not true?

18 A No, I don't.

19 Q What's your job?

20 A My job is to protect my child, to believe my
21 child. And I have to protect myself, too.

22 Q Now, let's talk about protecting your child.
23 Did you attend a class you go to when you get divorced?

24 A Yes. I have the receipt right here.
25 Certificate, rather.

1 Q And is involving a child in this type of
2 controversy in the best interest of the child?

3 A Absolutely not.

4 Q Is this an extreme example.

5 A This is an extreme example of child abuse.
6 There's no other way to buttress it. It's child abuse.

7 THE COURT: What is child abuse?

8 THE WITNESS: What they're doing.

9 THE COURT: What is that?

10 THE WITNESS: Brainwashing him to get him
11 to falsely convict me of sexually molesting him.

12 THE COURT: Has anybody made charges
13 against you for sexual molestation?

14 THE WITNESS: No, Your Honor. But I
15 believe this --

16 THE COURT: Has anybody made those
17 allegations?

18 THE WITNESS: No.

19 THE COURT: And you think you can get a
20 false conviction and you can be convicted in a court?
21 How do you think you can be convicted?

22 THE WITNESS: If the child were to
23 testify to that, if they would have been successful in
24 brainwashing him, I believe, Your Honor, that's all it
25 would have taken.

1 THE COURT: So if a five year old said
2 that you were molesting him, just because he says it, he
3 could have been brainwashed and maybe it's not true is
4 what you're trying to tell me. Right?

5 THE WITNESS: Correct.

6 THE COURT: But you don't always believe
7 five year olds or six year olds. Right?

8 THE WITNESS: Well, I believe the child.

9 THE COURT: But on the other hand, you
10 want me to believe a five year old? You're giving me
11 two different arguments here with your testimony.

12 THE WITNESS: Your Honor, the child, in a
13 sense, let the cat out of the bag of what the opposing
14 counsel was up to.

15 THE COURT: I understand. But you see
16 what you're doing? Five year olds can make up lies and
17 put people in jail. And that's outrageous. We
18 shouldn't believe them. But you're saying when it comes
19 to an allegation that benefits you, we should believe
20 them just like we maybe wrongly believed the five year
21 old over here on a sexual abuse outcry.

22 All right. Carry on.

23 THE WITNESS: I'm sorry.

24 Q (By Mr. Sibley) Do you think a jury might
25 believe an allegation by a five year old, even though

1 it's not true?

2 MS. JOUBERT: Your Honor. Object.
3 Speculation.

4 THE WITNESS: I believe they would. I
5 believe people go to prison all the time for things like
6 this.

7 Q (By Mr. Sibley) Well, do you want to be under
8 the risk of whether they believe it?

9 A I don't want to be under that risk. Whether I
10 was exonerated or not, my credibility, I would be
11 destroyed. And that was their sole purpose to destroy
12 me and take the child away.

13 Q And is that the first time they tried to
14 destroy you?

15 A No. This is their third attempt.

16 Q Okay. I might say more. How do you count
17 three?

18 A The kidnapping incident at the school. After
19 mediation when I was told to leave my home, they
20 exploited that situation and said that the child needed
21 to be removed immediately. Within like a week, they
22 filed something that full custody needed to be granted
23 to the father.

24 Q Because?

25 A Of the financial situation that I had been left

1 in. The judge would not revoke the corrupt mediation.

2 Q Have they tried to take away your child more
3 than once?

4 A Oh, yes.

5 Q Have they done it based on total lies?

6 A Yes.

7 Q And what would those lies be?

8 A That you, obviously -- that we have some kind
9 or romantic relationship. How else would you be
10 helping me fight.

11 Q Did they have any factual basis for making that
12 allegation?

13 A No.

14 Q Well, it seems they did?

15 A They flap their gums with no evidence. There
16 is no correlation to the truth for what these people
17 say. And they hardly ever have to present evidence.

18 Q Well, they said that I admitted to holding
19 your hand once. Is that evidence of a romantic
20 relationship?

21 A No.

22 Q How did that come about?

23 A That came about because at the child's
24 insistence, we did that. And it's not uncommon for me
25 to hold hands when you're saying a prayer.

1 Q Can you explain to the Court why the child
2 would insist that we hold hands?

3 A Because we were swinging him.

4 MS. JOUBERT: Your Honor, we can be here
5 for the next three days if we go down these rabbit
6 trails. Objection. Relevance.

7 THE COURT: Sustained. Make your point
8 and try to move on.

9 MR. SIBLEY: Thank you.

10 THE COURT: It's already 3:25. And I was
11 told this thing was supposed to take about an hour. And
12 I know I ran a little bit late, but we've still gone --
13 your time has gone way over.

14 Go ahead. Let's try to move it along,
15 please.

16 MR. SIBLEY: Thank you.

17 Q (By Mr. Sibley) Before they accused you of
18 that, did they call you up and ask you if you were
19 having a romantic relationship with your lawyer?

20 A Absolutely not.

21 Q That's kind of silly, isn't it? Actually,
22 everything is kind of silly, isn't it?

23 A It is.

24 Q Can you give the Court an example of the phone
25 calls that are inappropriate that your ex-husband is

1 having with the child?

2 MS. JOUBERT: Your Honor, I object. I
3 don't believe this is on point. We are here to talk
4 about this application. The application doesn't say
5 anything about inappropriate phone calls. There has
6 been no allegations of inappropriate phone calls. No
7 pleadings.

8 MR. SIBLEY: First of all, he got up there
9 and said he didn't have inappropriate phone calls. They
10 seem to think that they get to present evidence and we
11 don't get to respond.

12 THE COURT: Go ahead. He said he didn't.

13 Q (By Mr. Sibley) Was there one particular phone
14 call recently that was particularly abusive?

15 A Yes.

16 Q When did that phone call occur?

17 A It occurred September, on the 9th.

18 Q Well, can you place it in terms of what gave
19 rise to this phone call?

20 A That was the day -- he had the child Labor Day
21 weekend. And that was the day that I got confused with
22 the Wednesday, Thursday thing. And he didn't get to
23 exercise his two-hour visit. And he was extremely
24 abusive to the child. The conversation was over nine
25 minutes. And he was disparaging me in the presence of

1 the child blaming me saying -- blaming the child that
2 that was no excuse. He had no excuse. How could he
3 forget. He was completely abusive.

4 Q So the Labor Day weekend went into Monday.
5 Right?

6 A Correct. And he had him through Monday.

7 Q So if you're counting your own clock starting
8 when you get the child back, what would normally seem
9 like Monday was actually Tuesday?

10 A Right. And that is the only incident where I
11 had forgotten in over a year. He said I had been
12 obstructive. He, on the contrary, has been obstructive.

13 Q How many times during that one phone call did
14 he say, because of your mother, I'm not able to see you?

15 A At least ten times.

16 Q What else did he say that was abusive to the
17 child?

18 A He said, you have to talk to me for ten
19 minutes.

20 Q And why was that abusive?

21 A Because the child had to go to the bathroom.
22 And he said, I'm going to get ready to eat. No. You
23 need to talk to me. I don't care if you're eating. The
24 food can wait.

25 And this is on recording and it's also

1 transcribed.

2 Q Do you recall an incident where, I guess,
3 sometimes you have first, third and fifth. And the
4 fifth is next to the first and sometimes you have two
5 weekends in a row where you made a mistake about that?

6 A Yes.

7 Q Was that near the beginning after the divorce
8 decree was signed?

9 A Yes. I believe it's maybe around Mother's Day,
10 I think. I don't know.

11 Q All right. So have you made more than two
12 mistakes the whole time this has been going on?

13 A This is the only mistake I can think of.

14 Q Which one are you talking about? The Labor Day
15 one?

16 A The Labor Day one.

17 Q The other one, wasn't that a mistake, too?

18 A I thought he was supposed to pick up the child
19 and it turned out because of the first, third and fifth
20 --

21 Q Oh, it went the other way. You thought he was
22 supposed to but he wasn't supposed to?

23 A Correct.

24 Q So there was only one where he wasn't able to
25 when he was supposed to?

1 A Correct.

2 Q And did you give him a make-up day?

3 A For this Thursday because it was my mishap.

4 Yes, I did give him a make-up day.

5 Q And did he wait hours like he said?

6 A No. The text messaging will prove that he's

7 lying. 30 minutes. And he didn't answer the phone.

8 And I called him twice.

9 Q You called him 30 minutes after he was supposed
10 to get the child?

11 A Correct.

12 Q And he didn't answer?

13 A He didn't answer the phone. He did get to talk
14 to the child that night.

15 Q And, in fact, that night, that's the one
16 you've identified as being particularly abusive.

17 Correct?

18 A Correct.

19 Q Isn't it a fact the child said, well, why don't
20 you come back, dad? And he says, well, it's too late?

21 A Correct.

22 Q And you've got text messages here that show the
23 time when sent him a message saying -- well, what did
24 you say after texting him?

25 A I just -- the text messaging will show the time

1 that I placed the two calls. And it also shows his text
2 messaging, how abusive they are. And there is also a
3 message of the time frame he did get to talk to the
4 child. And that phone call was recorded.

5 Q Okay. I'm sorry. You sent a text message
6 after you called him?

7 A No, I didn't. I just took a picture of all the
8 correspondence, his text messaging, my phone calls that
9 were placed.

10 Q Okay. We've been using the term "call"
11 loosely. Actually, everything was text messages.
12 Right? You didn't call him?

13 A I did call him twice.

14 Q Oh, you did?

15 A I did. But he didn't answer the phone.

16 Q And, then, you also text messaged him?

17 A I don't believe I text messaged him. After
18 hearing the way he treated the child --

19 MS. JOUBERT: Your Honor, we've got too
20 far afield here.

21 THE WITNESS: I don't want to be on the
22 receiving end of that either.

23 THE COURT: I agree. Anything else?

24 Q (By Mr. Sibley) Now, let's talk about
25 frivolous allegations. Is that okay?

1 A Yes.

2 Q Is there any grounds at all that your care of
3 the child may endanger the child's health or
4 significantly impair his emotional development?

5 A No.

6 Q Is there any grounds at all that you're engaged
7 in a campaign to alienate the child from him?

8 A No. On the contrary, that's what they do.
9 And this is their tactic. They accuse you of what they
10 are guilty of.

11 Q In fact, this affidavit where you say anything
12 was months before this?

13 A Correct.

14 Q So at this time, did you even hear any basis
15 for that allegation?

16 A No.

17 Q Just total frivolous --

18 A No correlation to the truth. Where is the
19 evidence?

20 Q Has that been a pattern throughout this case?

21 A Yes. To say the least.

22 Q Have you ever told the child that he is a bad
23 person or trying to make the child hate him?

24 A No. When I have Titus, we don't talk about his
25 dad. He never even brings him up.

1 Q Has he indicated anything that he has personal
2 knowledge of any such thing?

3 A No. He did not say that.

4 Q He's just making wild inferences. Right?

5 A Correct.

6 Q Did he go to the restaurant and doublecheck or
7 do anything to doublecheck before he filed this type of
8 garbage?

9 A Not that I'm aware of.

10 Q Now, he says you're destitute. Do you have a
11 roof over the child's head?

12 A I do. He has his own room.

13 Q Does the child eat everyday? Two or three
14 times a day whenever he's hungry?

15 A Yes.

16 Q Is the child healthy, happy and --

17 A Very. Very happy.

18 Q Is there any factual basis to that at all?

19 A There is no factual basis.

20 Q Has anybody even suggested you were not
21 mentally stable, other than Andrew Mata and Ms. Joubert?

22 A Nobody has.

23 Q And to the extent you may be under stress, has
24 that affected you in any way, other than what causations
25 it may have with your hair?

1 A No. What normal person after being through
2 what they are trying to do wouldn't be stressed? But,
3 no, it doesn't affect my ability to care and love my
4 child.

5 MR. SIBLEY: No further questions.

6 THE COURT: Anything else?

7 MS. JOUBERT: Just briefly.

8 RE CROSS-EXAMINATION

9 BY MS. JOUBERT:

10 Q You said that you were afraid that the police
11 were going to come to your door?

12 A When the child had told me what you guys had
13 implanted in his mind, what you were conspiring to do, I
14 was afraid that you guys had already had that, a tape.
15 And the way things go, it just takes an allegation and
16 they would remove him and remove me and ask questions
17 later. That's why I was afraid.

18 Q Are you still wearing a wig?

19 A Yes, I am.

20 Q You still don't have your hair?

21 A I have some hair. It will grow back.

22 Q And you are saying today that it's not a good
23 idea to involve this child in this case?

24 A I'm saying I have done everything to keep a
25 stable environment to keep him out of the conflict.

1 Q That wasn't the question.

2 A He is involved in this case because you abused
3 him.

4 Q And he's involved in this case because you have
5 interrogated him and brought him in by way of this
6 affidavit, have you not?

7 A I have not interrogated him.

8 Q So it wasn't an interrogation when you did the
9 video tape?

10 A It was not an interrogation.

11 MS. JOUBERT: Pass the witness.

12 THE COURT: Thank you, ma'am. You can
13 step down. She's going to change her paper.

14 Go ahead. Next witness, Mr. Sibley -- I
15 mean, Ms. Joubert.

16 MS. JOUBERT: I call David Sibley.

17 THE COURT: Mr. Sibley. We swore you in
18 this morning. You're still under oath.

19 DAVID SIBLEY

20 was previously duly sworn.

21 CROSS-EXAMINATION

22 BY MS. JOUBERT:

23 Q Mr. Sibley, prior to the filing of the
24 emergency -- the application for emergency temporary
25 orders, which was filed September 23rd, prior to filing

1 this, did you independently investigate any of the
2 allegations made against Judge Galvan, me, Mr. Dudley or
3 Mr. Kelly?

4 A I personally heard a lot of this happened. I
5 witnessed it with my own ears. And I thought it was
6 very urgent because I was afraid both for her and me.
7 And despite the Judge's skepticism, I've seen people
8 arrested on virtually no evidence. I was scared for her
9 and I was scared even for myself because I didn't know
10 what else had been planted in the child's mind. I
11 thought it was essential that we go on record
12 immediately --

13 MS. JOUBERT: Object as to nonresponsive.
14 That wasn't the question.

15 THE COURT: Sustained. Mr. Sibley, try
16 to just listen to her question and then just answer her
17 question.

18 THE WITNESS: I verified -- I personally
19 heard what the child said.

20 Q (By Ms. Joubert) The question, however, Mr.
21 Sibley, was not whether or not you verified it with the
22 child. It's whether or not you verified it with anybody
23 else.

24 A I don't know who would expect me to.

25 THE COURT: Anybody else.

1 Q (By Ms. Joubert) Anybody else. Did you try to
2 call me to say, by the way, did this ever happen?

3 A I wouldn't believe anything you said, Joubert.

4 Q Did you ever try to call Judge Galvan?

5 A I did write you a letter. I sent you a copy of
6 that letter. And I've never yet gotten a response to
7 it.

8 THE COURT: Her question was: Did you
9 call her?

10 THE WITNESS: I did not call you.

11 THE COURT: No is his answer. Next
12 question.

13 Q (By Ms. Joubert) Did you ever try to talk to
14 Judge Galvan about this?

15 A I sent him a letter immediately. I thought it
16 was important enough to put it in writing. Did I pick
17 up the phone and call him, no. I don't ever call
18 judges. Almost never -- in fact, I think it's politics.

19 THE COURT: That's irrelevant. He said
20 no. Next question.

21 Q (By Ms. Joubert) As a matter of fact, the
22 letter of the 22nd, was addressed to Judge Gonzales
23 Ramos, was it not?

24 A I believe that's true, but I also --

25 THE COURT: It's true. Next question.

1 THE WITNESS: I sent it to Galvan, too.

2 Q (By Ms. Joubert) Did you ever pick up the
3 phone and talk to Mr. Dudley about this?

4 A No.

5 Q Did you ever pick up the phone and talk to Mr.
6 Kelly?

7 A And nor did y'all when you said I was having a
8 romantic relationship with her. You never called me.

9 THE COURT: All right. Mr. Sibley, just
10 answer the question. If you want to call yourself as a
11 witness later and elaborate, I'll let you do that. But
12 right now, just answer the question or we're going to be
13 here forever.

14 Q (By Ms. Joubert) Are you aware of Rule 13 of
15 the Texas Rules of Civil Procedure?

16 A Yes. I'm aware of that rule.

17 Q Are you aware that the rule says prior to
18 filing something as serious as an allegation of child
19 abuse, you should certainly do some investigation?

20 A And I did. Yes, I'm aware of that.

21 Q So you're saying that this is not a completely
22 groundless pleading?

23 A It's absolutely not. It's enough to send
24 somebody to prison on. It happens everyday.

25 Q The fact is you based this solely on the

1 imagination or the word from the imagination of a six
2 year old.

3 A You know what, if your position was about
4 fantasy, there are about 5,000 people in prison.
5 Because this is exactly the type evidence people go to
6 prison for.

7 THE COURT: Mr. Sibley --

8 MR. SIBLEY: I'm sorry.

9 Q (By Ms. Joubert) Mr. Sibley, that was not the
10 question. The question was: Your pleading alleging Mr.
11 Dudley, Mr. Kelly and Judge Galvan had engaged in child
12 abuse was based solely on the hearsay of a five year
13 old?

14 A No. The child was there. It's not hearsay
15 from him.

16 Q Well, hearsay -- however, you don't have any
17 personal knowledge of this meeting, do you?

18 A I almost never do. A client tells me. A
19 witness tells me. And I'm rarely at a place where
20 something happens.

21 Q And did you not think under Rule 13, you would
22 be required making such serious allegations to do some
23 independent investigation prior to filing your
24 pleadings?

25 A I told you I heard the witness with my own

1 ears. And let me correct that. I didn't hear all of
2 it. I heard part of it with my ears. Some of it
3 occurred when she went in the room next door.

4 Q Have you made an allegation with the Texas
5 Judicial Conduct Commission with regard to Judge Galvan?

6 A No.

7 Q And your client has already indicated that she
8 plans on filing against the three lawyers.

9 A She should.

10 Q And is she planning on filing against Judge
11 Galvan?

12 A I don't know.

13 Q And you have made a report to CPS; is that
14 correct?

15 A That's correct.

16 Q And it involves Judge Galvan, Mr. Dudley, Mr.
17 Kelly and myself; is that correct?

18 A Initially, no. The initial report did not
19 include Judge Galvan. Now, I think the next day, we
20 called and added him to it. Initially, the child said
21 that his dad said Judge Galvan said she was a bad mom.
22 And, then, later, the child changed it to the Judge said
23 she was a bad mom. So the exact words, the child
24 changed the first day of this.

25 Q And so based on that changing story by a six

1 year old, you filed a CPS report against Judge Galvan?

2 A The second day, his name was mentioned. That's
3 true.

4 Q And you consider that appropriate?

5 A Absolutely. He's not immune from the law.
6 Now, I don't know if he did it or not. But if he did
7 it, it was very wrong. And I have a child saying that
8 he did it. And it was very, very wrong if it happened.
9 And I said that in one of the letters that I wrote, that
10 I don't know if he did it or not. But I have to do what
11 I have to do. I represent this client. And I've got
12 this child who's saying that this happened. And there
13 is quite a bit of corroborating evidence.

14 By that time, we had gone to talk to the
15 people at the restaurant. We got a ticket of the meal.
16 And they recognized that the child was there. One of
17 the waiters recognized the child was there. And that
18 the number of people was correct. There was like four
19 or five people there, including a senior citizen, which
20 I think you probably are.

21 I mean, everything was corroborated. The
22 child even said exactly what chairs people were sitting
23 in.

24 THE COURT: Everything was corroborated by
25 these other third parties. And by "everything", I mean

1 they'll corroborate that the judge and the lawyers
2 you're claiming were there were there?

3 THE WITNESS: Well, it was substantially
4 corroborated.

5 THE COURT: Substantially.

6 THE WITNESS: We thought we had the right
7 number of people there. We know the child was there.
8 We know one of the people was a senior citizen.

9 THE COURT: But we don't have the
10 identities of those people, the main thing we need to
11 know, do we? Or do we?

12 THE WITNESS: No. Except for the child.

13 MS. JOUBERT: Pass the witness.

14 THE COURT: You can step down. Thank
15 you, Mr. Sibley.

16 MR. SIBLEY: I would like to examine
17 myself.

18 MS. JOUBERT: We rest subject to rebuttal.

19 THE COURT: You can call yourself as a
20 witness if you like.

21 MR. SIBLEY: All right.

22 I find the position extremely curious. I
23 have represented probably half a dozen people charged
24 with sexually molesting a child. And, particularly, in
25 one instance -- and they're all this way to some extent.

1 Well, not all. But a couple of them were this way to
2 some extent where a child makes a statement. A person
3 is arrested and put on 200, \$250,000 bond. And in one
4 instance, the guy was acquitted. And the ones I've
5 taken were based solely on statements like this by a
6 child. But nothing can corroborate --

7 THE COURT: And do you think that's fair?

8 THE WITNESS: No. But I think it's
9 something that can happen to my client. And I'm
10 thinking it's something that could happen to me. At
11 that particular time, the child did not mention them
12 saying that he needed to make an allegation against me.
13 But I was very much worried about it.

14 THE COURT: Again, Mr. Sibley, do you
15 realize it seems to me that you've kind of taken a play
16 in that play book and you kind of have turned it around
17 and now you're using the word of a very young child
18 without -- I haven't heard any, yet. And you've made
19 some very serious allegations. On one hand, I
20 understand this happened. But you, by your admissions,
21 will admit that's really not fair and maybe we shouldn't
22 do that. But it appears to me that now you're doing
23 that. Am I wrong?

24 MR. SIBLEY: Well, I think you are
25 wrong. I think because of the fear, I was actually --

1 to be honest, I was less fearful of my client than for
2 me. Because I think these allegations are normally made
3 against men. And there are less made against women.
4 But I was very fearful that the people would do this. I
5 saw them do it in Stanley Rains case repeatedly over the
6 course of ten years. And I thought that we needed to
7 make this a public record immediately because somebody
8 might be being falsely arrested or falsely be put in
9 prison, including myself.

10 And I thought it was of extreme urgency
11 that that be done. And I had a child that -- like I
12 said, I heard some of what happened. After part of the
13 way, Jennifer took the child in the room next to the
14 room I was in.

15 But a child that was making very specific
16 allegations that he was being told -- and by the way,
17 it's different in another respect, too. We haven't
18 accused anybody of sexually molesting the child. If we
19 were taking that play out of their play book, we would
20 have done that to Mr. Andrew Mata, which we never did.

21 This was done to say, look, y'all are
22 doing wrong by doing this. We're not doing it. We're
23 saying you're doing wrong by doing it. It's different.

24 Now, I would never participate in that
25 type of thing trying to put a man in prison based on

1 something that didn't seem rock solid.

2 But here, we didn't try to do that. We're
3 being defensive both for ourselves and for the child.

4 THE COURT: All right. Well, on these
5 exhibits that were admitted -- let's see. You've
6 written Judge Galvan on PX-1. And the other, you wrote
7 Nelda Gonzales Ramos. And PX-2 looks like it goes to
8 Judge Galvan, as well. You've made some pretty serious
9 allegations. And there is testimony that you think your
10 client should report these judges or report Judge
11 Galvan?

12 MR. SIBLEY: I think this is very serious
13 child abuse if it occurred. And, yes, it's a legal duty
14 to report child abuse. And we have a witness that will
15 support this. There is a child involved. Telling a
16 child to lie about his mother is very, very serious.

17 THE COURT: Okay. Anything else you want
18 to tell me?

19 MR. SIBLEY: Not at this time.

20 THE COURT: Okay. Thank you, Mr. Sibley.

21 Ms. Joubert, you rest. Right?

22 MS. JOUBERT: Rest subject to rebuttal,
23 Your Honor.

24 THE COURT: Mr. Sibley, you want to call
25 one of these corroborating witnesses?

1 MR. SIBLEY: Dr. Beckham.

2 THE COURT: Dr. Beckham.

3 DR. BECKHAM

4 was duly sworn.

5 THE COURT: Come on up and make yourself
6 comfortable. And the lawyers are going to have some
7 questions for you, as well, please. And I may, as well,
8 if I need to clarify anything.

9 Go ahead.

10 DIRECT EXAMINATION

11 BY MR. SIBLEY:

12 Q What type of doctor are you?

13 A I'm a clinical psychologist.

14 Q And how many years have you been a clinical
15 psychologist?

16 A About 25 years.

17 Q Does your practice involve significantly
18 children?

19 A Yes.

20 Q And what percentage of your practice involves
21 children?

22 A About 60 percent.

23 Q Have you had occasion to meet -- what word do
24 use? Meet or treat? Or what word do you use?

25 A Either one is fine.

1 Q Have you had an opportunity to meet with this
2 particular child?

3 A Yes.

4 Q And before we get into the accusation of child
5 abuse, how is the child doing?

6 A He's doing quite well.

7 MS. JOUBERT: Your Honor, I object. I
8 don't believe this witness has been classified so far as
9 an expert witness. And I would object to her testifying
10 as an expert.

11 THE WITNESS: I'm not testifying as an
12 expert.

13 THE COURT: Okay. She's not an expert.
14 Continue on with your testimony. Go ahead.

15 Q (By Mr. Sibley) Did you observe the behavior
16 of the child?

17 A Yes.

18 Q And as a factual witness, can you tell whether
19 the child is doing well now?

20 A Yes. He's doing quite well.

21 Q Can you actually tell whether the child is
22 happy?

23 A I think he's very happy.

24 Q Can you tell whether he's well adjusted?

25 A He's well adjusted.

1 Q How long do these meetings last?

2 A My first meeting with Titus was on November
3 30th of 2009. And it lasted about an hour and a half.
4 My next meeting with him was July 29th. And that
5 meeting lasted about an hour. And then my most recent
6 meeting was with him on October 6th. And that meeting
7 lasted about an hour.

8 Q You've been sitting in the courtroom while
9 this hearing has been going on?

10 A Yes.

11 Q And you hear Ms. Joubert without seeing any
12 video tapes characterize them as interrogation and,
13 somehow, wrongful or whatever?

14 A Yes.

15 Q Okay. Now, you, are you trained to interview
16 children?

17 A Yes.

18 Q Did you interview the child after the
19 allegation about September 18th?

20 A Yes.

21 Q And did you use your professional training to
22 interview the child properly not being excessively
23 leading or not to interrogate or whatever it is Ms.
24 Joubert suggested that Jennifer did without even seeing
25 the evidence?

1 A Yes.

2 Q Did the child make statements to you about
3 September 18th?

4 MS. JOUBERT: Object to testimony, Your
5 Honor. If she's not able to testify as an expert, she
6 can't testify from hearsay.

7 MR. SIBLEY: It's an exception to the
8 hearsay. A person's medical treatment.

9 THE COURT: Well, it's not treatment. The
10 Rule deals with the diagnosis. Is she a medical doctor
11 or able to diagnose?

12 MS. JOUBERT: A psychologist is not able
13 to diagnose.

14 THE COURT: You're talking about diagnosis
15 only.

16 MS. JOUBERT: But she's not testifying as
17 an expert, Your Honor. She can't testify as a
18 psychologist. She's a fact witness.

19 THE COURT: Well, that's true. You're
20 not testifying as an expert, so she can't give a medical
21 diagnosis.

22 Objection sustained.

23 Q (By Mr. Sibley) Did the child make spontaneous
24 utterances?

25 MS. JOUBERT: Your Honor, I'm going to

1 object as hearsay.

2 THE COURT: I don't know that excited
3 utterances are an exception to hearsay or else it's not
4 hearsay. But we haven't even got there yet.

5 Did he make any excited utterances? But I
6 don't see how a child with a doctor could actually do
7 that. But I'll let you ask the question.

8 MS. JOUBERT: Well, and besides that, Your
9 Honor, I would object because an excited utterance would
10 have had to have been on or about September 18th.

11 THE COURT: Well, it could be any time
12 about anything. I don't know if it's relevant or not.
13 He's entitled to ask the question. I'm really going to
14 start trying to move this along.

15 Any excited utterances from the child?
16 Yes or no.

17 THE WITNESS: No.

18 THE COURT: All right. Next question.

19 Q (By Mr. Sibley) And for the purposes not for
20 the truth of the matters asserted but for the purposes
21 of showing whether or not effort has been made to
22 corroborate the statements of the child, was that done
23 on that day?

24 THE COURT: I didn't understand that
25 question.

1 MS. JOUBERT: I didn't either, Your Honor.

2 THE COURT: Ask the question again, Mr.
3 Sibley.

4 Q (By Mr. Sibley) Was an effort made to
5 corroborate the day the child met with you whether the
6 allegation at the Mandarin Garden restaurant was true?

7 A It may or may not have been. I wasn't focused
8 on doing that. It may have happened or it may not have
9 happened. I just wasn't paying attention to it.

10 Q What may or may not have happened?

11 A Did I try to corroborate --

12 Q You didn't know whether we were trying to
13 corroborate or not?

14 A I didn't know.

15 Q But was it corroborated?

16 A I don't know.

17 Q Did the child make statements that this
18 occurred?

19 A Yes.

20 MS. JOUBERT: Object to hearsay.

21 MR. SIBLEY: I'll withdraw the question.

22 THE COURT: It's withdrawn, so I won't
23 make a ruling.

24 Q (By Mr. Sibley) Have you spoken with the
25 mother of the child, also?

1 A Yes.

2 Q And factually speaking, did she say anything to
3 you that was --

4 MS. JOUBERT: Object to hearsay.

5 THE COURT: Go ahead and ask the
6 question. Let him go ahead and get it out.

7 Q (By Mr. Sibley) Anything that the mother said
8 to you that was inappropriate in any way?

9 MR. SIBLEY: And it's not hearsay.

10 MS. JOUBERT: Object to hearsay, Your
11 Honor.

12 THE COURT: Why isn't it?

13 MR. SIBLEY: It goes to the truth of the
14 matter asserted. It's not whether the statements are
15 true or not. It's whether the statements are
16 inappropriate in any manner.

17 THE COURT: Okay. I'll let you have that
18 one. Overruled.

19 THE WITNESS: The mother made no
20 inappropriate statements.

21 THE COURT: Okay. Next question.

22 Q (By Mr. Sibley) You said earlier you weren't
23 testifying as an expert.

24 A Correct.

25 Q Are you willing to testify as an expert?

1 A Yes.

2 Q Are you an expert?

3 A Yes.

4 MS. JOUBERT: Your Honor, that's not the
5 way you do it.

6 MR. SIBLEY: Well, I'm not finished.

7 Can I go on?

8 THE COURT: Yes.

9 MR. SIBLEY: Thank you.

10 Q (By Mr. Sibley) Do you have more knowledge
11 about children and child abuse and child well being than
12 the average layperson?

13 A Yes.

14 Q In fact, is that something you've been doing
15 for a large part of your professional life for -- I
16 think you said 25 years?

17 A Yes.

18 Q Have you received training from the
19 university? In fact, a doctorate level on these issues?

20 A Yes.

21 Q And based on your knowledge, experience and
22 expertise, do you have an opinion whether this child is
23 involved in an allegation --

24 MS. JOUBERT: Your Honor, she cannot
25 testify as an expert until this Court has certified her

1 as an expert.

2 THE COURT: I haven't got her certified as
3 an expert, Mr. Sibley. You asked a few questions around
4 it.

5 Q (By Mr. Sibley) Do you have the type of
6 information with respect to this child and being an
7 expert in your field that you would rely upon to make an
8 opinion about this child?

9 A Yes.

10 THE COURT: What are your qualifications?
11 Where did you go to school?

12 THE WITNESS: I went to the University of
13 North Texas. I had post-doctoral fellowships at Baylor
14 College of Medicine in Houston and Southwestern Medical
15 School in Dallas. I've been in practice for 25 years
16 practicing largely on children. And I'm the past
17 president of the Nueces County Psychological
18 Association. And I'm a member of APA and TPA. That's
19 American Psychological Association and Texas
20 Psychological Association.

21 THE COURT: Do you think you're an expert
22 on the type of information that Mr. Sibley is trying to
23 elicit from you?

24 THE WITNESS: Yes.

25 THE COURT: How long have you been doing

1 this?

2 THE WITNESS: 25 years.

3 THE COURT: Okay. I'll certify her as an
4 expert.

5 You can ask the question, Mr. Sibley.

6 MR. SIBLEY: Thank you.

7 Q (By Mr. Sibley) Is it child abuse to instruct
8 a child to lie about the other parent?

9 A Yes, it is.

10 Q And one of the issues in this case is where the
11 child is best -- in terms of his primary residence. Do
12 you understand that?

13 MS. JOUBERT: Your Honor, I object. She
14 can't testify to that because she hasn't interviewed my
15 client. She's never seen the child with my client.
16 And she hasn't done testing of all three parties.

17 THE COURT: Yeah. I understand. I didn't
18 even hear your question.

19 MR. SIBLEY: I asked if she understood
20 that one of the issues here is what's the best place to
21 be the child's primary residence.

22 THE COURT: Do you understand that?

23 THE WITNESS: Yes.

24 THE COURT: Overruled. She understands
25 that to be an issue.

1 All right. Move on.

2 Q (By Mr. Sibley) Have you determined where the
3 child -- where he wants to reside?

4 MS. JOUBERT: Objection, Your Honor. That
5 would be hearsay. And she's not at this time qualified
6 to testify about anything -- under her own ethics rules,
7 she cannot testify.

8 THE COURT: I'll sustain that objection.
9 I don't need to hear argument on that.

10 Q (By Mr. Sibley) Were you there to treat the
11 child?

12 A Yes. I was there to treat the child.

13 Q For what purpose?

14 A To evaluate him for the stress of the high
15 conflict divorce.

16 Q And what was the consequence -- what
17 determination did you reach about the child?

18 A That he's all right for now. But I don't know
19 how much longer he can hold up under the high conflict
20 divorce situation.

21 THE COURT: Do you think the child is --
22 obviously, he's under a lot of stress.

23 THE WITNESS: Yes. He says he's under a
24 lot of stress.

25 THE COURT: Okay. From both parents?

1 THE WITNESS: Yes.

2 THE COURT: That, so far, seems obvious to
3 the Court.

4 Q (By Mr. Sibley) Did you inquire with the child
5 what his wishes were as part of that treatment you
6 discussed?

7 MS. JOUBERT: Your Honor, I object as
8 hearsay.

9 MR. SIBLEY: None of this refers to
10 medical diagnosis. I'm asking her --

11 THE COURT: It doesn't have anything to do
12 with medical diagnosis what his wishes regarding --
13 sustained.

14 Ask another question, if you like.

15 Q (By Mr. Sibley) In determining the child's
16 status and what's best for him, do you agree that his
17 wishes are pertinent?

18 MS. JOUBERT: Your Honor, object. She's
19 testifying directly about what the child said. That's
20 inappropriate.

21 MR. SIBLEY: If it's for medical purposes,
22 his medical --

23 THE COURT: I don't see how that has
24 anything to do with a medical diagnosis --

25 MR. SIBLEY: Well, our treatment. Our

1 treatment. And I'm asking her --

2 THE COURT: -- either. His wishes for --
3 for what? What do his wishes have to do with his
4 diagnosis or treatment?

5 MR. SIBLEY: To know what's best for the
6 child, it's my belief -- and I'm asking her if she
7 agrees with me that you need to know what the child --

8 THE COURT: Okay. Well, I've got an
9 objection. I'm going to have to agree with Ms. Joubert.
10 Sustained on that one.

11 You can ask another question, though.

12 MR. SIBLEY: May I make a bill of
13 exceptions?

14 THE COURT: If you want to.

15 MS. JOUBERT: Your Honor, this is
16 temporary orders.

17 THE COURT: Let's do it later. It's only
18 a temp orders hearing. If you want to make an
19 exception, I'll leave later when this is over and you
20 can get her testimony. But it's temp orders. It's not
21 appealable anyway. So it's wasting our time. But if
22 you really want to do it, you can.

23 Q (By Mr. Sibley) Now, as a psychologist or a
24 psychotherapist -- is that what you call yourself?

25 A Yes. I'm both.

1 Q Now, obviously, you don't use a knife.
2 Generally, you don't use medicine?

3 A No, I don't.

4 THE COURT: You're a psychiatrist and a
5 psychologist?

6 THE WITNESS: I'm a psychologist and a
7 psychotherapist.

8 THE COURT: A psychotherapist. You
9 didn't go to medical school?

10 THE WITNESS: No.

11 THE COURT: You're not a medical doctor.
12 You're a --

13 THE WITNESS: Psychologist.

14 THE COURT: Okay. Go ahead.

15 Q (By Mr. Sibley) So your tool kit is,
16 basically, talking to your patients. Right?

17 A And with children playing.

18 Q Talking and playing?

19 A Yes.

20 Q So would you agree with me talking is very
21 pertinent to your treatment and diagnosis?

22 A Yes.

23 MR. SIBLEY: I ask the Court to
24 reconsider. That's the way she does her treatment and
25 diagnosis.

1 THE COURT: Well, ask the question. Maybe
2 you need to ask a different question. I'm not going to
3 reconsider the same question I've already ruled on maybe
4 a couple of times. If you want to ask a different
5 question, go ahead.

6 Q (By Mr. Sibley) In talking to the child as
7 part of either your treatment or diagnosis of the child,
8 did you learn the child's wishes with respect to where
9 he wanted to live?

10 MS. JOUBERT: Your Honor, I object again.
11 That is still hearsay and not part of the process of
12 determining any psychological diagnosis.

13 THE COURT: I think he's skirting right
14 around it. You can answer the question if you learned
15 of it. Don't tell me what it is.

16 Did you learn what his wishes were?

17 THE WITNESS: Yes.

18 THE COURT: That's my question. Don't
19 tell me what it is.

20 Q (By Mr. Sibley) And was that part of the
21 treatment, diagnosis process?

22 A Not really.

23 THE COURT: Any other questions about her
24 opinions or anything?

25 Q (By Mr. Sibley) Is it a legal duty in the

1 State of Texas to report child abuse?

2 A Is it what?

3 Q Is it a legal duty in the State of Texas to
4 report child abuse?

5 A If you're a mandated reporter, it is.

6 Q And if your aunt --

7 A It would be advisable, but if it's legally
8 required.

9 THE COURT: You're talking about teachers
10 and doctors and psychologists.

11 THE WITNESS: But if you're a mandated
12 reporter, you must report it.

13 THE COURT: For example?

14 THE WITNESS: Teachers, psychologists,
15 missions. Not lawyers, though.

16 THE COURT: Did you make a report of any
17 child abuse?

18 THE WITNESS: No, I did not.

19 MR. SIBLEY: Nothing further.

20 THE COURT: She's all yours.

21 CROSS-EXAMINATION

22 BY MS. JOUBERT:

23 Q Dr. Beckham, all of the information that you
24 have concerning this case has come from Ms. Flores-Lamb;
25 is that correct?

1 A And from Titus.

2 Q And did you try in any way to independently
3 verify that Judge Galvan and Mr. Dudley and Mr. Kelly
4 and I have met with the child and, supposedly,
5 interrogated him?

6 A No.

7 Q Would you consider the interrogation of a
8 child -- if that actually occurred, would you consider
9 that sort of interrogation to be child abuse?

10 A I wouldn't because I think this parent
11 interviewed the child based on her love of the child and
12 her curiosity about what the child was saying.

13 Q That wasn't the question, Dr. Beckham. It
14 was: If I had met with the child and Judge Galvan and
15 Mr. Kelly and Titus' father, Mr. Mata, and Mr. Dudley,
16 if we had all gotten the child together and started
17 trying to tell him to say that his mother was a bad
18 mother, would you consider that child abuse?

19 A Yes.

20 Q Then, how is that different than the mother
21 sitting down and video taping this child after
22 interrogating him concerning this supposed incident?

23 A Well, she wasn't suggesting to him that he lie
24 about something.

25 Q And you're suggesting, then, that there was a

1 meeting that actually occurred concerning myself and the
2 Judge and the two other attorneys and my client's
3 father?

4 THE COURT: You can answer it, if you
5 can. If you don't know the answer, say, I don't know or
6 I'm not suggesting that. Whatever the truth is.

7 THE WITNESS: I don't know. I'm not sure
8 if Titus was telling the truth. There is nothing to
9 suggest that he wasn't telling the truth; but I know for
10 a five or six-year-old child, they can develop false
11 memories very readily. And they can elaborate on things
12 that were maybe true in a certain situation and
13 elaborate into another situation. So I don't want to
14 say that I think that that happened without having more
15 evidence. But it's certainly a horrifying situation if
16 it did occur.

17 Q (By Ms. Joubert) But children do have false
18 memories, don't they?

19 A Yes, they do.

20 Q And in order to get himself out of a hole when
21 he said that his father or me or Judge Galvan or whoever
22 it was that was supposed to have told him not to hold
23 his mother's hand when he's in a grocery store parking
24 lot, to get himself out of a hole, he might have made up
25 something, mightn't he?

1 A Yes.

2 MS. JOUBERT: Pass the witness.

3 REDIRECT EXAMINATION

4 BY MR. SIBLEY:

5 Q And what hole do you think she might be
6 alluding to?

7 A I don't know.

8 Q Just some speculative hole?

9 A I don't know.

10 Q Some frivolous allegation of a hole?

11 Do you have any reason to believe the
12 child is in any type of hole at H.E.B. parking lot?

13 A I don't know.

14 Q Do you even know what she was like alluding to
15 there?

16 THE COURT: She means in trouble for not
17 holding his mother's hand walking across the parking
18 lot.

19 Q (By Mr. Sibley) Do you have any reason to
20 believe that there is any trouble involved there?

21 A I don't know. But Titus is an impulsive child.
22 He may have believed he was in trouble and responded
23 thus. But I don't know. I don't know enough about the
24 situation.

25 Q This is all hypothetical here?

1 A Yes.

2 Q And you don't have any reason to believe that
3 this child was imagining or anything else? That's just
4 a possibility. Correct?

5 A It's a possibility.

6 Q And if a child imagines, would they normally
7 have details like exactly where everybody is sitting and
8 come up with something that he shouldn't even know about
9 like an allegation of a romantic relationship?

10 A It would seem unusual to me to have a lot of
11 detail and imagine something like a romantic
12 relationship. That would seem unusual.

13 Q Actually, that was something the other side
14 have been frivolously alleging recently.

15 A I think it would be highly unusual for a five
16 or six-year-old child to imagine a romantic relationship
17 between you and Ms. Flores-Lamb.

18 Q Is it a good idea to have a child cared for by
19 a psychotic person?

20 A No.

21 MS. JOUBERT: Your Honor, I object. She
22 has no knowledge of any psychosis of anybody that's
23 going to take care of this child.

24 THE COURT: Okay. But that's not what he
25 asked. If you're asking a common-sense type question,

1 of course it wouldn't be good for a child to be taken
2 care of by a psychotic person.

3 Move along, please. We're running out of
4 time.

5 Okay. Any other questions?

6 MR. SIBLEY: Not of this witness.

7 THE COURT: Any other questions for Dr.
8 Beckham?

9 MS. JOUBERT: No.

10 THE COURT: Okay. Thank you very much,
11 Doctor, for your patience today. You may be excused.

12 THE WITNESS: Thank you.

13 THE COURT: You don't need her for recall
14 or anything?

15 MS. JOUBERT: No.

16 THE COURT: Next?

17 MR. SIBLEY: I recall Jennifer Flores-Lamb
18 briefly.

19 THE COURT: You don't want to call any of
20 your corroborating witnesses from the restaurant?

21 MR. SIBLEY: Sure.

22 THE COURT: It's kind of important and
23 we're running out of time. And we are going to conclude
24 no later than 5:00 today.

25 So pick your best one. I was told an hour

1 and we've had a lot more than that. I think I've been
2 pretty lenient with the time.

3 MR. SIBLEY: Mr. Chancy Seguinson stated
4 that he had an emergency and needed to be out of town
5 today. He signed an affidavit and --

6 MS. JOUBERT: Object to the affidavit,
7 Your Honor, as hearsay

8 MR. SIBLEY: Let me finish, please.

9 -- and said that he would be available to
10 testify --

11 THE COURT: Don't tell me what it says in
12 there. You've got an affidavit and --

13 MR. SIBLEY: He said he would be available
14 to testify by phone. And his phone number is in this
15 affidavit. And he was there at the restaurant and
16 corroborates -- well, you told me not to say it.

17 I'm asking that he be allowed --

18 THE COURT: You told me earlier you didn't
19 have anybody to corroborate who was there just that
20 there were people there, a number of people there and
21 possibly where they sat. But not everybody who was
22 there at the time --

23 MR. SIBLEY: That's correct.

24 THE COURT: Okay. Any objection to
25 calling him on the telephone?

1 MS. JOUBERT: Sure.

2 THE COURT: That's sustained. He needs to
3 be here in open court so we can see him, see his
4 demeanor and she can ask him the proper -- and so that
5 we can know that it's who it is that we're calling.

6 MS. JOUBERT: I can't cross-examine a
7 person effectively on the telephone.

8 THE COURT: I understand.

9 MR. SIBLEY: All right. I call Mr. --
10 he's commonly known by Topher. I think that's a
11 nickname for Christopher.

12 THE COURT: Okay. We'll get his real
13 name.

14 Come on up, sir.

15 THE CLERK: Raise your right hand, please.

16 CHRISTOPHER GARZA

17 was duly sworn.

18 THE COURT: All right. Have a seat. What
19 is your name?

20 MR. GARZA: My name is Christopher Garza.

21 THE COURT: Do you have a middle name?

22 MR. GARZA: No, sir.

23 THE COURT: Okay. Go ahead.

24 DIRECT EXAMINATION

25 BY MR. SIBLEY:

1 Q Mr. Garza, where do you work?

2 A Mandarin Garden Chinese Buffet.

3 Q I'd like to show you what I've marked Exhibit

4 1.

5 Can you recognize this document?

6 A Yes, I do.

7 Q And what is it?

8 A This is a receipt for the buffet.

9 Q And is it dated?

10 A Yes, it is.

11 Q And it's dated what day?

12 A September 18th.

13 Q And how many people ate that day?

14 A Four adults and one child.

15 Q And was one of the adults a senior citizen?

16 A Yes.

17 MS. JOUBERT: Your Honor, first of all,
18 I've never seen this document. Secondly, can I take the
19 witness on voir dire?

20 THE COURT: Yeah. You'll get a chance to
21 look at it before he attempts to admit it, if he does.
22 But you can go ahead right now if you want.

23 VOIR DIRE EXAMINATION

24 BY MS. JOUBERT:

25 Q Mr. Garza, have you ever seen me at your

1 restaurant?

2 A Not you. I've never seen you, no.

3 MS. JOUBERT: Pass the witness. He can't
4 testify, Your Honor.

5 THE COURT: Well, he might be able to
6 testify to other things.

7 Q (By Ms. Joubert) Can you testify as to who ate
8 --

9 MR. SIBLEY: Your Honor, I'm going to
10 object. This is not --

11 THE COURT: She's got the witness on voir
12 dire right now.

13 MR. SIBLEY: It's not voir dire, though.
14 She's not engaging with him.

15 THE COURT: Yes, she is.

16 Q (By Ms. Joubert) Can you tell me from that
17 receipt who ate the food that was purchased on that
18 receipt?

19 A I don't know who ate because whenever I was
20 coming in, it was the beginning of my shift. And it was
21 the other gentleman, Chancy, who was leaving and they
22 had already eaten. But I did put the ticket on the
23 table.

24 MS. JOUBERT: Your Honor, I don't believe
25 this witness is qualified with personal knowledge to

1 testify about anything. I object to his testimony.

2 THE COURT: Overruled. He can testify.
3 Let's hear what he has to say.

4 CONTINUED DIRECT EXAMINATION

5 BY MR. SIBLEY:

6 Q Did you talk to Ms. Flores-Lamb several times
7 at this restaurant?

8 A Yes, I talked to her before.

9 Q And did she have her child with her?

10 A Yes.

11 Q And did you recognize her child?

12 A Yes, I did.

13 Q And was her child eating that day that you gave
14 them the ticket?

15 A Yeah. He was there. I don't know if he ate,
16 but he was there.

17 Q And was he sitting on the side table towards
18 the wall?

19 A I'm not sure where he was sitting.

20 Q And so you can testify, can't you, that the
21 child was there and that there were four adults with
22 him?

23 A Yes, sir.

24 THE COURT: Let me clarify this. You
25 said something earlier that you recognized the child. I

1 don't even know what the child looks like. The child is
2 not in the courtroom or if he is, I don't know about it.

3 You said you know -- how do you know the
4 child that we're talking about was there? Because
5 you've seen a child with this woman and this woman is in
6 the courtroom?

7 THE WITNESS: Yes, sir.

8 THE COURT: Is that what you're asking
9 him?

10 MR. SIBLEY: No.

11 Q (By Mr. Sibley) You do know what her child
12 looks like. Right?

13 A Yes.

14 THE COURT: Okay. Go ahead.

15 And you've seen her child in the
16 restaurant and it was on the day in question?

17 THE WITNESS: Yes.

18 THE COURT: Okay. Go ahead.

19 Q (By Mr. Sibley) And he was with a number of
20 people at the table, also.

21 A Uh-huh.

22 MR. SIBLEY: Nothing further.

23 CROSS-EXAMINATION

24 BY MS. JOUBERT:

25 Q Can you identify anybody else at the table?

1 A I saw this man there, too.

2 THE COURT: By "this man", the record will
3 reflect you are pointing at who?

4 MS. JOUBERT: Mr. Mata.

5 THE WITNESS: I can't identify anybody
6 else because it wasn't my table. Because I had just
7 gotten there. And so I really wasn't paying attention
8 to the table, per se. But I did put the ticket on the
9 table. And then I went on to proceed with my work.

10 Q (By Ms. Joubert) So you can't identify me or
11 Mr. Dudley or Mr. Kelly or the Honorable Judge Bobby
12 Galvan of the 94th Judicial Court of Nueces County?

13 A No, I cannot identify them.

14 MS. JOUBERT: Pass the witness.

15 REDIRECT EXAMINATION

16 BY MR. SIBLEY:

17 Q When you say you can't identify them, you're
18 saying, aren't you, you don't know one way or the other?

19 A I'm just saying I don't know what they look
20 like. They were gentlemen in suits and ties. Dressed
21 nice.

22 Q Were all of them gentlemen or was one of them a
23 woman?

24 A I don't remember. They were all other
25 individuals. I don't recall a woman being there.

1 THE COURT: And you testified, Ms.
2 Joubert, the lady sitting here at Counsel's table, she
3 was not there?

4 THE WITNESS: I don't know. She may have
5 been and she may not have been. I don't recall.

6 Q (By Mr. Sibley) So we can add a little bit
7 more to it. At least some of them were dressed nice in
8 suits?

9 A Yes.

10 MR. SIBLEY: Thank you. Nothing further.

11 RECROSS-EXAMINATION

12 BY MS. JOUBERT:

13 Q Was there a police officer there?

14 A I don't know. I don't remember a police
15 officer being there.

16 MS. JOUBERT: Pass the witness.

17 THE COURT: Anything else?

18 MR. SIBLEY: No.

19 THE COURT: All right. Thank you, sir.

20 You can step down and you may be excused. Thank you for
21 your patience.

22 THE WITNESS: I was wondering if I can get
23 something for my work.

24 THE COURT: Sure. She'll take care of it
25 for you. Thank you.

1 THE COURT: Next?

2 MR. SIBLEY: I'll call Dora Hidalgo.

3 THE COURT: Good afternoon. If I can get
4 to raise your right hand.

5 DORA HIDALGO
6 was duly sworn.

7 THE COURT: All right. Have a seat.
8 They're going to ask you a few questions.

9 DIRECT EXAMINATION

10 BY MR. SIBLEY:

11 Q Ms. Hidalgo, who do you work for?

12 A Nueces County Mental Health Mental Retardation.

13 Q What's your position there?

14 A Clinical records administrator.

15 Q Do some people sometimes call you custodian of
16 records?

17 A Yes.

18 MS. JOUBERT: Your Honor, I'm going to
19 object to the introduction of these records because the
20 Court has already signed an order that Ms. Alvarez'
21 records are not to come in at this point.

22 MR. SIBLEY: As I recall, it was Ms.
23 Alvarez not MHMR records. And MHMR records, I suggested
24 be covered at the same time, but the Court didn't seem
25 to want to do that. I don't think the Court did order

1 about the MHMR records.

2 MS. JOUBERT: It's all medical records.

3 MR. SIBLEY: Well, Your Honor, I would
4 ask -- if that's true, I would ask the Court to
5 reconsider that ruling. She sat right there --

6 THE COURT: Medical records or business
7 records?

8 MR. SIBLEY: These are business records.
9 These are business records that are medical records.

10 She sat right there and said there was
11 nothing wrong with this woman, which is clearly an
12 untrue statement. She was being frivolous without --

13 THE COURT: The order I signed says Eva
14 Alvarez will not be required to produce any of her
15 personal medical records to the Court. But you're
16 asking somebody else to bring them.

17 MR. SIBLEY: Correct.

18 THE COURT: You're kind of circumventing
19 the order.

20 MS. JOUBERT: Your Honor, that's still my
21 client's sister's personal medical records.

22 THE COURT: What's the relevance of this?

23 MR. SIBLEY: Them saying she's homicidal
24 might be relevant. Might kill the child.

25 THE COURT: She's not even a party to the

1 --

2 MR. SIBLEY: The father's testified that
3 he doesn't believe there's a problem with this woman.
4 This woman takes care of the child. And they're asking
5 that the father be given --

6 THE COURT: She's taken care of the child
7 in the past, but I don't know about in the future.
8 Right now the records were ordered not to be produced.
9 You're trying to get in her medical records as a
10 business record and I'm not going to allow it. No.
11 It's irrelevant. And I think it's a business record and
12 it circumvents the earlier order that we're not going to
13 allow these records in because they're irrelevant.

14 MR. SIBLEY: A care-giver who's homicidal
15 and paranoid, etcetera?

16 MS. JOUBERT: There is no evidence that
17 she's going to be a care-giver, Your Honor.

18 MR. SIBLEY: They said that.

19 THE COURT: There is no evidence of any
20 of that homicidal stuff either. Those are your words.
21 I don't know what the records say.

22 MR. SIBLEY: Well, you asked me why
23 they're relevant and that's what I'm telling you.

24 THE COURT: I made my ruling. Let's move
25 on. She's not a party.

1 MR. SIBLEY: I'm sorry, Your Honor. We
2 get documents from nonparties all the time.

3 THE COURT: Not today. Not here.

4 THE COURT: I hope the child doesn't get
5 hurt.

6 No further questions.

7 MS. JOUBERT: No questions.

8 THE COURT: Thank you. You can step down.
9 You may be excused. Thank you for your patience.

10 Next witness.

11 MR. SIBLEY: Ms. Flores-Lamb.

12 THE COURT: You're already sworn in.

13 FURTHER DIRECT EXAMINATION

14 BY MR. SIBLEY:

15 Q Did you hear Ms. Joubert's suggestion that you
16 interrogated the child?

17 A Yes, she did.

18 Q Has she ever seen this video tape?

19 A No, she has not.

20 Q Has she ever asked to see the video tape?

21 A No, she has not.

22 Q Has she ever conducted any investigation at
23 all before making that type of allegation?

24 A No, she hasn't.

25 Q We seem to have one standard for her and one

1 standard for everybody else?

2 A Yes.

3 Q Is that the way this case has been from day
4 one?

5 A Yes.

6 Q How do you feel about your child potentially
7 being left with a homicidal, paranoid, suicidal person?

8 MS. JOUBERT: Your Honor, I'm going to
9 object --

10 MR. SIBLEY: Psychotic.

11 MS. JOUBERT: -- as speculation. Object
12 as to not any evidence -- based on evidence not in
13 evidence today.

14 MR. SIBLEY: There we go. It's not in
15 evidence. But there is evidence.

16 We'll withdraw the question.

17 THE COURT: You withdraw the question?

18 MR. SIBLEY: Yes.

19 THE COURT: So I'm not going to make a
20 ruling if the question has been withdrawn.

21 Next question.

22 Q (By Mr. Sibley) Do you love your child?

23 A Yes.

24 Q Have you ever done anything bad in your child's
25 interest?

1 A No.

2 Q And has it at any time been your initiation to
3 create the kind of circus that we see in these
4 courtrooms?

5 A No. I've actually been defending myself. They
6 are the vexatious litigants. I'm just defending myself
7 and protecting the child.

8 Q Have you heard one bit of evidence from this
9 side about anything you've done wrong, other than make a
10 mistake on one Wednesday or Thursday?

11 A They have not presented any evidence. None.

12 MS. JOUBERT: Your Honor, asked and
13 answered. Repetitious.

14 THE COURT: Yeah. Sustained. I'll make
15 the decision on whether or not evidence has been
16 presented or not. And I'll give it the weight that I
17 deem proper to give it.

18 Q (By Mr. Sibley) All right. Do you recognize
19 this document, though, Exhibit 2?

20 A Yes.

21 Q And what is it?

22 A This is the receipt given to me by the owner
23 of the Mandarin Garden restaurant, which corroborates
24 Titus' story of their scheme to falsely accuse me of
25 sexual abuse by getting him to side --

1 MS. JOUBERT: Your Honor, object as to
2 hearsay.

3 THE COURT: Sustained. Please don't
4 start out on that. You don't have any evidence of that.
5 You're just not doing yourself any favors when you start
6 down that trail like that. Okay?

7 All right. Go ahead.

8 MR. SIBLEY: I'm sorry. We're not
9 throwing any evidence --

10 THE COURT: Next question, please.

11 Q (By Mr. Sibley) Do you have evidence that this
12 happened at the restaurant on that day?

13 A My evidence is my child, what he's saying. I
14 believe him.

15 MS. JOUBERT: Object as to hearsay.

16 THE COURT: Yes or no.

17 THE WITNESS: Yes.

18 THE COURT: Yes, you do.

19 Next question. Just answer his question
20 and do not add to it. Okay?

21 THE WITNESS: Yes, Your Honor.

22 Q (By Mr. Sibley) Did you corroborate that your
23 child was where he said he was with that number of
24 adults?

25 A Yes.

1 Q Did you at any time tell the child anything
2 that would make him to come up with this business about
3 kissing a lawyer or being in bed with your lawyer or
4 hitting you or touching you or anything like that? Or
5 you touching him or anything like that?

6 A No.

7 Q Has the child ever said anything like this
8 before of this type of nature?

9 A Never. No.

10 MR. SIBLEY: Nothing further.

11 FURTHER CROSS-EXAMINATION

12 BY MS. JOUBERT:

13 Q Ms. Flores-Lamb, you've indicated that having
14 this child involved in this protracted litigation has
15 been detrimental to him; is that correct?

16 A It's been difficult for him. Yes.

17 Q Then let me just ask you this question: Isn't
18 it true that after the mediated settlement agreement in
19 August of 2009 that was filed with the Court by Mr.
20 Kelly on August 28th, 2009, that you then filed a motion
21 to fire your lawyer, Ms. Frost; is that correct?

22 A Yes.

23 Q And, then, there was a motion to sign the
24 decree, which was filed October 8th. And, then, you
25 filed a pleading called the Court should not sign

1 proposed judgment submitted in this case with law
2 briefs. You filed that with Mr. Sibley; is that
3 correct?

4 MR. SIBLEY: I object. It's not what's
5 before the Court.

6 THE WITNESS: I would have to look at the
7 document.

8 THE COURT: Overruled.

9 Q (By Ms. Joubert) And then you filed a motion
10 to modify the terms of possession, did you not?

11 A I don't know about that. I need to see the
12 document.

13 Q Okay. Did you not file a motion to set aside
14 the mediated settlement agreement?

15 A I did.

16 Q And, then, did you not file a motion to modify
17 the geographic restriction?

18 A I did.

19 Q And isn't it true that that motion was denied
20 by Judge Galvan as not having established a material and
21 substantial change in circumstances?

22 A I believe that's what he based it on. He never
23 said what the material and substantial circumstance was.

24

25 Q And that motion to modify was in November of

1 '09 less than a month after the decree was entered.

2 Isn't that correct?

3 A I'm not sure.

4 Q And, then, isn't it true that on November 9th,
5 you filed a second motion to modify the decree?

6 A I'm not sure.

7 Q And, then, on November 12th, you filed an
8 application for extraordinary relief still in the 94th;
9 isn't that correct?

10 A I don't know about the date, but I remember
11 that.

12 Q Isn't it true at that time, the Judge, then,
13 again entered a motion on directed verdict denying your
14 motion?

15 A I'm not understanding your question.

16 Q The Judge didn't grant your extraordinary
17 relief, did he?

18 A No, he did not. And what was that
19 extraordinary relief? That I be allowed to leave.
20 Because we were forced to --

21 THE COURT: Try to just answer the
22 question. And don't add to it. We're running out of
23 time.

24 THE WITNESS: Yes, Your Honor.

25 Q (By Ms. Joubert) Isn't it true that you have

1 filed and caused to be filed 76 motions in this case up
2 to this date?

3 A In response to your abuse, yes.

4 Q And you heard Mr. Christopher Garza say that he
5 could not identify any person in the restaurant.

6 A He could identify the father and the child.

7 Q However, you filed an application for
8 extraordinary relief based on an affidavit naming Judge
9 Galvan, Mr. Dudley, Mr. Kelly and myself as being in
10 that restaurant without any foundation, didn't you?

11 A That's what the child told me.

12 Q Without any other foundation, did you not file
13 that pleading?

14 A The receipt, the location where y'all sat,
15 where he named where you guys sat. I believe what he
16 said.

17 Q But you did not confer with Mr. Garza or
18 anybody else to affirmatively say that this happened,
19 did you?

20 A That's their testimony. I don't know if he's
21 not wanting to say anything. I don't know.

22 MS. JOUBERT: Pass the witness.

23 FURTHER DIRECT EXAMINATION

24 BY MR. SIBLEY:

25 Q All right. 76 motions she says. Have you

1 counted those?

2 A No.

3 Q Has she filed a motion to try to sanction you
4 for not signing a deed?

5 A Yes.

6 Q Did you ever refuse to sign a deed?

7 A I did not.

8 Q In fact, didn't we give her a deed and she
9 wouldn't sign it?

10 A Correct.

11 Q And she didn't want to sign it because she said
12 that -- and then she ultimately signed it -- or there
13 have been a whole slough of things that we fought over
14 because they haven't been honest?

15 A Yes.

16 Q Can you identify a single one, other than you
17 trying to leave after you were cheated into staying at
18 the mediation that you've asked for anything, other than
19 your temporary support, which they fraudulently said it
20 had been paid when it hadn't?

21 A That's it.

22 Q Was there a sentence in the order saying that
23 the temporary support had been paid, even though it
24 hadn't?

25 A Yes. She had put that in there to excuse him

1 from that.

2 Q And you didn't have any real income coming in
3 during that period?

4 A No.

5 Q And is it a fact that you had asked him for \$10
6 and he refused so you could get food for your kid?

7 A I asked him to borrow \$10. And he refused. He
8 said, no. He said, you can't pay me back. And I said
9 --

10 Q We had to have multiple hearings just to get
11 your temporary support, which had been fraudulently
12 stated that he had paid when it hadn't?

13 A Correct.

14 Q So the history of this case is one fraud?

15 A It is.

16 Q And before they filed their pleadings saying
17 that you refused to sign the deed, did they ever call
18 and ask you if you refused to sign the deed?

19 A No, they did not.

20 Q Were you in a jury room when she threw the deed
21 at you?

22 A Yes.

23 Q Have you asked for anything, other than
24 enforcement of the orders that were granted, actually,
25 written by them and modification so you could go back to

1 your home in Austin?

2 A That is correct.

3 Q And has the Judge ever addressed the merits of
4 the Austin issue?

5 A No.

6 Q And, in fact, several times, isn't it true, Ms.
7 Joubert says there's a material change in circumstance?

8 A She did.

9 Q But when we say, well, if there's one for us,
10 too, she withdraws it?

11 A Correct.

12 Q Now, in the most recent pleadings, does she
13 agree that there's a material change in circumstances?

14 A Yes, she does.

15 Q Do you know whether she's going to withdraw
16 that agreement this time?

17 A I don't know.

18 Q Have you been accused of stealing property that
19 was equally yours?

20 A Yes, I have.

21 MS. JOUBERT: Your Honor --

22 MR. SIBLEY: She ridiculed us for our
23 motions. We get to explain what they are.

24 MS. JOUBERT: I object to this as not
25 being relevant to any issue today. There's no pleading

1 for this, whatsoever.

2 MR. SIBLEY: She brought up the topic,
3 Your Honor.

4 THE COURT: If you want to spend your last
5 few minutes talking about this, you can do so.

6 MR. SIBLEY: Just a couple of minutes
7 more, yes.

8 Q (By Mr. Sibley) Were you accused -- how many
9 times did they ask to sanction you?

10 A Every hearing.

11 Q Every single pleading?

12 A Yes.

13 Q And did they ask to sanction you because you
14 supposedly took property that you had equal right to?

15 A Correct.

16 Q And when he was asked, well, why is that wrong?
17 He said, well, I get the house so I should get that,
18 too?

19 A That was his response.

20 Q And that is just two examples. Right?

21 A Two of many.

22 MR. SIBLEY: Nothing further.

23 MS. JOUBERT: Nothing further.

24 THE COURT: Thank you ma'am. You can
25 step down.

1 Mr. Sibley, do you have any other
2 witnesses that you want to call?

3 MR. SIBLEY: Yes. I call the custodian
4 of records for the Corpus Christi police.

5 MS. LOGAN: Your Honor, for the record,
6 I'm Allison Logan. I'm the assistant city attorney for
7 the City of Corpus Christi. Sergeant Arrarot is here.
8 He's been subpoenaed by Mr. Sibley. And also for Mr.
9 Barrera. He's the custodian of records.

10 THE COURT: All right. Good afternoon.
11 Come on up. Thank you for your patience. Come on up
12 and we'll get you sworn in.

13 SERGEANT ARRAROT
14 was duly sworn.

15 THE COURT: All right. Have a seat. I
16 believe they've got some questions for you.

17 DIRECT EXAMINATION

18 BY MR. SIBLEY:

19 Q Did you bring some records in response to the
20 subpoena?

21 A Yes, I did.

22 Q And you were asked to bring, I believe, records
23 of any complaints that have been filed against Jennifer
24 Mata or against anyone related to Titus Mata?

25 A That is correct.

1 Q And I believe you told me before the hearing
2 started that no complaints have been filed against
3 Jennifer Mata?

4 A I do not believe I made that statement. I
5 don't recall making that statement.

6 Q Has a complaint been made against Jennifer
7 Flores-Lamb?

8 A Not that I'm aware of based on the information,
9 which I possess.

10 Q So are you suggesting there may be a complaint
11 based on information you don't possess?

12 A I'm not suggesting that at all. I'm simply
13 saying that I have been asked under your subpoena to
14 provide all records pertaining to what's in that
15 subpoena and that I have brought those.

16 Q Well, if the way I worded it is causing you a
17 problem, you don't have any records showing that
18 complaints were made against her. Is that true?

19 A In my possession at this moment, no.

20 Q Well, I mean, you should have them if they're
21 in the police department's possession. Right?

22 A My staff works -- to be frank with you,
23 Counselor, my staff works on these requests and they
24 give them to me and they let me know that I am to be
25 here to prove up the records to let you know that they

1 are and, also, for the Court's privilege, as well.
2 After complete, true, correct copies of the original
3 documents that are housed by the police department and
4 based on what my staff has given me, who are more than
5 competent, I feel that they have complied with your
6 subpoena and they have given me three documents of which
7 you have already seen here today.

8 Q So if I'm understanding you right, there might
9 be a mistake with your staff. But, at least, you
10 believe this to be accurate that there's no complaint
11 against Jennifer Flores-Lamb.

12 A I don't believe there would be any mistake
13 with what we have provided for you. We have answered
14 your subpoena as requested. And I have brought those
15 three records as evidence of that. And I will submit it
16 into evidence to the Court.

17 Q I'm sorry. I just don't understand what we're
18 arguing about.

19 A I don't either. That's kind of what I'm
20 waiting for you to get to.

21 Q I just asked if there were any complaints that
22 had been filed against her.

23 A And I explained to you that based on the
24 information, that is not the case. I did not personally
25 go into her name record or anybody else's name record to

1 see if she's been named as a party in other potential
2 offense reports.

3 Q But you believed that to be accurate?

4 A Based on what you requested, correct. Yes.

5 Q And so you brought a complaint that she filed?

6 A I don't know necessarily if you could consider
7 it to be a complaint. She filed a report. As a
8 reporting party, she is listed on that report.

9 Q And you brought some GPS tracking records for
10 Victor Uribe's vehicle?

11 A That is correct.

12 Q And, in fact, you have a picture that purports
13 to show where the vehicle went that day?

14 A There is a map showing, yes, where his vehicle
15 was located.

16 Q And the map is not very detailed, but that is
17 about where Mandarin Garden is located, isn't it?

18 A I have no idea, to be honest with you. I am
19 not familiar with -- even though I've been a resident of
20 Corpus Christi for eight years now, I am not familiar
21 with every street corner and every restaurant nor any
22 other business and where they're located.

23 Q Well, you know where Staples Street is, don't
24 you?

25 A Certainly.

1 Q Kind of looks like Staples Street, doesn't it?

2 A Which street are you pointing to?

3 Q I'm talking about where -- I'm assuming the
4 vehicle came to a rest right there.

5 THE COURT: Why don't you get the document
6 into evidence. Then you can make your argument where it
7 is.

8 Q (By Mr. Sibley) Is that a fair and accurate --

9 THE COURT: If you're going to prove him
10 up as custodian of business records, why don't you go
11 into that spill. She can make her objection if she
12 wants to. Let's get them in, so he can go on. Get your
13 documents in. I don't mean to tell you how to practice
14 law, but we're running out of time here. And I know
15 what you're trying to do.

16 Q (By Mr. Sibley) Is this an accurate copy of
17 the business records of the Corpus Christi Police
18 Department kept in the regular course and regularly
19 conducted activities --

20 A That is correct.

21 Q -- by a person with knowledge of the events
22 recorded?

23 A That's correct.

24 Q And I guess in this instance, whoever took
25 these readings off the GPS or computer or whatever, it

1 was kept in the course of your business?

2 A That's correct.

3 Q And so it's hard to tell exactly what streets
4 these are and whatnot and whatever, but this reflects
5 where the vehicle went that day?

6 A That is correct.

7 Q And I see where it says 12:02 a.m. But I don't
8 see the ending time. The Delta time would be 2348. So
9 this is, basically, a 24-hour period.

10 A I do not know the answer to that question. I
11 simply, Counselor, and, Your Honor, can only attest to
12 the fact that these are true and accurate copies of
13 records housed by the Corpus Christi Police Department.
14 I was not knowledgeable about how this information was
15 gathered. That's our municipal information staff --
16 systems staff. You would have to subpoena them to get
17 them to specifically give you the input that you need as
18 to how that map was rendered. There is a DVD or CD that
19 contains, from my understanding, the data dumped from
20 all the GPS tracking that occurred for that vehicle
21 during whatever time frame that it may have encountered.
22 That's something that you were trying to decipher on
23 your laptop outside in the hallway. I don't know what
24 you found and what you didn't find. But that's the best
25 I can tell you.

1 THE COURT: To the best of your
2 knowledge, these records weren't made solely for
3 anticipation of litigation, were they?

4 THE WITNESS: No, Your Honor.

5 THE COURT: Do you want to get them
6 admitted?

7 MR. SIBLEY: Yes, please.

8 THE COURT: Show them to Ms. Joubert for
9 her inspection and objection.

10 MS. JOUBERT: Your Honor, this doesn't
11 prove anything about anything.

12 THE COURT: Well, you can make that your
13 argument, if you want to. Right now, it's just a
14 record.

15 MS. JOUBERT: Object as to hearsay.

16 THE COURT: Overruled. Business record
17 exception. It's admitted.

18 (RX Exhibit No. 3 was admitted.)

19 THE COURT: How is it marked?

20 MR. SIBLEY: Exhibit Number 3.

21 THE COURT: That's it? Whose Exhibit 3?

22 MR. SIBLEY: It would be RX-3.

23 Q (By Mr. Sibley) I'm sorry. Can you help me
24 understand your name?

25 A Sure. It's Robert Vito, V-i-t-o,

1 A-r-r-a-r-o-t. I'm the records manager and custodian
2 of records for the Corpus Christi Police Department.

3 Q In fairness, I did, in the subpoena, ask to
4 have somebody who could testify about these records,
5 didn't I?

6 A I have reviewed the subpoena. All I know, I
7 was instructed to come here to comply with the subpoena.
8 It was addressed to the custodian of records. And I
9 personally received it.

10 Q All you can say is it's a record kept by the
11 police department and nothing more?

12 A That's correct.

13 Q And anybody that's familiar with the layout of
14 Corpus Christi could draw the same conclusion about
15 where these lines go. Now --

16 A Well, allow me, Counselor, to answer that
17 question. I'm assuming that an intelligent individual
18 who understands a map of the layout of Corpus Christi
19 would be able to do so. The map has not been fabricated
20 or altered in any way. The streets of the main streets
21 of the bi-ways and highways are all on there. I do not,
22 personally, based on where you pointed versus where
23 you're also asking with regard to where that restaurant
24 is located, that wasn't Staples Street you were pointing
25 to.

1 MS. JOUBERT: Your Honor, could I take the
2 witness on voir dire just to end this thing?

3 THE COURT: Thank you. Yes, please.

4 VOIR DIRE EXAMINATION

5 BY MS. JOUBERT:

6 Q Mr. Vito --

7 A Arrarot.

8 Q -- Arrarot. Does anything on RX-3 definitively
9 say that Officer Uribe was at the Mandarin Garden
10 restaurant on September 18th at approximately 2:00
11 o'clock in the afternoon?

12 A Counselor, unfortunately, I'm not able to
13 answer that question simply for the reason that I do not
14 know what time frame that this map pertains to and the
15 corresponding date on the CD let alone someone would
16 have to show me specifically on that map where that
17 restaurant is located. There are marks indicating where
18 that unit was throughout that time frame that's on that
19 map. That could be a possibility and could not be.
20 Quite frankly, that officer was all over the city that
21 day in the routine course of his business.

22 MS. JOUBERT: Your Honor, object to this
23 witness testifying about anything about where Mr. Uribe
24 was on that day because he doesn't have personal
25 knowledge and is not qualified to interpret the map.

1 THE COURT: That's sustained. He's not
2 trying to testify where he was. He's just saying he's
3 got the record and it's got some lines on it. That's
4 all we have. Maybe Officer Uribe should be subpoenaed
5 to testify and he can explain it. I don't know.

6 Anything else for this witness?

7 MR. SIBLEY: No.

8 THE COURT: Anything?

9 MS. JOUBERT: No.

10 THE COURT: Thank you very much for your
11 patience. You are excused. See you later.

12 Make sure that document gets left here.

13 All right. Next witness? You've got 15
14 minutes. You need to save a little bit of time to argue
15 if you want.

16 MR. SIBLEY: Victor Uribe.

17 VICTOR URIBE
18 was duly sworn.

19 THE COURT: Come up and have a seat, if
20 you would, please.

21 I'm going to cut this off at between five
22 and ten 'til to allow you time to argue. If you want to
23 call another witness after this, it better be quick.
24 We're running out of time.

25 Again, I don't usually like to cut people

1 off, but you did announce an hour.

2 CROSS-EXAMINATION

3 BY MR. SIBLEY:

4 Q I marked this as Respondent's Exhibit 4.

5 Do you recognize these people?

6 A Do you want me to give my name on the record?

7 Q Sure.

8 A My name is Victor Uribe. I work for the
9 Corpus Christi Police Department. I'm a sergeant. I
10 work with the gang unit. I'm currently deputized with
11 the FBI to work with the FBI's task force.

12 Q Do you recognize these people?

13 A Yes, I do.

14 Q Who are they?

15 A That's myself and Titus.

16 Q And Titus is literally looking up to you?

17 A Yes, he is.

18 Q Is it fair to say both by the way the picture
19 looks and just based on y'all's relationship, that Titus
20 looks up to you?

21 A Well, he's looking up to me because I'm above
22 him.

23 Q I'm not suggesting there's anything bad. In
24 fact, I think it's good for a young boy to look up to a
25 man. He does look up to you, doesn't he?

1 A Yes, he does. I would think so.

2 Q And you have a good relationship with Titus?

3 A Yes, I do.

4 Q And Titus would be very likely to say what --

5 A I'm sorry, sir. I can't hear you.

6 THE COURT: You turned your back toward
7 him. I couldn't hear you either.

8 Q (By Mr. Sibley) Titus would very likely give
9 what you say great weight, given your uniform and the
10 fact that he looks up to you. Right?

11 A I would think so.

12 Q Again, I'm not suggesting there is anything
13 wrong with that.

14 A Well --

15 THE COURT: Next question.

16 Q (By Mr. Sibley) I'm not asking hostile
17 questions. Good for you is my attitude. You agree with
18 what I said so far. Right?

19 A Yes.

20 Q Were you there on September 18th at the
21 Mandarin Garden restaurant?

22 A No, I was not.

23 Q And this diagram, do you believe that's
24 accurate?

25 A May I see it?

1 Well, it was unit 65. That was my unit.
2 I was working as a two man. That's my employee number.
3 That's my partner's employee number.

4 Now, this looks like a map that would be
5 printed up by the City. I wouldn't be able to tell you
6 exactly everywhere I went that day, specifically. But
7 this is the way it tracks. We have GPS that does track
8 our vehicles.

9 Q And the place where the vehicle came to rest,
10 can you tell me what time it came to rest there? It
11 looks to me like it came to rest.

12 A There's no resting places on this. What this
13 does is it shows everywhere the unit went. It doesn't
14 show where it stopped, red lights, stop signs. It does
15 not show that. It shows the direction of where the unit
16 was throughout the city.

17 Q And can you tell where that is? (pointing)

18 A That looks like the intersection of Weber and
19 Gollihar. That's Weber and Gollihar.

20 Q All right. Mr. Uribe, would you agree with me
21 that --

22 A I can tell you that the unit does not show to
23 be at the location that you're suggesting I was at.

24 THE COURT: That doesn't show it at the
25 Mandarin Chinese Restaurant?

1 THE WITNESS: No. It would be at -- this
2 intersection of Gollihar dead ends on to Staples. This
3 is Staples. This is Everhart. I've got red marks all
4 on the downtown area. I've got it on the south side.
5 The furthest I went on the south side that night would
6 be Weber and Gollihar. This area here, there's nothing
7 there. That's where the restaurant should be.

8 THE COURT: So your car was not at the
9 restaurant?

10 THE WITNESS: No, it was not.

11 Q (By Mr. Sibley) Did you see Titus Mata that
12 day, September 18th?

13 A No, I did not.

14 Q Do you have any knowledge if there were four
15 or five adults there at the restaurant, who the other
16 adults were, other than your brother?

17 A My brother?

18 Q He's not your brother? Andrew Mata?

19 A Andrew Mata is my uncle.

20 Q Your uncle. I'm sorry.

21 Okay. Other than your uncle?

22 A I'm sorry. Can you repeat the question?

23 Q Do you have any knowledge who would have been
24 there with your uncle and Titus Mata that day?

25 A No.

1 Q Were you working all day that day?

2 A I go in to work -- my shift starts at 5:00
3 o'clock. My hours are 5:00 p.m. to 3:00 a.m.

4 Q Excuse me? 5:00 a.m. to what?

5 A 5:00 p.m. to 3:00 a.m.

6 Q Did you go by -- did you go by Aunt Eva's house
7 that day?

8 A No. As a matter of fact, I've never been to
9 her house.

10 Q Did you have anybody in your vehicle, other
11 than your partner?

12 A No.

13 Q Now, would you agree with me that, whether you
14 call it Biblically -- there's a law of making a false
15 allegation. It's a very serious matter?

16 A Yes, it would be. And from what I've heard
17 today, the people that were supposed to be at this
18 meeting that are being accused, you're asking me if I
19 was at that meeting, I would like to know if I'm being
20 accused and also being charged with child abuse. Was my
21 name put on that report?

22 MR. SIBLEY: I object to the
23 responsiveness.

24 Q (By Mr. Sibley) Accusing somebody of falsely
25 -- or telling a child to falsely say someone touched him

1 is very bad. Would you agree with that?

2 A Well, that's not answering my question. If
3 somebody files a police report, we have to -- depending
4 on the evidence that we gather at the scene -- we take
5 everything, the totality of the circumstances -- we take
6 everything at the scene that we base our judgment based
7 on what they're telling us and everything else that
8 we're hearing, we take a report.

9 MR. SIBLEY: Object to the
10 responsiveness.

11 THE WITNESS: Now, if it turns up that
12 that report was filed fraudulently, that there was
13 somebody lying on the report, then, yes, charges will be
14 brought against them for filing a false report.

15 Q (By Mr. Sibley) I'm going to ask you very
16 simply. Is it a very wrong thing to tell a child to
17 accuse somebody of touching him if that's not true?

18 A Yes.

19 Q And I know you're saying you take the totality
20 of the circumstances and all. Have you worked any
21 sexual abuse of children cases?

22 A No. That's not my department or with the gang
23 unit. I've worked in the patrol. But the sexual abuse,
24 it usually comes into Driscoll Hospital. We go over
25 there. We take the report through the nurse. And it

1 gets passed on to our detectives. We have two
2 detectives
3 that specialize in child cases.

4 Q Now, would you disagree with me if I told you
5 that those cases are pursued all the time based on
6 nothing more than what a child says? No physical
7 evidence. No circumstantial evidence. Just the child's
8 word.

9 A I wouldn't be able to testify to that.

10 Q Do you disagree with that?

11 A I -- I --

12 Q You don't know?

13 A You're asking me as a police officer. I can't
14 testify to that.

15 MR. SIBLEY: Nothing further.

16 DIRECT EXAMINATION

17 BY MS. JOUBERT:

18 Q Mr. Uribe, have we ever been in the same
19 restaurant together, as far as you know?

20 A No. This is the first day I met you.

21 Q You've never seen me before?

22 A No.

23 MS. JOUBERT: Thank you. Pass the
24 witness.

25 MR. SIBLEY: Nothing further.

1 THE COURT: Thank you, Officer. You can
2 step down. And you may be excused. Thank you for your
3 patience.

4 Okay. Let's sum things up with argument.

5 CLOSING ARGUMENT

6 MS. JOUBERT: Your Honor, I would testify
7 to attorney's fees, but it would take too long. So at
8 this point, I would ask the Court to take judicial
9 notice of the time of what has been involved today and
10 to carry my motion for attorney's fees to a future
11 hearing.

12 THE COURT: Okay. We can do that.

13 MS. JOUBERT: Your Honor, it's real clear
14 today that Mr. Sibley has filed very, very serious
15 allegations against me, my client, Judge Galvan and Mr.
16 Dudley and Mr. Kelly based on horrendously false
17 allegations. In order for an attorney to file
18 pleadings, we have to have some grounds for those
19 pleadings. And if something this serious comes across a
20 person's desk, it is incumbent on an officer of the
21 court before bringing this sort of allegation to do some
22 investigation. That's what Rule 13 says.

23 What we're asking for is the Court to find
24 that this is a groundless pleading because it is
25 absolutely groundless. Totally groundless. Based on

1 the imagination of a six-year-old child. And that's
2 all.

3 There was no independent investigation.
4 Nobody ever tried to contact me prior to filing the
5 pleadings. Nobody tried to contact Judge Galvan prior
6 to the pleadings or anybody else that was supposedly
7 involved. And all of a sudden, now we've got CPS
8 involved. We have the State bar involved. And,
9 obviously, grievances are going to be filed based on
10 this false allegation. And we also have an allegation
11 being filed against Judge Galvan with the Judicial
12 Review Commission.

13 This is absolutely outrageous. Anybody
14 that is this paranoid -- this mother has got to be
15 totally paranoid. And she has just flipped off the
16 chart at this point to say that this happened.
17 That person should not be in charge of the day-to-day
18 care of this child. She is under enormous stress. You
19 heard her testify she's still losing her hair.

20 My client is stable. He has a stable home
21 for the child. He has income to support the child. And
22 at this point, I want to get this child into some
23 meaningful counseling to try to get him through this
24 process. I think it's incumbent at this time for the
25 emotional stability of this child to put him in the care

1 of his father. That's the only thing that's going to
2 save him at this point.

3 It's obvious that Ms. Flores-Lamb is
4 paranoid about everything going on. And she's doing
5 everything she can to alienate this child from his
6 father, which is not going to serve this child well at
7 all. The child needs to be out of the middle of this
8 battle field. And the only one putting him there is his
9 mother.

10 My client has tried to keep him out of it.
11 My client has paid his child support. He has exercised
12 his visitation. He does have constraints because of
13 work. But he has to make a living because he has to pay
14 the child support, which he is doing.

15 And the fact is, Your Honor, my client has
16 tried to keep the child out of these problems. You can
17 put this child back into the only home he's known, as
18 far as where he came home from the hospital and he was
19 raised for the first five years of his life. You can
20 put him back in that home. It is a safe home. And if
21 my client has any inkling that Aunt Eva is not an
22 appropriate care-giver, then she won't care for the
23 child. He'll put him in school. He'll keep him
24 activities. And he will be able to provide this child a
25 stable, loving home.

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1 We're asking that the Court find that
2 these pleadings based on the application for emergency
3 orders, temporary orders, we're asking the Court to
4 declare those to be false without grounds and brought
5 for the purpose of harassment. And we're asking the
6 Court to change the custody of this child temporarily
7 for the mental health of this child.

8 Thank you.

9 THE COURT: Mr. Sibley?

10 CLOSING ARGUMENT

11 MR. SIBLEY: Let's talk about when the
12 first pleading was filed. It was filed on July 21st,
13 2010. The child's present environment may endanger his
14 physical health or significantly impair his emotional
15 development.

16 There was not one shred of evidence that
17 even rises beyond a sentilla to support that. I asked
18 him the questions. He had no answers. This was a false
19 pleading. It was a groundless pleading. It was a
20 frivolous pleading. The only response he had was some
21 two months later. And we'll get to that in a second.
22 The allegations made on September 18th.

23 He filed this motion on July 21st. And
24 his first frivolous allegation was that the child's
25 present environment may endanger his physical health or

1 significantly impair his emotional development. He has
2 nothing to support that. It was a truly frivolous
3 allegation amongst many that have occurred throughout
4 the course of this litigation.

5 He says specific facts support a campaign
6 to alienate me from my child. He had nothing to support
7 that. Nothing. He said that there was a mistake on
8 one occasion. He suggested there was a mistake on
9 another occasion. He got a substituted day on that
10 date. Nothing to suggest that she was alienating him or
11 interfering with his rights with the child one bit.

12 And same with the phone calls. He
13 admitted sometimes the child is asleep, which is
14 obviously going to happen. He had no testimony that she
15 was interfering with phone calls or interfering with
16 visitation. That was just unsupported, frivolous hog
17 wash. And that's what was filed on July 21st.

18 He said that she needs to be mentally
19 examined, psychologically examined. He thinks that
20 she's not mentally stable right now. Not one shred of
21 evidence to support that. Not one single shred of
22 evidence. July 21st. He disagrees with September 18th
23 and we'll get to that in a second. But when this
24 pleading was filed, not one shred of evidence to support
25 any of these allegations.

1 He says that she's destitute. And there
2 is not one shred of evidence that this child is being
3 denied any material need that the child requires.
4 That's another frivolous allegation. The only -- she's
5 losing her hair. She's under stress. There is no
6 evidence to support this pleading. This is a frivolous,
7 abusive pleading, one amongst many, many during the
8 course of this. They had no evidence to support this
9 pleading. Now, there is no evidence, other than she's a
10 good mother, is taking good care of this child. And the
11 child is doing well. He missed one visitation period
12 for which an substitute was offered and taken and missed
13 some phone calls when the child is asleep and whatnot.

14 That is not a situation where anybody can
15 honestly say in good faith that the child's well being
16 is in danger, specifically, psychologically, physically
17 or in any other way. This is a frivolous pleading.

18 Now with respect to September 18th, the
19 child says -- first, the child was acting strange. That
20 was the testimony. Specifically, the child was acting
21 strange towards me. And when asked why, well, I've been
22 told not to talk to Mr. Sibley. He's an evil lawyer.
23 The child's actions corroborate what the child said.

24 Then, additional statements were made by
25 the child. The child said that he was told to lie, say

1 his mother touched him, which a touching in and of
2 itself is not wrong. But the implication there is
3 obvious. And then he was told, according to him, to lie
4 and say that his mother hit him. Obviously, that,
5 again, carries serious consequences. And he was told to
6 lie and say he saw his mother and me kissing and in bed.
7 Now, that's very concrete evidence of things the child
8 would not know if there had been a frivolous hearing a
9 week or two earlier where those allegations were made.
10 And there was no evidence to support them, other than
11 hand holding. Hand holding is what started that hearing
12 that lasted the better part of a day, which was denied.

13 The pleading is frivolous. The pleading
14 that started this was frivolous. And the concern about
15 the welfare of this woman and, frankly, my own welfare
16 when allegations like that are being thrown around,
17 they're already accusing me of having a romantic
18 relationship with her and whatnot. Now they're telling
19 the kid to lie about being touched and by, at least
20 implication, improperly.

21 Men -- primarily, men. Women, also -- go
22 to prison every day based on no more evidence than
23 that.

24 And it was prudent and it was necessary to
25 bring this out in the open, let them say whatever they

1 were going to say. And they were notified of what was
2 happening. And they never responded. They never
3 responded. To this day, they never respond. Not a one
4 of them. And they were not only notified, they were
5 notified immediately. They were notified that night.
6 Those statements were made the night of September 22nd.
7 And if the fax records were examined -- that fax was
8 probably sent after midnight or just before midnight
9 from a lawyer who couldn't sleep because he was so
10 worried about his client and himself.

11 And at the beginning of the hearing that
12 this is a vendetta. You heard Mr. Rains testify that he
13 had been accused of touching his child improperly
14 continuously for over ten years. This is not something
15 that just came out of the blue. It is something that is
16 precedent for these lawyers doing.

17 So this child is doing well where he is.
18 Their allegations, otherwise, are totally frivolous,
19 unsupported by any evidence. And when a child comes
20 home -- well, when a child says that after coming home,
21 that's a very serious matter that needs to be dealt with
22 immediately. And it was. And possibly because it was
23 dealt with immediately, it didn't go any further.

24 THE COURT: Anything else? Anything else
25 you thought of?

1 Right now, the Court is going to keep the
2 status quo. I find that the allegations in your motion,
3 most of them, Mr. Sibley, are baseless and groundless.
4 And I'm just rereading the supplemental motion that you
5 filed. And I didn't hardly hear any evidence of
6 anything that you alleged in the motion. About the only
7 thing I did hear was the waiter from the restaurant
8 could identify the child, the child's father at the
9 restaurant on that particular day. But he could not say
10 whether or not these other lawyers and a judge were
11 there. And I don't have any evidence, whatsoever, that
12 they were there. And those are really, really strong
13 allegations for you to make without being able to back
14 them up.

15 I'm not going to grant your motion. And
16 I'm very tempted to go ahead and change the custody over
17 on a temporary basis. However, I'm going to keep the
18 status quo right now.

19 Is the child in school?

20 MR. SIBLEY: He's out already.

21 THE COURT: I mean, but he's enrolled in
22 school somewhere?

23 MR. SIBLEY: Yes.

24 MS. FLORES-LAMB: Yes.

25 THE COURT: Is it first grade or

1 kindergarten?

2 MS. FLORES-LAMB: Kindergarten.

3 THE COURT: I'm just hesitant to pull the
4 child out of kindergarten right now. So I'm going to
5 keep things as they are. And we're going to set this
6 promptly for a final hearing as Mr. Sibley requested.
7 And we'll see how it pans out.

8 If you can prove your allegations, you'll
9 probably win your case. But if you can't, you're going
10 to have trouble, Mr. Sibley, because these are big
11 allegations that you've made. Do you understand?

12 MR. SIBLEY: I understand.

13 MS. JOUBERT: Is it the Court's finding
14 that the pleadings are frivolous?

15 THE COURT: I don't think the pleadings
16 were frivolous but baseless.

17 MS. JOUBERT: Baseless and groundless.

18 THE COURT: Yeah. For the most part.

19 MS. JOUBERT: Is the Court striking the
20 pleadings?

21 THE COURT: No. I'm not going to strike
22 the pleadings.

23 MS. JOUBERT: Is the Court going to
24 require him to replete?

25 THE COURT: No. He can if he wants to.

1 MS. JOUBERT: So he can go to trial on
2 those pleadings if he wants to?

3 THE COURT: Whatever he wants to do, sure.

4 MS. JOUBERT: Fine.

5 I'll prepare an order on the Rule 13
6 sanctions, Your Honor.

7 THE COURT: Okay. So for now, status
8 quo.

9 MR. SIBLEY: I didn't hear anything about
10 a Rule 13 sanctions. She said that. I never heard the
11 Court say it.

12 MS. JOUBERT: The order is that the
13 pleadings are groundless and baseless. That's the
14 ruling of the Court.

15 THE COURT: For the most part, the
16 allegations regarding the lawyers and the judge are
17 groundless. I didn't hear any evidence, whatsoever,
18 that that was true.

19 MR. SIBLEY: Other than from the child.

20 THE COURT: I didn't hear anything from
21 the child.

22 MR. SIBLEY: Right. And we were planning
23 to present him but, you know --

24 MS. JOUBERT: We would object to a five
25 year old testifying, Your Honor.

1 THE COURT: I didn't hear anything from
2 the child. These are big allegations and you didn't
3 give me
4 anything to back them up at all. In fact, quite to the
5 contrary, you had your own witness that -- you alleged
6 that the police officer was there. And their own GPS
7 print-out or reading, whatever it is, showed that he was
8 not there. The car was not there that day.

9 What am I supposed to do with that?

10 MR. SIBLEY: You don't know what you're
11 going to get until you get it, you know.

12 THE COURT: Most lawyers are pretty
13 careful about making allegations as you've made against
14 other lawyers and judges. They're not immune from
15 allegations. You need to be able to back those up. And
16 maybe you will. We'll see. We haven't had the final
17 trial yet. Maybe there is a security tape of the
18 restaurant that shows who was there. I don't know.

19 Can you pick the trial date right now and
20 get that out of the way?

21 MS. JOUBERT: Sure.

22 MR. SIBLEY: Sure.

23 MS. JOUBERT: I would like some time for
24 discovery, Your Honor.

25 MR. SIBLEY: In case there is any doubt,

1 we want a jury.

2 MS. JOUBERT: A jury is fine, Your Honor.

3 THE COURT: You can get with the
4 scheduler and tell her how much time that you need. Try
5 to be realistic about that, please. And we are
6 adjourned.

7 By the way, before you stop, this is in
8 the best interest of the child.

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1 THE STATE OF TEXAS)
2 COUNTY OF ARANSAS)
3

4 I, DEBRA ODOM, Certified Shorthand Reporter for the
5 State of Texas, do hereby certify that the above and
6 foregoing contains a true and correct transcription of
7 portions of evidence and other proceedings requested by
8 counsel for the parties to be included in this volume of
9 the Reporter's Record, in the above-styled and numbered
10 cause, all of which occurred in open court or in
11 chambers and were reported by me.

12 I further certify that this Reporter's Record of
13 the proceedings truly and correctly reflects the
14 exhibits, if any, admitted by the respective parties.

15 I further certify that the total cost for the
16 preparation of this Reporter's Record is \$759.50
17 and was paid David Sibley, attorney for Jennifer
18 Flores-Lamb.

19 WITNESS MY HAND AND SEAL OF OFFICE, this, the
20 9th day of January, A.D., 2011.



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