

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-239

Judge: Don Stevens

Complainant: Self-Report

ORDER

A pro tem superior court judge self-reported improper ex parte communications.

Pro Tem Judge Stevens presided over a temporary guardianship matter in which T.M.G. sought temporary guardianship of her grandchildren. The temporary orders were only good for six months. T.M.G. sought information from Judge Stevens' judicial assistant on how to extend the guardianships. Judge Stevens personally returned T.M.G.'s phone call, leaving a voicemail with instructions on how to file the appropriate paperwork. Thereafter, Judge Stevens and T.M.G. had additional telephonic communications, usually on Judge Stevens' cell phone, in which Judge Stevens recommended an attorney to T.M.G., looked up information on court cases involving the natural mother of the children, and warned T.M.G. that the mother had been at the courthouse seeking information about the guardianship hearing. Judge Stevens stated he believed his communications fell within the "scheduling, administrative, or emergency purposes" exception to Rule 2.9(A) of the Code. However, the Commission found that Judge Stevens' communications were substantive communications with a litigant about a pending matter, and further found that by looking up information on other matters involving the natural mother, Judge Stevens conducted an improper independent investigation.

The Commission found that Judge Stevens' conduct, as described above, violated the following provisions of the Code of Judicial Conduct:

Rule 1.2, which states, "a judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

Rule 2.9(A) and (C), which states:

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the

parties or their lawyers concerning a pending or impending matter except as follows:

(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:

(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(b) the judge makes provision to promptly notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

...

(C) Except as otherwise provided by law, a judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

Accordingly, Pro Tem Judge Don Stevens is hereby publicly reprimanded for his conduct as described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the self-report and this order shall be made public as required by Commission Rule 9(a).

Commission member Christopher P. Staring did not participate in the consideration of this matter.

Dated: January 31, 2020

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on January 31, 2020.

2019 - 239 ^{Comp}

Hon. Don Stevens
Yavapai County Superior Court
Verde Division SPT
2840 N. Commonwealth Drive
Camp Verde, AZ 86322

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

JUL 29 2019

Re: Self Report for Don Stevens (AZ Bar #004265)
Reference: Yavapai County Superior Court,

Dear Arizona Commission on Judicial Conduct,

I am writing to self-report several *ex parte* contacts that I had with the Temporary Guardian in the above captioned cases. I have been a Judge *pro tem* in Yavapai County for several years, and I have completed the New Judge Orientation training provided by the Court. I do not have a full-time calendar. I receive case assignments from the Presiding Judge. The following is a brief chronology of my participation in these cases, the information known to me at the time, and the background facts giving rise to this report. The case file can be provided on request.

1. On _____, _____ filed a Petition for Appointment as the temporary Guardian and maternal grandmother for her minor grandchild, P.G-D. I heard the case as an emergency because DCS had become involved because the parents were alleged to be actively using methamphetamine or heroin, and there were allegations of multiple incidents of domestic abuse and physical violence. After taking testimony, I granted the Petition.
2. On _____, _____ filed a "Motion to Continue Temporary of Permanent Custody." I held a hearing on _____ and issued a detailed minute entry denying the Motion and entering orders regarding _____ obligations. I informed her, both at the hearing and in the Minute Entry that the temporary guardianship could not last longer than six months.
3. On _____, _____ filed a "Petition for Temporary Appointment of a Guardian for a Minor", alleging that the parents and _____ had agreed to an additional 6 months guardianship, and that the parents had agreed to allow _____ to continue the care and temporary custody of the minor child P.G-D. The Petition was supported by a "Team Decision Making Summary Report."
4. On _____, _____, the natural mother of the minor child P.G-D signed a notarized "Waiver of Notice of Hearing on Temporary and/or Emergency Guardianship of a Minor". _____, the father of the minor child also signed a notarized "Waiver of Notice of Hearing on Temporary and/or Emergency Guardianship of a Minor".

5. [redacted] also filed an "Acceptance of Service" of the [redacted] Petition for Temporary Guardianship for P.G-D, which was signed and notarized by each parent.
6. The Order granting [redacted] Petition for Temporary Guardianship was filed [redacted]. The Order included the finding that "*Parents voluntarily give guardianship for 6 months. Review of their future status in 6 months requested to see if they are able to rightfully care for their child at the end of the term or if continued guardianship will be needed.*" The Order notified [redacted] that the temporary guardianship could not last more than six months. The Order included the following language in Paragraph 6 that stated, "*Other time period: if the parents are unable to care for children at the end of 6 months, continued guardianship with grandparents.*"
7. On [redacted], [redacted] filed a separate *Petitioner for Appointment as Temporary Guardian* for another minor child, A.L.G., born [redacted]. The natural mother [redacted] signed a consent to allow [redacted] to be appointed as Temporary Guardian. The Mother signed a *Waiver of Notice of Hearing on Guardianship of a Minor*, which was also filed [redacted]. The Mother accepted service of the pleadings filed by her mother [redacted] regarding A.L.G., filed on [redacted].
8. The hearing on [redacted] *Petition* was heard by me on [redacted]. I was told that DCS was involved and supported the Petition. I was told that the natural father of A.L.G. was not known and not listed on the birth certificate. I instructed [redacted] to obtain a medical evaluation to ensure that A.L.G. was safe to travel to [redacted]. [redacted] filed the medical report on [redacted].
9. On [redacted], I entered a Minute Entry Order regarding the pending matters. The Order included the provision that the Temporary Guardianship would expire [redacted], and that the Temporary Guardianship was not eligible for renewal. [redacted] was also ordered to file an appropriate petition or written consent from both parents or a petition to terminate the rights of either or both parents. The Order included the acknowledgment under oath that [redacted] and her [redacted] that they agreed to voluntarily return to Arizona at such times as the Court ordered.
10. On [redacted], [redacted] contacted my judicial assistant to ask if I would extend the temporary guardianship without her having to travel to Arizona. My JA communicated that to me by email (attached), and my response is also attached. I believe that my judicial assistant communicated that information to [redacted].
11. After that contact, [redacted] called my judicial assistant one or two additional times asking why I would not grant the extension since the [redacted] Order seemed to allow her to get an extension. I called her number and left a message on her voice mail to file the proper paperwork and get a lawyer if necessary. That voice mail was recorded and played at a subsequent hearing by Judge Debra Phelan in support of [redacted] request for a new extension of the guardianship.

12. [redacted] called me on my cell phone and asked if I knew any lawyers who could handle a case like hers. I told her I only knew of one lawyer in the area who handled interstate custody matters and I gave her the name and phone number of that lawyer. I did not recommend this lawyer, and I have never recommended any lawyer to a party.
13. On or about [redacted] called me again and said that she had hired a lawyer and was coming or was in Arizona to try get an extension of the guardianship. I did not have any substantive contact with her about the merits of the petition. I directed my judicial assistant to set the matter for an emergency hearing on [redacted] on my calendar because of my history with the case.
14. When [redacted] appeared at the Clerk's counter to file her pleadings on [redacted], I was notified by the Clerk that unbeknownst to me, the prior matters that I had handled had been handled as adjudicated by the Clerk, and by a new Administrative Order, [redacted] new filings would be assigned to Judge Phelan. I instructed the Clerk to file the new Petition according to the Administrative Order. It is my understanding that Judge Phelan held a hearing on [redacted] denied the new Petition filed by [redacted].

I acknowledge that I had ex parte telephone contacts I had with [redacted]. I never met with her privately, and I had no personal or professional relationship with her. In my limited contacts, I became very concerned that the two minor children that she had been caring for would be at risk because the natural mother, with a history of substance abuse, had told [redacted] and/or family members that she was going to travel to [redacted] and pick up the children. [redacted] informed me in my phone call that she had contacted [redacted] law enforcement authorities who told her that if the Temporary Guardianship expired, the children would be returned to a natural parent who demanded custody. When I spoke to her, she was very distressed.

My intent was to provide [redacted] with general information about the process, and to reiterate to her that the guardianship would not be extended without the proper paperwork and a hearing. She had waited so long to start the process that I was very concerned for the safety of the children. I knew that the parents had previously and voluntarily agreed to [redacted] having custody, and that the parents had waived notice and appearance at subsequent proceedings, but I had no information about the position or involvement of DCS. I believed that the best way to protect the children was to get the parties in court, under oath, and on the record. I was informed by the Clerk's staff that the natural mother had appeared at the counter and asked when the hearing was. I thought that the mother would have the opportunity to preserve her rights, including parenting time under the supervision of DCS.

In hindsight, I recognize that I should have made a record of my contacts with [redacted] rather than have any off-the-record communications with her that might give the appearance of impropriety. I honestly felt that I was not doing anything that would prejudice the rights of the natural parents, and that communicating with [redacted] was the best way to get the children back to Arizona and under the Court's jurisdiction.

I have since spoken with both Associate Presiding Judge Michael Bluff and Presiding Judge David Mackey regarding these issues. I acknowledge that I could have handled the matter in other ways that would not have necessitated *ex parte* conversations. I understand specifically that any phone contact with [redacted] should only have been through my judicial assistant,

should not have included anything other than advising of the action the court was taking on her petition and her potential recourse should she disagree with the court action and a general direction to contact an attorney without reference to any specific attorneys. I admit that I could have arranged to have any communication with [redacted] conducted on the record so that other potential parties would be on notice of the *ex parte* contacts with [redacted].

I honestly did not have these *ex parte* telephone contacts with [redacted] without regard to the requirement of Rule 2.9 of the Arizona Code of Judicial Conduct. At the time her Petition was granted, I made sure that [redacted] was aware of the [redacted] deadline I set for the expiration of the Temporary Guardianship and that it could not be extended. It was my understanding that when she called my judicial assistant in [redacted], [redacted] was very agitated and concerned that because she had delayed filing the necessary paperwork, her daughter might be able to take the children and disappear before the Court had an opportunity to resolve the issues. I was very concerned about the safety of the children if a hearing on the matter was not scheduled promptly. I understood that the Mother was aware of the hearing I would have held once the new "emergency" petition was filed. I believed that my communications with [redacted] were for the purposes of scheduling, administration and emergency purposes. I did not reasonably believe that my communications with [redacted] affected the procedural, substantive or tactical positions of any party.

I have included the transcripts of the hearings before Judge Phelan in which my voice mails were played. Although the transcripts suggest that I personally investigated the mother's contact with the court, that information was conveyed to me by the Clerk's office through my Judicial Assistant. In hindsight, I recognize that should not have conveyed any information to Ms. Griffin about the child's mother's contact with the Clerk of Court. I have included the transcripts of the hearing before Judge Phelan in which my voice mails were played.

I acknowledge that my concern for the safety of the children and the knowledge that the children might be left in [redacted] without a legal guardian led me to try to make sure that the guardianship issue could be resolved as quickly as possible with the Mother and [redacted]. I assure you that I recognize that any *ex parte* communication, however innocent or well-intentioned, can create the appearance of impropriety. I will certainly not handle any matter in the future in the manner that this case was handled by me.

I look forward to assisting you in any investigation you believe is warranted and look forward to any constructive input you may have for me.

Sincerely,

Don Stevens

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

In the matter of the
Guardianships of:

P.C.G.D.,
A.L.G.,

Minors.

YAVAPAI COUNTY SUPERIOR COURT
CASE NUMBERS:

BEFORE: THE HONORABLE DEBRA R. PHELAN
JUDGE OF THE SUPERIOR COURT, DIVISION PTA
REPORTER'S TRANSCRIPT OF PROCEEDINGS
PETITION FOR TEMPORARY APPOINTMENT OF A GUARDIAN FOR A MINOR

Camp Verde. Arizona

PREPARED BY:
M. LISA EDGAR, RPR, CSR, CR
ARIZONA CERTIFIED REPORTER
ARIZONA CSR NUMBER 50273

PREPARED FOR:
YAVAPAI COUNTY SUPERIOR COURT

ORIGINAL

1 APPEARANCES:

2 For the Petitioner:

In Propria Persona.

3
4 Camp Verde, Arizona

5
6
7 TRANSCRIPT OF PROCEEDINGS

8
9 THE COURT: This is in the
10 matter. This is the time and date set for a hearing on
11 the Petition for Temporary Appointment of Guardian filed today,
12 by This was filed requesting an
13 emergency hearing without notice.

14 So, ma'am, if I could get your name for the
15 record, please.

16
17 THE COURT: And, 1, can you tell me what
18 you just said relating to a hearing tomorrow?

19 : I have a hearing tomorrow morning at
20 with Judge Stevens for a 30-day continuance on
21 emergency temporary orders until we can finish the process for
22 the permanent custody orders. They're in -- they're just in
23 works right now, so...

24 THE COURT: Okay. And tell me -- so I reviewed
25 the file. So a few questions I have for you. First, it does

16:12:12

16:12:39

1 look like there was a guardianship previously appointing you
2 and was it just you or you and someone else?

3 : It was me and my -- my boyfriend,
4 but he is not here because he had to work. So he is going to
5 be going on the permanent custody paperwork. This is just for
6 the extension so that we have it for the extended 30 days.

7 THE COURT: Okay. So I just want to take it one
8 at a time here. So there was a previous Petition to Appoint
9 and I see it was filed .

10 was there one prior to that?

11 -- There was one for his brother.

12 THE COURT: Okay. For a separate -- they're both
13 boys?

14 N: Yes

15 THE COURT: All right. So I looked at the other
16 file. Is it

17 :

18 THE COURT: All right. So I'll -- we'll go --
19 we'll call case in a second.

20 But regarding ;, there was a petition filed
21 -- for temporary appointment. And you're the
22 grandmother; correct?

23 N: Correct.

24 THE COURT: And I see that there was a consent
25 signed. Is that just by --

6:13:30

6:13:48

1 . By the mother 'cause the father,
2 there is no -- we don't know who that is.

3 THE COURT: Is there a -- is there a father listed
4 on the birth certificate?

5 : Correct. No father on the birth
6 certificate except for

7 THE COURT: Okay. So , just mom --

8 : Correct.

9 THE COURT: -- signed by mom.

10 : Correct

11 THE COURT: Looks like you saw Judge Stevens on
12 . And who is ? Is that your

13 boyfriend?

14 : Yes

15 THE COURT: You were present at that hearing as
16 well?

17 : Correct.

18 THE COURT: All right. So Judge Stevens appointed
19 both you and Mr. --

20
21 THE COURT: -- as temporary guardians. So
22 that guardianship is still in place.

23 until and that's why
24 they're extending it just so we have the custody.

25 THE COURT: All right. And do you have -- just

16:14:33

1 for , is there a -- did you file a disclosure affidavit?
2 . I have no idea what that is.

3 THE COURT: You did. Okay. So the disclosure
4 affidavit is there. And you state that you're not convicted of
5 a felony.

6 : Oh, yes.

7 THE COURT: I don't see one for your significant
8 other. What is his name?

9

16:16:15

10 THE COURT: And so this guardianship will be
11 expiring --

12

13 THE COURT: -- the And so when you say
14 you're seeing Judge Stevens tomorrow, what does that mean?

15 That is we have been speaking
16 about -- I've got a lawyer, . We're in the process
17 of going for a -- a guardianship.

16:16:40

18 But there's a chance that my daughter may show up
19 here tomorrow and voluntarily sign them over, so it may work
20 out. But if they don't, we want to go ahead and get the
21 continuance, so I can continue with the lawyer on the
22 paperwork.

23 THE COURT: And is there -- I don't see a hearing
24 set tomorrow since you just filed this today. So in what case
25 number is there a hearing set tomorrow?

1 : He told me he was going to set a
2 hearing tomorrow morning in at ...

3 THE COURT: Who told you that?

4 : Judge Stevens.

5 THE COURT: And how -- when did you get in -- did
6 you appear in front of Judge Stevens in court or --

7 : No. He called me from his phone,
8 his cell phone.

9 THE COURT: And when did that occur?

10 : Last night and again this morning.

11 THE COURT: And so how does Judge -- procedurally
12 I'm the Judge that has -- that takes those guardianships and
13 emergency ex parte today. I'm the Judge that sees that. So
14 I'm trying to procedurally figure out if there's a hearing set
15 tomorrow at 9:00 in front of Judge Stevens.

16 : So you didn't file anything yesterday. You just
17 filed this today?

18 : Right. He wanted to make sure that
19 the paperwork got filed because he wanted to get me in first
20 thing because he had another person at 10:00 a.m. And so it
21 takes it awhile to do two packets of filing paper. I've been
22 here for over an hour. So he wanted to make sure that the
23 paperwork was filed and done because he wanted to get me in
24 first thing in the morning.

25 THE COURT: All right. And so did his office and

16:17:09

16:17:36

1 his Judicial Assistant contact you or --

2 told me that I -- I have a
3 hearing tomorrow morning at 9:00. Before I came into
4 the office, to here, I let her know that I was in Arizona and
5 that I was here and she said good and then you have a hearing
6 tomorrow at 9:00.

7 THE COURT: Do you live here in Arizona?

8 I: I live in

9 THE COURT: And so you're just here --

10 I: Just for this.

11 THE COURT: -- for this?

12 I: Um-hum.

13 THE COURT: Where are the kids?

14 I: They're in

15 THE COURT: All right. A lot of procedural
16 problems.

17 I: This is a really long crazy -- it's
18 been a year. We've had -- this is my third emergency
19 extension. We had one with -- for and we're going for
20 full custody. And then I found out within that six months that
21 she was pregnant and had another kid and it was born on --
22 addicted to meth and heroin and he was in the NICU so they went
23 ahead and they added an additional six months for him.

24 And then they wanted -- I had to bring the kids
25 back from to Arizona because they wanted to roll them

16:18:09

16:18:31

1 both into a CPS case because the new baby was born on drugs so
2 I dealt with that. And then that is when they granted another
3 six months and then this term is up.

4 And we're in the process of locating the parents
5 because they're both nomadic; there's no address. Both of them
6 have been in and out of jail for the last six months. So we're
7 in the process of getting the permanent custody, but it's hard
8 to find them.

9 So I was able to speak with my daughter. She
10 messaged me through Facebook and she called me and I told her
11 this is happening. Apparently she showed up here today and
12 Judge Stevens called me from his cell phone and said -- I was
13 on an airplane and I had a voicemail and he said just letting
14 you know your daughter was here today. So she -- I told -- the
15 Clerk told her that the court date was tomorrow and so if she's
16 there we can go ahead and serve her if she shows up here.

17 THE COURT: All right. You talked to
18 the Judicial Assistant, you talked to -- Judge Stevens called
19 you when you were on your way over here.

20 : Yes.

21 THE COURT: And , have you retained him?
22 Is he going to file a third-party action?

23 : We're going -- we're in the process
24 of doing all that now. What happened was -- was my daughter,
25 she got out of jail. She was supposed to be in jail until

16:19:14

16:19:42

1 , which I was really grateful because that would give
2 her six months of being sober and maybe she'd get her -- clean
3 up her act a little bit and then I could at least locate her
4 for paperwork.

5 And we were getting ready to serve -- getting all
6 the paperwork ready to serve her and I got a phone call from a
7 friend of ours that saw her at a gas station and said she
8 bonded out and was fleeing the state and was coming to

9 to take her kids back and so that's when I called
10 office and they said that is protocol for an
11 emergency hearing. I said this would be my third one.

12 And the local law enforcement in , they
13 can only go by what is the last stated paperwork which shows
14 that that terminates on the ' regardless even if I'm in
15 process.

16 I've been speaking with Judge Stevens this whole
17 time; with . I'm in the process of doing all this.
18 We're locating the parents and all of this stuff because the
19 paperwork ends on the . If she were to show up on (sic) my
20 door on the , state would have no -- they would
21 have no right to keep -- let me have the kids. They would have
22 to give them to her.

23 THE COURT: Okay.

24 : So we want the 30 minute -- or the
25 30-day extension so that I can have the time to get --

16:20:21

16:20:48

1 THE COURT: All right. I'm going to --
2 . -- her served and all that.

3 THE COURT: -- stop you.
4 So the kids are not present in Arizona right now?

5 |: No.

6 THE COURT: You are.

7 : Yes.

8 THE COURT: Your significant other is not?

9 : No. He's with the kids.

16:21:12

10 THE COURT: All right. And so how long have the
11 kids not been in Arizona?

12 : For six months. has not
13 been in Arizona for a year.

14 THE COURT: And you do not have any orders out of

15

16 . Not yet. We did it all temporary.
17 You have to have custody for them to be able to do a -- what do
18 they call it -- a judicial, a change of judicial -- what do
19 they call it? where they change jurisdiction.

16:21:39

20 THE COURT: Yes.

21 : Yeah. They won't do a temporary
22 order in

23 THE COURT: But the kids have been in
24 more than six months?

25 : ; has been there his whole life.

1 He's almost six months. And then . has been there since
2 he was 10 months old and he's almost two.

3 THE COURT: So has ever been in Arizona?
4 : When he was born until the day he
5 was discharged from the NICU.

6 THE COURT: When's the last time was in
7 Arizona?

8 :
9 THE COURT: Of what year?

10 THE COURT: The date this was filed.

11 THE COURT: ?

12 :
13 THE COURT: How old is

14 : He is almost six months.

15 THE COURT: All right. And when you say you've
16 been talking to Judge Stevens' office, do you mean , his
17 Judicial Assistant, or Judge Stevens himself?

18 : Both.

19 THE COURT: All right. So when is the -- I know
20 Judge Stevens called you today. When -- when before --

21 : And then before that I talked to him
22 yesterday.

23 THE COURT: Okay.

24 : And before that I talked to him
25 three weeks before that.

16:22:01

16:22:21

1 THE COURT: All right. And so he advised you to
2 come out here and extend the guardianship?

3 : Actually told me to come
4 out here and to do an emergency. He wasn't able to do it and
5 because we're in the process of all this other stuff, he
6 said -- he referred me to another lawyer. And in his
7 office, she tried to contact him and he was out of town. So I
8 talked to and she said, well, really the only best way
9 to do this is come to Arizona by yourself. So I'm here.

10 THE COURT: All right. We're going to get it
11 figured out. We're going to take a recess. I'll come right
12 back.

13 : Okay.

14 (A recess was taken.)

15 THE COURT: We're back on the record in

16 and I'm going to also call in
17 the matter.

18 How do I say last name?

19 It's . I've
20 hyphenated it.

21 THE COURT: All right. I contacted , the
22 Judicial Assistant for Judge Stevens, and they have --
23 there's -- there's not officially a hearing set tomorrow at
24 9:00. There's no order setting a hearing.

25 So what I'm going to do is set both matters

16:23:00

16:38:21

1 tomorrow. You're here. You'll be here tomorrow?

2 : Yes, ma'am.

3 THE COURT: I have time right now at 2:30 so I've
4 got the afternoon. So we're going to come back tomorrow at
5 2:30 and --

6 : Wait. What?

7 THE COURT: We have a lot of procedural things for
8 me to figure out between now --

9 : I'm not going to see Judge Stevens
10 tomorrow?

11 THE COURT: No. You're -- the case is assigned to
12 me. You'll be coming back and seeing me.

13 Have you retained ?

14 : Not yet, no.

15 THE COURT: How did you find ?

16 : I was referred to him.

17 THE COURT: By?

18 : Judge Stevens.

19 THE COURT: Okay. And so you -- so just so I
20 understand, there's no third-party petition filed?

21 : It's not filed, but we're in the
22 process of getting it altogether. We're trying to find the
23 parents. When we found , she was in jail --

24 THE COURT: Okay.

25 : -- so -- but then she skipped bail

16:39:01

16:39:16

1 and she's out.

2 THE COURT: Do you expect -- have you talked to
3 and do you expect to file anything in a third-party
4 action before tomorrow?

5 : No. That's what the 30 days is for.
6 He doesn't have time or he would have been here to do the
7 emergency for me.

8 THE COURT: So a temporary guardianship cannot be
9 extended. You have to create a new temporary guardianship and
10 so by the time we get back here tomorrow -- so the -- the issue
11 of getting the extension, that's not possible under the
12 statutes.

13 whether there's jurisdictional issues because the
14 kids aren't present in Arizona, haven't been present in Arizona
15 for at least six months, although it sounds like . . . --
16 hasn't been here for a
17 year.

18 THE COURT: And do you know the last date, the
19 specific date that left?

20 : was

21 THE COURT: . All right. So
22 technically we're under the six-month time frame for but
23 not for . So if you've -- we need to come back
24 tomorrow at 2:00, 2:00 o'clock.

25 , I only see a 1:00 o'clock hearing

16:39:54

16:40:21

1 tomorrow. Is there something after? I believe there is a
2 4:30, but I don't see anything between 1:00 and 4:30. All
3 right. So --

4 (A discussion was held off the record between the
5 Court and the Bailiff.)

6 THE COURT: Okay. Okay. 2:00 o'clock. So I'm
7 setting both of these matters for a hearing tomorrow,
8 , ----, at 2:00 o'clock, in this division. So, ma'am,
9 you will need to be present for that. There is no hearing set
10 at 9:00.

16:41:25

11 The temporary guardianship for 's -- is --

12 :

13 THE COURT: -- is still in place. The
14 guardianship for has expired as of today's date.

15 : Well, they're both as of
16 'cause had six months and then they did an additional
17 six months on as well so they both got extensions.

18 THE COURT: For ?
19 : Yeah. They're both the same time.

16:41:52

20 They both end on the same day --

21 THE COURT: All right. Good. So both --

22 : --

23 THE COURT: -- both cases still have a temporary
24 guardianship in place, so neither have expired. So that means
25 that if someone else comes in, files anything in the morning,

1 that will not be granted because we're going to be back
2 together at 2:00.

3 So, ma'am, if you could tell me a little bit more
4 about -- when I looked up setting a hearing, I didn't see a
5 hearing set. So I know -- who -- who advised you that there
6 was a hearing tomorrow at 9:00?

7 : and Judge Stevens --

8 THE COURT: Okay.

9 : -- with him. And they -- he wanted
10 me to file today because he knew that the paperwork was going
11 to take a long time. And he said I'm going to get you in there
12 first in the morning so have it filed today. I'll let the
13 Court know there's going to be hearing at 9:00 a.m. so when you
14 come back at 9:00 a.m. on , morning and I'll see you then
15 because he has another hearing at 10:00 a.m.

16 THE COURT: Okay.

17 : So he said he'd already be here.

18 THE COURT: All right. So when I spoke to
19 , I let her know we're going to set this in the
20 afternoon and so Judge Stevens' division knows that hearing
21 won't be in front of him at 9:00. It will be in this division
22 in the afternoon so you just need to be back here at
23 2:00 o'clock tomorrow.

24 So procedurally these were both filed as emergency
25 hearings without notice.

16:42:26

16:42:50

1 : But the second one with DC -- with
 2 the DCS office, we know they -- DCS signed off on it. and
 3 , the parents of , and , the mother of
 4 and both kids, they voluntarily signed the guardianship over
 5 for six months and so it was granted. So that six -- six
 6 months is over.

7 And I spoke with her and she was very emotional
 8 last night because she was fleeing the state coming to steal
 9 her kids. She did call me and she said she would sign over
 10 voluntarily and I said, well, you need to find because I
 11 can't find him. You guys don't have a house, we don't know
 12 where you live.

13 All of the mail from the courts gets returned.
 14 All of their mail from the jail and Sheriff's Office gets
 15 returned. I have been talking to detectives. I've been trying
 16 to find them and we found her in jail, so we were really
 17 hopeful that she would have been in jail.

18 And I called the day that she got bonded out, that
 19 afternoon, to make sure she was there because I was letting
 20 office know she was in jail. I was trying to get
 21 her to call me. I put money on her card and she never called
 22 me, so I sent a letter and I just told her in the letter, you
 23 know, you're going to be approached by a lawyer, don't freak
 24 out, this is what it is. You know, you're in jail and she got
 25 bonded out and, you know, decided to flee the state and try and

1 come and take her kids. And she never got the letter.

2 So when she called me being super emotional, I
3 explained everything to her and I said you need to find
4 If you guys can both voluntarily sign over full guardianship to
5 me then we don't have to worry about this anymore and you guys
6 can go live your lives and do whatever you do and she said
7 that -- then she left -- I also got a voicemail from her when I
8 got off the airplane.

9 Judge Stevens, he left me a voicemail saying that
10 she was here this morning, she was poking around, and they said
11 that there was a hearing set for 9:00 in the morning. They
12 told her that too. And then --

13 THE COURT: Who? I'm sorry. Who told her that?

14

15 THE COURT: Okay.

16 : She talked to her this morning. She
17 transferred -- she was here in the office and she called

18 She came here and --

19 THE COURT: Your daughter came to the courthouse?

20 : My daughter came here today, this
21 morning I guess. And she said that -- and Judge Stevens told
22 me that she was -- I have a voicemail. Do you want to listen
23 to it?

24 THE COURT: Would you play that?

25 : Do you want his or hers or both?

16:44:45

16:45:04

1 THE COURT: Both.

2 : Okay. Judge Stevens. Here we go.

3 (The following is from a recording on cell phone.)

4 This is Judge Stevens. Your daughter is out and
5 about and asking about the status and the Clerk told her about
6 the hearing, which was appropriate. So we can serve -- she can
7 be served in court if you have all the paperwork ready to go.
8 So I wanted to at least tell you that in case you did not know.
9 Thanks. 'Bye.

10 (Recording stopped.)

11 : So he told -- they told her that
12 there was a hearing tomorrow too.

13 THE COURT: Okay. So the Clerk's office did. And
14 then do you have any other voicemails, any other voice messages
15 from Judge Stevens or --

16 : Judge Stevens, there's another one.
17 This was on . Let's see what this one says. I don't
18 know what this one is. It's a couple days old. Playing,
19 speaker. Crap. Hold on.

20 (The following is from a recording on cell phone.)

21 This is Judge Don Stevens calling for

22 . I am concerned about the upcoming deadline for the
23 temporary guardianships and wasn't sure whether or not you had
24 started the process of getting some orders to the Court and
25 getting everybody else to sign off.

1 So please call me at I cannot give
2 you legal advice, but I am trying to find out the status of the
3 case. Thank you. 'Bye.

4 (Recording stopped.)

5 --- And then this was my daughter's
6 message to me this morning when I got off the phone. I don't
7 know where -- she's on a ranch or something.

8 (The following is from a recording on cell phone.)

16:47:19

9 Hey, mom. It's me. It's 9:10. I will meet you
10 at the courthouse. I'm in town in the Verde, but I'm actually
11 out at a ranch helping with some horses and laying down sod and
12 stuff.

13 So I don't have a phone. I'm using the people who
14 own the house where I'm at. I'm using their cell phone. So I
15 will try to and get ahold of you.

16 I talked to and I think he's going to be
17 there too so I might as well too. Okay. 'Bye-bye.

18 (Recording stopped.)

16:47:51

19 ---. So she said she talked to too
20 and they're both of the understanding they will be here
21 tomorrow morning at 9:00 to sign over custody so that's why I
22 was hoping that we can be seen at 9:00 'cause they're going to
23 be here. There is a possibility.

24 THE COURT: And is the father of --
25 : the father definitely of

1 and he wasn't there when was born and there's
2 been no paternity and he doesn't claim him, so I don't know.

3 THE COURT: All right. So what we're going to do
4 then is if your daughter or are here tomorrow at 9:00,
5 I'll be here and so when they're here we'll direct them to
6 return at 2:00 o'clock so they know to come back at 2:00.

7 That probably won't happen because
8 they're probably going to get rides here and they won't come
9 back if they even show up at all. That's -- that's -- I've
10 just been trying so hard to find them and if they're going to
11 be here I can track them down and sign those papers so I can
12 move on with my life and they can do whatever the hell that
13 they want.

14 I want to be able to find them because it's cost
15 me a lot of money to -- to locate them. It just may be the
16 only time they're ever together at the same place at the same
17 time.

18 THE COURT: Hold on a second.

19 (A discussion was held off the record between the
20 Court and the Court Clerk.)

21 I called . and asked her if I
22 should file for the emergency paperwork or if I should go ahead
23 and get the paperwork ready in case they were here to go ahead
24 and sign over the complete guardianship that -- you know, since
25 we would have them both here and we could get them notarized

16:48:41

1 and we can make the copies and get it all done and then we
2 could waive the emergency room (sic) if they're just going to
3 show up and voluntarily sign over the guardianship until
4 they're 18.

5 And she said to go ahead and go forward with the
6 emergency because that's what the hearing is set for. We have
7 an emergency hearing in the morning at 9:00 and that's set for
8 the -- so get that paperwork done for sure, because what if
9 they don't show up? And I said okay. And if they do show up I
10 can just get the packet and do it and she said yes. Either way
11 go ahead and get the 30-day extension or emergency thing so we
12 can get the process going so that if -- even if wanted to
13 come to on , they can take them, you know, in
14

15 I just need something to have in my hand so if
16 they were to come to with the threats that I've been
17 getting, that I can show the local authorities that they don't
18 have custody of them and they can't take them until the custody
19 papers are in place.

20 But if they're both going to be here tomorrow --
21 'cause I explained to them, I'm like they're not going to keep
22 doing this. You know, Judge Stevens, he was really irritated.
23 He's like I usually don't do emergency hearing after emergency
24 hearing after emergency hearing. You've got to get something
25 permanent.

16:50:54

16:51:21

1 So we've been talking to and getting
2 that stuff going, but we haven't been able to contact anybody;
3 can't find anybody. Neither one of them have phones. Neither
4 one of them have addresses. I found her in jail. So I was
5 like yay.

6 And so they're both under the impression that they
7 need to sign over custody because technically I told -- I said,
8 , you know, if I don't have custody and something happens,
9 if falls down and busts his head, I can't even -- I
10 can't even sign for an emergency physician to get stitches.

11 THE COURT: So let's do this: we're going to have
12 a hearing tomorrow. I have something else set at 9:00. we'll
13 figure it out in the morning.

14 I'm going to deny right now the appointment, the
15 request for emergency orders. We're going to set this for a
16 return hearing tomorrow morning at 9:00 a.m.

17 Did you want to come here a little --

18 : Perfect. Thank you.

19 THE COURT: -- earlier, ma'am? I have --

20 !: I will be here early.

21 THE COURT: I have something at 8:30 that may take
22 15 minutes. If I can -- if I start on time I should be able
23 finish early and if you're here and we can call it early, we
24 will.

25 The other the issue is jurisdiction.

16:51:55

16:52:18

1 : Well, it depends on -- I don't mean
2 to interrupt you, but I did speak to the law -- family lawyer
3 and they -- the family -- they have a family lawyer in
4 County in . and they said that with jurisdiction --
5 'cause the reason why he called me three weeks ago when he was
6 saying about the status and everything, the message was he was
7 really curious about what the status is, if you got --

8 THE COURT: Let me stop you. That call was three
9 weeks ago?

16:52:53

10 : That call was three weeks ago on the
11 and what that -- when I -- I spoke with -- I called
12 if there was an opportunity for me to change
13 jurisdiction. She said, you know, I need to talk to the Judge
14 about that because it's been temporary orders.

15 THE COURT: Okay.

16 : So -- 'cause then I called -- I
17 called and spoke with family law in and they said
18 they can't transfer jurisdiction on temporary orders. They
19 have to be permanent orders. So that's why we're doing all
20 this again.

16:53:20

21 THE COURT: Okay. So you -- so you spoke -- the
22 first voicemail from Judge Stevens was

23 :

24 THE COURT: -- ?

25 : Yeah.

1 THE COURT: The second one was today --
2 : This morning.

3 THE COURT: -- . Any other phone
4 calls from -- from the Judge?

5 : I don't think I have any other
6 voicemails from him. I've had other calls, but I've actually
7 answered them. You know what I mean? So --

8 THE COURT: So how many of those have you had?
9 Phone calls? I've spoken to him
10 probable a total -- I've spoken to him three times and he left
11 the one (sic) voicemail.

16:53:45

12 THE COURT: And have they all been fairly
13 recently, the --

14 : Yeah, within -- within the last
15 three weeks --

16 THE COURT: Okay.
17 : -- since the question of the
18 jurisdiction.

19 THE COURT: Okay. So come back tomorrow morning.
20 I'm going to deny the relief requested today on the emergency
21 orders, but we're going to have a return hearing tomorrow
22 morning at 9:00 a.m. and when we start at 9:10 we'll figure it
23 out. But just be here early.

16:53:56

24 And so for both matters, the -- having heard the
25 matter on an emergency ex parte without notice hearing today,

1 I'm going to deny that request for today. We'll have a return
2 hearing tomorrow at 9:00 a.m. and between now and then
3 procedurally I will work through some -- some issues and see
4 what we can resolve tomorrow.

5 : If they do show up and we do some
6 other guardianship, would I just fill out a -- if they do show
7 up, God willing -- they show up at the same time and we can get
8 them to sign papers and do that, then the emergency thing would
9 be void; right?

16:54:54

10 would we be able to go through this -- like if
11 they were able to go ahead and sign over the custody, would I
12 get this and then have to file that? Or would they just kind
13 of leap frog it?

14 THE COURT: The issue -- the issue is jurisdiction
15 regarding issuing new orders, if Arizona even has jurisdiction
16 at this time. And I can't answer that without doing a little
17 more research on the dates, so it's possible. I can't answer
18 the question today. I'll have an answer tomorrow morning.

19 : Okay. Awesome. Thank you so much.

16:55:21

20 THE COURT: All right. So we're at recess for
21 today and I'll see you tomorrow morning.

22 : And I'll be dressed. I didn't think
23 I was going to see anybody today.

24 THE COURT: I appreciate that. And save those
25 voicemails. Save everything you've got and --

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... : Thank you so much.

THE COURT: -- and we'll start tomorrow. All right. we're at recess.

* * *

C E R T I F I C A T E

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STATE OF ARIZONA }
COUNTY OF YAVAPAI }

I, M. Lisa Edgar, certify that I am an Official Reporter for the Superior Court of Yavapai County, State of Arizona; that I was present and took down in shorthand all proceedings had in the above-entitled matter, and that the foregoing pages contain a full, true and correct transcript of my shorthand notes so taken, all done to the best of my skill and ability.

DATED at Camp Verde, Arizona, this day of

_____/s/_____

M. LISA EDGAR, R.P.R., C.P.
Certified Reporter
Arizona License Number 50273

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

In the matter of the
Guardianships of:

P.C.G.D.,
A.L.G.,
Minors.

YAVAPAI COUNTY SUPERIOR COURT
CASE NUMBERS:

BEFORE: THE HONORABLE DEBRA R. PHELAN
JUDGE OF THE SUPERIOR COURT, DIVISION PTA
REPORTER'S TRANSCRIPT OF PROCEEDINGS
PETITION FOR TEMPORARY APPOINTMENT OF A GUARDIAN FOR A MINOR

Camp Verde, Arizona
8:38 o'clock a.m.

PREPARED BY:
M. LISA EDGAR, RPR, CSR, CR
ARIZONA CERTIFIED REPORTER
ARIZONA CSR NUMBER 50273

PREPARED FOR:
YAVAPAI COUNTY SUPERIOR COURT
ORIGINAL

1 APPEARANCES:

2 For the Petitioner:

In Propria Persona.

3

4

Camp Verde, Arizona

5

8:38 o'clock a.m.

6

7

TRANSCRIPT OF PROCEEDINGS

8

9

THE COURT: This is [redacted] in the
 10 matter of [redacted]. This is the time and
 11 date set for a hearing on the Petition for Temporary
 12 Appointment of Guardian for Minor. I saw [redacted] yesterday
 13 on the emergency request; denied that and then set this matter
 14 for hearing today.

08:37:52

10

11

12

13

14

15

I'm also going to call [redacted] in the
 16 guardianship of [redacted]. This is the time set for a
 17 hearing on the Petition for Appointment of Temporary Guardian
 18 that was filed by [redacted] yesterday. I saw

19

[redacted] yesterday on the emergency request; denied the
 20 emergency request and set this hearing today on the underlying
 21 petition.

08:38:41

20

21

22

So, ma'am, if I could have you stand, raise your
 23 right hand and be sworn, please

24

([redacted] was duly sworn by the Court Clerk.)

25

THE COURT: All right. Thank you, ma'am. Please

1 be seated.

2 The first thing I'm going to do pursuant to
3 Administrative Order 2018-38 of Yavapai County, I'm going to
4 transfer both cases to this division. So all future hearings
5 and matters in either case will be handled by this division.

6 And I also want to put on the record before I
7 start that I have in no way communicated with Judge Stevens on
8 either of these cases. I did receive information from my
9 Judicial Assistant yesterday after that hearing that
10 Judge Stevens had stopped by, wanted to speak with me and had
11 left a couple documents. I did not speak with him. I did not
12 review any of the documents that he had left.

13 I have, however, spent a lot of time going through
14 each file and created a history for myself so I'm prepared to
15 proceed today. I have only reviewed the court files and what
16 has been pled in both cases and nothing else.

17 Having said that, good morning, ma'am
18 : Good morning.

19 THE COURT: I have not consolidated the cases.
20 They're still separate. They have two separate case numbers.
21 They're going to stay that way, but for judicial economy we'll
22 talk about both cases together.

23 So I wanted to start first with [redacted] and I
24 want to go through the chronology, ma'am, with each case and I
25 want to get to the end, figure out what we're going to do. So

08:39:33

08:40:04

1 first, correct me if I'm wrong as we go.

2 So for [REDACTED] -- let me open the files on the
3 computer first. All right. So for [REDACTED], you filed a
4 Petition to Establish Temporary Guardianship for [REDACTED]
5 That was filed on [REDACTED]; correct?

6 [REDACTED]: Yes.

7 THE COURT: You, yourself, completed the petition
8 and listed [REDACTED]; who is [REDACTED]?

9 [REDACTED]: That is [REDACTED] dad.

08:41:09

10 THE COURT: All right. So that's the biological
11 grandpa?

12 [REDACTED]: Correct. It was an emergency
13 situation. I was on vacation in [REDACTED] I got the
14 phone call and my fiancé, he was working, so he had stay. I
15 just flew out and we came here, did the emergency removal and I
16 had [REDACTED] on the guardianship with me because if something
17 were happen to me there would be someone else on the paperwork.

18 THE COURT: And [REDACTED] lives in Yavapai County?

19 [REDACTED]: In [REDACTED], yeah.

08:41:35

20 THE COURT: Okay. And so when you say you got
21 the -- the phone call, who called you?

22 [REDACTED]: I got the phone call from [REDACTED]
23 mother saying she had proof they were both doing drugs and
24 there was a lot of my own suspicions, but I couldn't prove
25 anything.

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THE COURT: okay.
: And I know on FaceTime and pictures
you only get what she wants you to see because I was in

THE COURT: Okay. And you are the maternal
grandmother of

I: Correct.

THE COURT: And the mother is I ?

I:

08:41:58

THE COURT: And she is your daughter?

I: Yes

THE COURT: And you live in ; correct?

I: Yes.

THE COURT: And at that time, on , you
were also living in then?

I: Yes.

THE COURT: You flew out and filed the emergency
petition. And when I was reviewing the petition, it did not
list parents, so I just want to make sure. I know that you
said your daughter is the mother of

08:42:18

And who is the father?

I:

THE COURT: Is Mr. on birth
certificate?

I: He is, yes.

1 THE COURT: Have you seen the birth certificate
2 yourself?

3 : I have a copy of it at home 'cause I
4 had to order one.

5 THE COURT: All right. So there is a father
6 listed. That is ?

7 : Correct.

8 THE COURT: All right. And the -- your daughter
9 was not married to --

10 : No.

11 THE COURT: -- at the time that the child was
12 born; correct?

13 : Correct.

14 THE COURT: All right. So from my review, only
15 you signed that petition, this is petition, and both
16 you and the grandfather, filed the appropriate
17 disclosure affidavits.

18 And did both you and attend the hearing,
19 the original hearing with Judge Stevens in

20 : we did --

21 THE COURT: Okay.

22 : -- yes.

23 THE COURT: And so I saw that Judge Stevens
24 appointed both you and as temporary guardians.

25 At that time, , was in the

08:42:42

1 state of Arizona?

2 : He was in .

3 THE COURT: And then did he leave the state of
4 Arizona after that hearing?

5 I: After we got permission to be able
6 to leave, we were allowed to leave.

7 THE COURT: And when -- what is the date that
8 left Arizona?

9 : It -- it would have been within the
10 week.

11 THE COURT: Okay. within a few days?

12 I: Yeah.

13 THE COURT: And you returned to ?

14 : Correct.

15 THE COURT: All right. And has resided
16 in : continually since, let's say,

17 : 'Til current, yes.

18 THE COURT: Okay. And he's never been back to
19 Arizona?

20 : He's come for visits. I -- I come
21 back. I have other kids here, so yeah, she has -- he has been
22 back to visit. He was here in when was born.

23 THE COURT: Okay. So we'll get to that.

24 Um-hum.

25 THE COURT: So from until now, he has

08:43:56

1 resided in ith you, but he's been back to Arizona to
2 visit occasionally?

3 : Yes.

4 THE COURT: Okay. And then on
5 you had filed in case a motion to continue the
6 guardianship requesting another six months. At that time you
7 were still living in , was in with
8 you.

08:44:34

9 And at that time there was a notice of hearing or
10 actually there was a request for hearing and you said that you
11 didn't know where the mother was. And then --

12 : In

13 THE COURT: Judge Stevens issued
14 an order that the child needed to be returned to Arizona and
15 you cannot extend -- that the guardianship could not be
16 extended, requiring you to serve the birth parents. And then
17 at that time there was a hearing set for .

18 However, in the interim it sounds like you got a
19 call I assume from DCS about ; is that correct?

08:45:06

20 : Yeah. So what was the date on that?
21 what is it?

22 THE COURT: Judge Stevens issued an order

23

24 : Okay. . Okay. So -- so when
25 we came and had the police help escort us to go get .

1 the first time when we took him, the police officers told me
2 that she was pregnant.

3 THE COURT: Okay.

4 : And I was like what? And they said
5 yeah, she's pregnant. We're really glad that you're doing this
6 'cause she's pregnant. You need to figure it out. And I'm
7 like, oh, you've got to be kidding me. She told me she had a
8 miscarriage.

9 THE COURT: Okay.

10 : She did not have a miscarriage. She
11 did tell me she had a miscarriage because she didn't have any
12 prenatal care and she did both meth and heroin.

13 was born , eight weeks early,
14 here in was not present. They flew the baby
15 immediately to and put him in the NICU.

16 THE COURT: Okay.

17 : I got that phone call from a social
18 worker.

19 THE COURT: At the hospital?

20 : At the hospital.

21 THE COURT: Okay.

22 I: And then I got on a plane that
23 evening and I came to Arizona.

24 THE COURT: All right. I'm going to stop you
25 right there because that's kind of where I need to be with the

08:45:38

08:46:00

1 chronology.

2 So I want to back up just briefly. You said you
3 went with the police to -- to get [redacted] was that after you
4 received temporary guardianship on [redacted]

5 [redacted] : Yes. Because of her behavior.

6 THE COURT: Okay

7 [redacted] We thought it would be best to get a
8 police escort and they did too. And so it was immediately
9 after. Within 20 minutes after we left the courthouse we went
10 straight to their house and cops met us at the [redacted]
11 and they drove us right over there. And [redacted] wasn't even
12 there. He was at someone else's house.

08:46:33

13 THE COURT: Then when you came back here for
14 birth in [redacted] --, did you stay continually?

15 [redacted] : I stayed here. I was here for --
16 'til the release papers that -- 'cause what happened is
17 whenever [redacted] was born, Judge Stevens -- because it was getting
18 so close to the ending of [redacted] six months temporary
19 custody that they wanted [redacted] back in the state of Arizona
20 because of the fact that he was a biological sibling to [redacted]
21 and it was a temporary order.

08:47:06

22 There was no CPS case with [redacted]. So because
23 the social worker knew he was born -- [redacted] was born on drugs,
24 it automatically became a CPS case so he became a CPS case and
25 they went ahead and rolled [redacted] into it where they

1 ordered -- Judge Stevens ordered that _____ be back in
 2 Arizona until the CPS case was closed. So I had to bring him
 3 back with me and we stayed to the end of that which would be
 4 the filing of

5 THE COURT: Okay. So then you brought
 6 back to Arizona in _____ or _____ of --

7
 8 _____: Correct.

9 THE COURT: Okay. And so how -- give me some
 10 dates, if you can recall, when _____ was here around
 11 or _____ birth, _____

12 _____: It was right after. It was right
 13 after _____. Let me look here. I can reference photos.
 14 I'm thinking -- let's see here.

15 THE COURT: My -- my main question is when you did
 16 that second guardianship with Judge Stevens that was signed
 17 _____ was _____ in the state of Arizona?

18 _____: Yes.

19 THE COURT: Okay.

20 _____: Yes. I wasn't -- he stayed here
 21 until we were able leave with _____. We all drove back
 22 together.

23 THE COURT: All right. So then _____ was here.
 24 That's good. _____ was in Arizona _____ when
 25 you filed that second petition.

08:47:50

08:48:15

1 : Yes

2 THE COURT: We know that there had been a TDM with
3 DCS --

4 : Yes.

5 THE COURT: -- and -- that day. And so you came
6 with -- this time it's -- is it your fiancé or your husband?

7 : My fiancé.

8 THE COURT: Okay.

9 : Yeah.

08:48:39

10 THE COURT: So he's not -- you're not married?

11 : We're not married.

12 THE COURT: He is not yet step-dad?

13 The reason why he's on the
14 guardianship is because obviously if something happens to me.
15 But secondly, he works for and because we're
16 not married he has to be a legal guardian for them to get
17 insurance and he makes too much of an income for them to get
18 state insurance in

19 THE COURT: Okay. And so then you and he came

08:49:02

20 back on It was not clear from my review if
21 as in Arizona that day so --

22 He was actually at the TDM with CPS.

23 THE COURT: Okay.

24 : They also wanted to see him.

25 THE COURT: Okay.

1 : They also wanted to sign off on him
2 before he could leave the state.

3 THE COURT: And so I saw then you came and filed
4 for a second guardianship with _____ and at that time both
5 mom and father signed waivers of notice.

6 : It was explained to them at the TDM
7 that if they would sign over voluntarily temporary guardianship
8 that they were no longer to be held to the standards of CPS
9 meaning they didn't have to do UAS, they didn't have to do the
10 parenting classes. They basically got a get out of jail free
11 card.

12 THE COURT: Okay.

13 : And they were completely okay with
14 doing that. They -- like _____ had not attempted at TASC
15 'cause he didn't go to his TASC the day when he was supposed to
16 through CPS because he had shot morphine.

17 And _____, when we were in ICU the day before I
18 took her up to go see _____ because I didn't have temporary
19 custody of him, so I had to have her with me --

20 THE COURT: Okay.

21 -- to go in the NICU to let -- to
22 let me in. And so she actually was high in the hospital and so
23 she didn't pass her TASC either.

24 THE COURT: So you -- I saw the notes from the TDM
25 that were attached to the petition for that second

08:49:44

1 guardianship. And the -- procedurally on that second
 2 guardianship, the parents signed a waiver of notice, but they
 3 did not sign consents.

4 They did sign consents in case and we'll
 5 get to that, but I didn't see any consents. However, they were
 6 not at the hearing when you appeared with -- I'm assuming with

7

8

9 THE COURT: You saw Judge Stevens. He created
 10 that temporary guardianship on so that would expire

08:50:49

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19

All right. Then I want to turn to the matter,
 . And from my review of that case you were here in
 Arizona for the TDM that you had with DCS. You filed
 a petition to create a temporary guardianship
 for and both you and Mr. signed that petition.
 The mother signed consents. I saw those. Only
 the mother signed the acceptance of service.

20

08:51:32

21

22

23

24

25

Because not his dad.

THE COURT: So --

: It was only , for

THE COURT: So on birth certificate is
 there any father listed?

: No.

THE COURT: All right. So no father. And were

1 you at that hearing?

2 : I was.

3 THE COURT: Okay. And I saw that there was an
4 order that -- that not be removed from the state.
5 However, later on you filed a notice of medical
6 update and provided the information, the medical information
7 from , that is ready to be
8 discharged and Judge Stevens granted permission for you to take
9 out of the state.

08:52:13

10 So has been back -- or been back in
11 Arizona since -- it sounded like he left back on
12 or --

13 : We have not been back. I've -- I've
14 been back one time by myself for a wedding, but the boys didn't
15 come with me.

16 THE COURT: Okay. And they're not here today?

17 : They're not with me today.

18 THE COURT: Okay. So we have both cases.

19 You did a good job.

08:52:38

20 THE COURT: All right. Okay. So here's where we
21 are: You've petitioned to create -- for it will be a
22 third --

23 : Correct.

24 THE COURT: -- third guardianship. For it
25 will be a second one. And I just want you to know, ma'am, from

1 my review of these files, you -- you have been cooperative, you
2 have been doing everything that you needed to do, you've been
3 open with the Court and filing everything you needed to, you
4 were cooperative with DCS.

5 It's very clear that you have been trying very
6 much to meet the law and do what you needed to do. So any
7 procedural issues that -- that have occurred are not of your
8 doing.

9 A guardianship cannot be extended. So what was
10 requested in both of these petitions is -- is going to need to
11 be a new guardianship. So it would be, like I said, .
12 third and . second.

13 There has not been notice given to parents on any
14 of the prior guardianships. So a few issues we have. I can't
15 extend these guardianships and make them longer. I can't
16 create a new one because the children are not here in Arizona
17 and under the statutes for the Court to be able to create a
18 guardianship there has to be venue and venue is only given if
19 the children are residing in or are present in the state of
20 Arizona. So I'm not able to create or grant the request for
21 these, for either petition.

22 I've been trying to look at a solution because I
23 know that these -- I'm glad that was here in -- in
24 Arizona when that second guardianship in , was created.
25 It wasn't clear to me from the record if he was.

08:53:21

08:54:02

1 So both guardianships created in the matter,
2 the guardianship for was created on
3 the Court did have jurisdiction and venue at that time. And
4 for , the guardianship which was created
5 the Court did have jurisdiction and venue at that time.

6 So these guardianships, I can't do anything with
7 them to -- to extend them or modify them. And at this point,
8 because the children have been in -- I know, ma'am,
9 yesterday what you told me is you had tried to go to your local
10 court and -- and domesticate the case there or something. I
11 understand why that -- why you weren't able to or why you
12 learned of an understanding of why you were not able to.

13 At this point, because the children are -- are in
14 and have been in , I'm not seeing that
15 Arizona is the right forum to give you any longer extensions or
16 any kind of long-term third-party grandparent, your
17 guardianship or third-party custody.

18 Arizona was the home state. I saw that
19 Judge Stevens had found in his -- one of his orders in
20 case, in the matter, that Arizona was retaining
21 jurisdiction.

22 At this point, what I want to do today is --
23 because the kids aren't here I can't grant an extension or
24 create new guardianships. And there also hasn't been notice to
25 parents. I know that the -- your daughter did sign a consent

08:55:01

08:55:40

1 to I didn't see a consent signed for
 2 So I can't give you legal advice. I can't tell
 3 you what to do. But the statutes in Arizona, and every state
 4 in -- in the United States, works under what's called the
 5 UCCJEA. That's the Uniform Jurisdiction and Custody Act where
 6 when there's multiple states involved, the -- the -- if you
 7 file an action in which if you did on Monday, you
 8 still have these guardianships -- if you were to be in the
 9 court in and file an action Monday, then what I want
 10 to do today is have you leave here with the minute entry with
 11 some findings in it for you to have to give to

08:56:43

12 : Thank you.

13 THE COURT: So that it kind of -- what needs to
 14 happen is , once you file an action there, will
 15 contact my division and the Judge there that you see will set
 16 up a conference with me. So you would be in the
 17 kids are in ; I'm here.

08:57:10

18 And under the UCCJEA, Arizona has been the home
 19 state and was the home state at the time these guardianships
 20 were created. And there's an analysis that I do with the Judge
 21 in to determine who's going to -- is Arizona going to
 22 keep jurisdiction, is the appropriate forum and so
 23 the Judge and I have a discussion.

24 I went through the analysis under the statute last
 25 night. Arizona, in my view, is not the appropriate forum as

1 the children are in _____, haven't been in Arizona at least
2 since _____

3 _____: And _____; has never been here.

4 THE COURT: -- or thereabout --

5 _____: Yeah.

6 THE COURT: -- of this year. They have
7 pediatricians there --

8 _____: Um-hum.

9 THE COURT: -- you're there, there's significant
10 contacts in _____. So after this Court and the
11 Court can communicate, then the case -- if the Judge and I
12 determine the jurisdiction issue -- having you continue to come
13 out to Arizona with the kids not being here, I don't believe
14 that Arizona would be the right forum and that _____ would
15 be.

16 _____: I agree with you.

17 THE COURT: But since you haven't filed there I
18 can't go through that analysis --

19 _____: Okay.

20 THE COURT: -- with you today. So --

21 _____: I believe when I spoke with the
22 family -- I didn't mean to cut you off. I spoke with a family
23 lawyer though. She said that they couldn't do anything because
24 I had a temporary order.

25 _____: And if I don't have a temporary order and _____

08:57:47

08:58:12

1 doesn't show up on my doorstep, which she's not going to -- I
2 guess she's back in ' already. So if I waited 'til --
3 to file it that would be the or the , probably after the
4 holiday, when the temporary was up, they said they would be
5 able to give -- their -- their juvenile district there is a lot
6 different than their one.

7 They said that -- and she said -- told me the
8 exact same thing you did, she said about you guys would
9 communicate and stuff. And she said it's a very special thing
10 here and if you can somehow get through so that the temporary
11 order ends and get something more permanent, we can change
12 jurisdiction or if you just don't have it and you're -- you
13 know, she was concerned about the same thing I was. I didn't
14 know the guy that was with that was going to show up at my
15 house.

16 So she's like for the safety of the children, you
17 know, you might want to go ahead and get new paperwork, you
18 know, just in case so that the law, if they showed
19 up, they can show them no, they can't have them.

20 But now I'm not -- I don't have that fear anymore
21 so I could let this lapse and expire and go in after the
22 holiday and file that paperwork with the temporary orders
23 already being done.

24 THE COURT: Okay.

25 : You know what I mean?

08:58:50

08:59:15

1 THE COURT: What I'm going to do is I know that
2 there was not a hearing -- a formal notice of hearing or
3 anything officially setting something today at 9:00. But I --
4 I know that you had talked to your daughter and told her about
5 that.

6 So I'm going to make some findings and we will
7 have the minute entry prepared. Don't leave. And what I'm
8 going to do is take a recess on both of these matters and
9 I'd -- I'd like you to stay in the courthouse and that will
10 allow for 9:00 o'clock to come, probably in 15, and --

11 : I talked to her last night and she
12 was completely -- I recorded it and she was -- she was
13 completely out of her mind. She's not showing up today. And I
14 asked her about and she said that wasn't going to
15 be coming to court unless he got something in the mail or from
16 the courts to appear.

17 THE COURT: Okay.

18 : So they're not coming.

19 THE COURT: What I'll do is have -- I'll just take
20 a recess in -- in a few minutes, have you just wait here and
21 then in a few -- probably around 9:30 I'll --

22 Okay.

23 THE COURT: -- take a break from my other matter,
24 call you back in and we'll just allow that time --

25 MS. GRIFFIN: Okay.

08:59:52

09:00:11

1 : -- in case the parents do show up.
2 But I just -- because there was communication from the Court,
3 not this Court, but from -- from the Court to you about
4 9:00 o'clock today, and you had talked to your daughter, I just
5 want to let that --

6 : I appreciate that.

7 THE COURT: -- in fairness to the parents who've
8 not had notice and you -- have not ever received service of the
9 prior guardianships, I just want to let that in caution happen.

10 So I am going to ask that the minute entry reflect
11 that in the matter for case that was in
12 the state of Arizona on } when the guardian --
13 the temporary guardianship for was created.

14 There was at that time a waiver of notice of
15 hearing signed by the biological mother. There was not any
16 consent by the biological mother for guardianship,
17 however, and jurisdiction and venue were appropriate as the
18 child was present in Arizona at that time and that that
19 guardianship is only good for six months and will expire on

20
21 And in the matter, that guardianship was
22 created and that the child, was present
23 in the state of Arizona at that time so jurisdiction and venue
24 were appropriate in this court. There was in that guardianship
25 notice provided to mother. She signed a waiver of notice and

09:00:46

09:01:25

1 hearing. She also signed a consent form in guardianship
2 consenting to that guardianship. That guardianship is a
3 six-month guardianship that will expire

4 At this time the -- neither child is present in
5 Arizona and has not been present in Arizona since -
6 middle of

7 So at this time I do not find that the Court in
8 Arizona has jurisdiction to modify or amend those temporary
9 orders that were previously issued, nor am I able to grant a
10 new Petition for Temporary Appointment.

11 So I'm going to deny the Petition for Temporary
12 Appointment of Guardian that was filed by on
13 in the matter. And I'm going to deny the
14 Petition for Appointment of Temporary Guardianship filed by
15 on in the matter. And so what
16 that means is I'm denying both petitions. They -- these
17 temporary orders that were previously issued will expire.

18 And I want the record to reflect that should there
19 be an action regarding either child filed in the
20 courts, that this Court did previously enter orders regarding
21 the children and so this Court is open and would want to
22 conduct a conference with the court under the UCCJEA
23 to determine jurisdiction between the Arizona courts and the
24 courts regarding both children as to what has been
25 filed in these cases does create an initial custody

09:02:24

09:03:08

1 determination regarding both children which would require any
2 other state to communicate with this Court and conduct a UCCJEA
3 conference.

4 And so, ma'am, we'll have that prepared. And like
5 I said, just wait here and I'm going to call another matter. I
6 will call you back in and just put a little bit more on the
7 record regarding notice and allow that time to run.

8 : Okay.

9 THE COURT: I'm not going to set any other
10 hearings in this matter. Both matters would be adjudicated.
11 But we're just going take a recess and come back and --

12 : Okay. Thank you.

13 THE COURT: Thank you. We're at recess.

14 (A recess was taken.)

15 THE COURT: We are back on the record in
16 wrong file; sorry -- and I'm going to also
17 call . The petitioner is present once again.

18 It is now 10:14. My Bailiff has been checking
19 regularly. We have not seen the children's mother nor anyone
20 reporting to be the father. So we did let that 9:00 o'clock
21 time come and pass and there's been no appearance by any of the
22 other parties involved.

23 So what we'll do is I'm going to make a few
24 editing changes. Our Clerk prepared the minute entry. I just
25 briefly went through it. There's a few changes we'll make and

09:04:08

10:14:33

1 then we'll get these finalized so you can take them with you
2 today and go back to and proceed there.

3 The Court will need to contact my
4 division so we will be sure to include the phone number for
5 this division. It is Yavapai County Superior Court Pro Tem A.
6 The phone number for the minute entry is . And as
7 soon as we get notice or contacted from the courts
8 we'll set up a UCCJEA conference.

9 And, ma'am, I know you've been talking to .

10:15:32

10 The case is now assigned to me so --

11 : Um-hum.

12 THE COURT: -- both of them are. So the phone
13 number, it will be in the minute entry. You can contact us
14 there. The Judicial Assistant can't, of course, give legal
15 advice.

16 : Right.

10:15:56

17 THE COURT: If you contact her and let her know
18 that you filed in and the case -- the court that
19 you're assigned to, if there's any communication about, you
20 know, logistical things; the court's name, the Judge that it's
21 assigned to or the phone number for the Court, anything like
22 that, please feel free to contact my Judicial Assistant -- her
23 name is -- and she'll be able to take any kind of that
24 information and we'll contact and we'll get it all
25 set up.

1 : Okay. I'm so excited. Thank you.

2 THE COURT: If I could, now that we're back on the
3 record, I just want to be clear that I understood all
4 communications that happened from the prior Court with you just
5 so our record's clear.

6 And I just want to be very clear; I see all the
7 effort you've made and nothing, again, that procedurally
8 happened that shouldn't have or wasn't supposed to is of no
9 fault of yours. Everything has been -- you've been very, very
10 cooperative --

10:16:37

11 : Thank you.

12 THE COURT: -- and I can see the effort that
13 you've made --

14 : It's very important to me.

15 THE COURT: -- to make sure that your little
16 grandsons are well taken care of.

17 : They're my best friends.

18 THE COURT: I'm -- I'm -- I'm glad we can get some
19 things done so hopefully the confusion can end and you can
20 proceed and have a more convenient forum there and keep the
21 kids instead of having to bring them to Arizona. That just
22 won't logistically work well.

10:16:51

23 So if you could tell me -- I just want to go
24 through it one more time. I know that, you know, you have --
25 Judge Stevens had contacted you about coming out and filing and

1 it looked like that had been maybe three or four times.

2 : The original phone call that I made
3 to his office was to see about the jurisdiction change.

4 THE COURT: Okay.

5 : And he --

6 THE COURT: Do you remember when you did that?

7 : Well, it was that first message. It
8 would -- that was his -- it would have been his response phone
9 call. I spoke with him -- let's see.

10:17:29

10 THE COURT: So you contacted him?

11 : Yeah. I contacted his office.

12 THE COURT: Okay.

13 : And he called me back on the
14 jurisdiction change because I was hoping that I could just get
15 it in because they don't do another extension 'cause
16 the last time I was here he was like we don't keep doing
17 extensions, we don't keep doing this. We need to get a
18 permanent.

10:17:51

19 And because when I spoke with the family law they
20 said, well, you guys are technically residents of
21 You know, we can do that, but we can't do that on temporary
22 orders. So then that's when I was like how do we go about
23 getting a jurisdiction change. And then my daughter said she
24 was going to come steal the kids and so it all just kind of
25 snowballed really, really quickly.

1 So it would have been any time before the ..., a
2 few days before.

3 THE COURT: Of what month?

4 Of this month.

5 THE COURT: All right. So you contacted the
6 Judicial Assistant, ..., and asked her some questions and
7 then you got a call back from Judge Stevens?

8 : That's correct. Yeah. And that's
9 when he -- the voicemail that he left was that he was just
10 trying to get the status, what the status is on the case and
11 this and that and everything, to find out where we were with
12 the situation.

10:18:21

13 THE COURT: All right. So I heard that voicemail.
14 And then did you call back and speak with Judge Stevens?

15 : I spoke with him again. That's when
16 he told me that we would need to stay in the jurisdiction of
17 Arizona and that -- and then that's when he referred me to
18 ... and to get it taken care of here in Arizona.

10:18:50

19 THE COURT: And so when you spoke with
20 Judge Stevens, the return call after the voicemail on
21 ..., did you call his -- was it a cell phone or was
22 it a --

23 : It was a cell phone.

24 THE COURT: Okay. And --

25 : well, it's a ... number so I'm --

1 I -- I assumed --

2 THE COURT: The voicemail --

3 : -- the ... number --

4 THE COURT: -- the one that you played yesterday,
5 he left the Court's phone number. So how did you get the cell
6 phone number?

7 : He called me.

8 THE COURT: So you saw it on your caller ID?

9 : Yeah. So he said do you have -- do
10 you see my number on my (sic) phone, on your -- on your screen?
11 Then just call me back at this number.

12 THE COURT: Okay. He left a -- a message. I
13 heard the one . Was there an additional message?

14 : The one from -- saying that the --
15 my daughter was here yesterday and that the -- and left that
16 and that was the second voicemail I've gotten from him.

17 THE COURT: Okay.

18 I've spoken to him about four times.

19 THE COURT: In addition to the voicemails?

20 : Correct.

21 THE COURT: Okay. And so how did you reach him
22 the other four times you spoke to him?

23 I left a message with . and
24 then he called me back. And then he said he had a hard time

25 finding because he said I'm pulling her up right now on

10:19:20

10:19:43

1 the system and I'm not showing her. Is she using aliases of
2

3 I know that she's using an alias by the name of
4 where she almost got me evicted from an apartment because
5 she was going by the name of and she was stealing
6 people's cards and debit cards and going on shopping sprees.
7 It was terrible. So he's like I don't have anything on record
8 for her since 2004 and I'm going she just got out of jail.

9 said when you call the courts back, ask
10 them if you can get me their case number, her case number and
11 then call me back with the case number and then I can give you
12 more information. So then I called the Yavapai County Sheriff
13 and I spoke to them and they actually gave me two case numbers
14 for her and both of them are out of

15 So then I contacted him back and that was -- that
16 was the second phone call in one day. Out of the four times
17 I've spoken to him, two of them are the same day.

18 THE COURT: All right. So he -- it sounds like he
19 was trying to locate --

20 : Yeah.

21 THE COURT: -- the mother.

22 : Right. In the system. And then
23 he's like I'm not seeing all this stuff because he was confused
24 and I was confused. I'm like what do you mean? She's been in
25 juvenile since -- the court systems since she was 15. So he

10:20:21

1 said I have juvenile stuff on her, stuff from

2 And then I gave him the case numbers. He put me
3 on hold. He said hold on a second. He did whatever he needed
4 to do. He goes okay, here she is. And he pulled up the
5 , and all these other charges
6 that she has on her.

7 And he's like okay, so here's what we're going to
8 do. I need you to do this. Come to court, we'll do the
9 emergency hearing, we'll do an extension. That way you can be
10 safe with this weird guy showing up on your doorstep with her
11 who I found out was a bounty hunter that bailed her out from

12 It's a lifetime movie.

13 THE COURT: It was Judge Stevens that -- he told
14 you you need to come to Arizona, you need to file what you
15 filed yesterday and he was locating -- trying to locate mom to
16 serve her?

17 : Yeah. And that's why he said, you
18 know, she was snooping around here today so we can have -- she
19 can have her -- if she shows up, she can be served here.

20 And he also said that whenever he pulled up her
21 case worker -- or case numbers -- I'm sorry -- that she has a
22 preliminary hearing on she's supposed to appear for
23 in court. And he goes if we don't get ahold of her, if you
24 can't find her, then we can actually have her served at court
25 'cause he had actually -- when we had maybe even discussed like

10:21:18

10:21:51

1 a restraining order or something like that to have her served,
2 you know, an order of protection for the kids or something.

3 THE COURT: Okay.

4 : And I can give -- you have options,
5 other things that I can do because it's temporary or it's
6 ending so he is helping me, you know, trying to come up with
7 ideas of how to be able to do this without having to come to
8 Arizona. It wound up that we had to come to Arizona.

9 THE COURT: Okay. And you mentioned he had
10 referred you to . Did he -- did he give you other
11 attorneys or just call

12 No, he gave me other attorneys, but
13 he -- but he said I think for your situation here's a few
14 attorneys and I called

15 THE COURT: Okay. So you called and spoke to
16 -- or have you spoken with . ?

17 Yeah. I spoke with from his
18 office and then I -- we set up a phone consultation. And then
19 he called me on Tuesday and we had -- last Tuesday. Then we
20 had the conversation about going forward and starting the
21 paperwork and then the episode happened the next day with
22 doing her stunt, so...

23 THE COURT: Okay. And then regarding that, it
24 sounds like when you were out here Judge Stevens said mom was
25 here at the courthouse. Did he tell you how he knew that

10:22:32

10:23:01

1 information?

2 She was -- that's on the voicemail.
3 That's the voicemail. Do you want to hear it again?

4 THE COURT: Yeah. I --

5 : Okay.

6 THE COURT: Yeah. I heard she was here at the
7 courthouse, but I didn't --

8 : Yeah. Let's see. So this was
9 yesterday.

10 THE COURT REPORTER: Judge, can I have a moment,
11 please?

12 THE COURT: Yes. Absolutely.

13 THE COURT REPORTER: Thank you.

14 MS. GRIFFIN: Are you ready?

15 THE COURT REPORTER: I'm ready.

16 THE COURT: Okay. Go ahead, ma'am.

17 Hold on. I have the volume turned
18 way down. Hold on. Okay.

19 (The following is from a recording on cell phone.)

20 This is Judge Stevens. Your daughter is out and
21 about and asking about the status and the Clerk told her about
22 the hearing, which was appropriate.

23 So we can serve -- she can be served in court if
24 you have all the paperwork ready to go. So I wanted to at
25 least tell you that in case you did not know. Thanks. 'Bye.

1 (Recording stopped.)

2 THE COURT: Okay. So he didn't say how he knew
3 she was out and about?

4 : No. But when I talked to
5 she said that -- 'cause I called and said that
6 -- that she was in the office asking a bunch of questions.
7 And she called from a cell phone here at the court to
8 and spoke to .

9 told her she had a hearing and she said,
10 you know what, I'm on a cell phone. Let me call you back when
11 I'm on a land line and she never called her back.

12 THE COURT: Okay. So when you spoke with ,
13 she -- so -- okay. So had told her about a hearing
14 today.

15 : Yes.

16 THE COURT: Okay.

17 : Yes. And then when I spoke to --
18 when I called it was here because I had gotten the
19 voicemail from Judge Stevens and I got the voicemail from
20 and I pulled into the parking lot here and I'm like, okay, I
21 don't want waste anybody's time. I want to respect the courts.
22 This is a big deal for me, that I get this settled. I don't
23 want to do anything wrong.

24 So I called her to get her opinion. Like do I
25 need to file for an emergency or do I go ahead and get the

10:25:13

10:25:32

1 packet for the custody in case she shows up? And she said, you
2 know, you have a hearing for the emergency hearing. If she
3 shows up, you need to be seen for that. And then if she shows
4 up, it could be a secondary thing. You guys can work that
5 paperwork out or whatever and just re-file it.

6 But she's like you are to be seen at a hearing and
7 she knows about it and she -- and she told me that she talked
8 to her and that she was going to call her back on a land line
9 and she never did which told me, well, here we go again. You
10 know.

11 THE COURT: Okay. All right. Any other
12 communications you had from -- from Judge Stevens or with
13

14 I: Not since that -- not since that
15 phone conversation with ... yesterday afternoon.

16 THE COURT: I understand your confusion and --

17 I: Yeah. It's confusing.

18 THE COURT: -- I -- I'm glad we got things sorted
19 out today so we can --

20 Me too.

21 THE COURT: -- you can move forward. What we'll
22 do is you will need to serve whatever you file. On neither of
23 these cases was there ever service on dad and whether there's a
24 dad -- if there's not dad on the birth certificate, it's John
25 Doe. If there is a dad, that person needs to be served and --

10:26:14

10:26:35

1 and has a right of notice of the proceedings. So that didn't
 2 happen in either of these -- these cases. So when you're
 3 meeting with --

4 My understanding was --

5 THE COURT: -- make sure that that --

6 : -- my understanding of that was
 7 because we had the acknowledgement in all those paperwork when
 8 we -- we did all of the paperwork for the guardianship at the
 9 TDM --

10 THE COURT: Yes.

10:27:11

11 : -- and when we did all that there,
 12 it was explained to us that that was their notification, that
 13 they were notified because we were in a State closed
 14 environment. It was being recorded.

15 Judge Stevens had actually ordered that not
 16 have any visitation, no phone contact, no nothing with
 17 at all. So whenever --

18 THE COURT: And when you say --, you mean your
 19 daughter?

20 My daughter, --, yes. I'm
 21 sorry. I never call her

10:27:34

22 So I was concerned at the time 'cause I had to
 23 bring -- with me to go get -- in -- in
 24 -- in -- when he was born in that whole situation
 25 'cause I had to bring him back because he was a ward of the

1 State.

2 And I asked for permission from -- to
3 be able to see and her and did see for
4 like 10 minutes inside the TDM because the paperwork was
5 ending. We were doing a new paperwork and because it was
6 supervised through CPS they allowed the visitation. And it was
7 like a 10 or 15 minutes and then he -- then we had to take him
8 out.

9 THE COURT: All right. So I -- I see here then
10 for ; case both and your daughter signed
11 acceptance of service for Petition of Temporary Guardianship so
12 they did sign that acceptance in that case. This was as far as
13 on

14 All right. And then the other matter, there's no
15 father listed on the birth certificate; correct?

16 : Correct.

17 THE COURT: All right. So you'll have to make
18 sure that you go through the -- the notice provisions, whatever
19 is required in -- when something is filed there. Make
20 sure you meet those requirements.

21 : They said about posting publication
22 in the local newspaper for six consecutive days or something
23 like that. She said it would be because neither one of them
24 have a known address.

25 And when I spoke with the Sheriff's Marshals and I

10:28:26

10:29:01

1 spoke to the courts trying to locate them both, they said all
 2 of their mail has been returned for both of them, for [redacted] and
 3 for [redacted], back to the Sheriff's Office and all of their
 4 paperwork is being returned back to them from the courts.

5 THE COURT: So the last known address for both of
 6 them is [redacted]?

7 [redacted]: Period. Like the last known address
 8 of [redacted] was the jail.

9 THE COURT: When you're working with whoever you
 10 work with in [redacted], just let them know that the last known
 11 address was here in [redacted].

12 [redacted]: Okay.

13 THE COURT: They will advise you of what their
 14 rules are for publication in [redacted].

15 [redacted]: Okay.

16 THE COURT: But just make sure you wait a few
 17 minutes. We'll process these minute entries, get them out to
 18 you. And then as soon we get contact from [redacted], we'll set
 19 that conference up and --

20 [redacted]: Yeah. I'll do that right after the
 21 holiday. What is today? So the [redacted]

22 THE COURT: The [redacted]

23 [redacted]: Okay. So that would be Friday. The
 24 courts are usually open on Friday?

25 THE COURT: The court should be open.

10:29:33

10:29:53

1 : Yeah. I will go in Friday.

2 THE COURT: All right. Nice to meet you. Thank
3 you for --

4 : Thank you. I'm internally grateful.
5 You have given me the best gift today. Thank you so much. I
6 appreciate it.

7 THE COURT: You're welcome. I appreciate what
8 you've tried to do and what you have been doing and hopefully
9 you can get this -- these cases will be finished here in
10 Arizona. But whatever you file there, we'll need to at least
11 talk to this Court and figure out the jurisdiction issue and
12 then you won't have to be coming back here.

13 : I'm so grateful. Thank you.

14 THE COURT: Nice to meet you.

15 : Yes. It was nice meeting you. I'm
16 glad to get this matter over with.

17 THE COURT: These matters are adjudicated.

18

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* * *

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10:30:24

C E R T I F I C A T E

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STATE OF ARIZONA }
COUNTY OF YAVAPAI }

I, M. Lisa Edgar, certify that I am an Official Reporter for the Superior Court of Yavapai County, state of Arizona; that I was present and took down in shorthand all proceedings had in the above-entitled matter, and that the foregoing pages contain a full, true and correct transcript of my shorthand notes so taken, all done to the best of my skill and ability.

DATED at Camp Verde, Arizona, this

_____/s/_____

M. LISA EDGAR, R.P.R., C.P.
Certified Reporter
Arizona License Number 50273

RESP

YAVAPAI COUNTY SUPERIOR COURT

2019-239
DEC 18 2019

December 17, 2019

Hon. Don Stevens
Verde Division SPT
2840 N. Commonwealth Drive
Camp Verde, AZ 86322

Commission on Judicial Conduct
Attn: April P. Elliott, Staff Attorney
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

Re: Case No. 19-235

Dear Ms. Elliott,

Thank you for your letter dated December 4, 2019. I apologize for the inadvertent omissions of material that you need to complete your investigation.

I have now attached the email string with my judicial assistant regarding inquiry. This includes my email on to my judicial assistant regarding further conversations with , and specific documents she needed to submit to the Court, along with the reminder that the temporary guardianship would not be extended. I have included my judicial assistant's email of to me regarding a contact she had with and my reply email about setting a hearing on regarding her request for an extension of the guardianship.

With regard to other contacts I had with , I did not make any contemporaneous notes of the dates and times of those calls. My best recollection is that there were two calls from me within a day or so of the emails. I tried to describe those in my prior submission.

One call was in response to my telephone message to her on . As I recall, called me at about 5:30 pm on that same day. I was in my vehicle and in the process of leaving the courthouse property.

She reiterated her inquiry to my judicial assistant about whether the temporary guardianship could be continued without having to return to Arizona. As I recall, the call was about 5-10 minutes in length. She apologized for leaving the matter until the last minute. She acknowledged that she knew that the temporary guardianship would expire soon. She also acknowledged that she had not started formal guardianship proceedings in or in Arizona and had not yet retained a lawyer in either state. She reminded me that both parents had signed consents for the guardianship and had signed acceptance of service and a waiver of notice of further proceedings for both children. She was frustrated because she felt that nothing had changed since the

appointment and it would be expensive and disruptive for her to travel to Arizona. I explained that by statute the temporary order could not be extended. I told her that she would have to file appropriate paperwork with or without a lawyer. She became frustrated with me and the discussion took several more minutes. We did not discuss any of the merits of the petition or other options. I did not give her any legal advice.

I recall one other telephone call with [redacted] a couple of days before the expiration of the temporary guardianship. [redacted] was in a panic because she had learned that her daughter (the natural mother of both children) had bonded out of jail on her current drug charges and had informed other family members that she was going to travel to [redacted] pick up her children. At some point during this time frame, I also learned from the Clerk's office that [redacted] had come the courthouse in [redacted] and was seeking information about a court hearing on the [redacted] temporary guardianship. I do not know what she was told. I had no contact with [redacted] [redacted] told me that she had consulted with law enforcement in [redacted] about whether the mother could take her children if the temporary guardianship expired and was told that they would return the children to the mother if that occurred. She informed me that she would be immediately travelling to Arizona. That week, I was covering emergency matters for all Verde judges during the annual judicial conference. I told [redacted] that I would be available the following morning.

I again reminded her that she needed a lawyer and to file and serve appropriate pleadings. I told her that she could contact the Department of Child Services since they had been involved with the case from the beginning. In the interim, the case had been reassigned by administrative order to Judge Phelan, and the rest of the facts are in the transcript of Judge Phelan's hearing. I have had no further contact with any of the parties or with Judge Phelan about this matter.

Regarding [redacted] pending charges and conditions of release, I did review the online docket for [redacted] case for those details. I thought that it would be prudent to check to see if [redacted] had any conditions relating to her contact with the children since they had been exposed to [redacted] drug use. I was generally aware that the Department of Child Services had taken the children from the parents because of drug exposures to both children.

My contacts with [redacted] were solely to protect the children and the rights of the parents of the children. I was concerned that [redacted] would decide on her own, without Court approval, that the children would be better off with her in [redacted] and that she would not allow to see her children until [redacted] had successfully completed a local drug treatment program.

Based on what I was told by the Clerk's office, I also expected that [redacted] might appear at the hearing. [redacted] had not been terminated, so parenting time supervised by DCS could have been arranged. Since [redacted] had failed to do anything that I had ordered her to do, I felt that a hearing to make a record of what had occurred would be the best way to get the dependency case back on the right track in compliance with Arizona law.

I accept responsibility that my ex parte contacts with [redacted] should have been handled differently by my scheduling a telephonic conference for all contacts to or from [redacted]. I had no information about the whereabouts of [redacted] and she had not appeared.

denied such knowledge. I honestly felt that my contacts with [redacted] simply reiterated the general legal requirements I had spelled out in my prior minute entries.

I hope that this additional information will assist you in completing your investigation. If anything else is required, please let me know.

Sincerely,

Don Stevens

Stevens, Don

From: Stevens, Don
Sent:
To:
Subject:

When she calls you can tell her that she will need updated versions of the same documents she filed initially, including:

1. the written consent of the parents to any extension she is seeking,
2. an updated report from DCS regarding the status of the parents and any recommendations.
3. a signed statement from the pediatrician for each child regarding their current health status.

Please remind her that the Court will not extend the temporary guardianship or grant a new petition without these support materials. If she wants more information, tell her she has to hire a lawyer or get DCS to help.

Thanks,

Don

From:
Sent:
To: Stevens, Don
Subject: RE:

She indicated last week that she'd be out of town for a few days. I'm confident she'll call you back when she gets your message.

From: Stevens, Don
Sent:
To:
Subject:

I called her number this AM and got voice mail.

From:
Sent:
To: Stevens, Don
Subject:

Judge,

called about the status of the above guardianships. The temporary guardianships for the above named minors expire on (but per the order, could continue if parents are unable to care for children).

Arizona from called to see what she may need to do moving forward. She's hopeful she doesn't have to travel to ; the cost would be significant.

I told I would pass her inquiry to you and get back with her.

Thank you,

For my reference, number is

Stevens, Don

From: Stevens, Don
Sent:
To:
Subject: RE:

Follow Up Flag: Follow up
Flag Status: Flagged

Please set an emergency hearing for extension of temporary guardianship for [redacted] A. She will file paperwork when she arrives tomorrow, but I want her on my schedule.

Thank you
Don

From:
Sent:
To: Stevens,
Subject:

Judge,

[redacted] phone number is [redacted]. I called and told her you were reviewing the file and we'd be in touch. I should be back in the office by 2:45 or so.

SUPERIOR COURT, STATE OF ARIZONA, IN AND FOR THE COUNTY OF YAVAPAI

In the Matter of the Guardianship of	Case No. _____ ORDER RE PETITIONER'S MOTION TO CONTINUE TEMPORARY OR PERMANENT GUARDIANSHIP	<p align="center">FILED</p> DATE: _____ _____ O'Clock _____ P. M. DONNA MCQUALITY, CLERK BY: <u>C VANLANDINGHAM</u> Deputy
--------------------------------------	---	--

HONORABLE DON STEVENS VERDE DIVISION SPT	BY: Nicole Bizardi, Judicial Assistant DATE: _____
---	---

The Court has received and considered the *Motion to Continue Temporary or Permanent Custody Continuom*, filed _____ Petitioner _____, then a resident of _____ Arizona, previously filed a *Petition for Temporary Appointment of Guardian for a Minor (Emergency Appointment Without Notice Requested)* on _____. The *Petition* alleged that "Both Parents are actively on meth and/or heroin, multiple incidents of domestic abuse and physical abuse...Both parents express high levels of neglect." On _____, the Court conducted a hearing on the *Petition*, and entered its Orders appointing Petitioner _____ as Temporary Guardian for the minor child.

The Court's Order included the express promise by Petitioner that **"IF THE COURT APPOINTS A TEMPORARY GUARDIAN WITHOUT NOTICE HAVING BEEN GIVEN TO ANY PERSON ENTITLED TO NOTICE, I WILL GIVE NOTICE BY PERSONAL SERVICE TO ALL PERSONS REQUIRED BY LAW, NO LATER THAN 72 HOURS AFTER THE JUDGE SIGNS THE TEMPORARY ORDER."**

Petitioner now seeks to extend the Temporary Guardianship for an indeterminate period of time. The *Petition* alleges abandonment of the child by the parents for six months. There is no evidence that Petitioner has made any effort to personally serve either parent. The *Request for Hearing* filed by Petitioner on _____ indicates that the whereabouts of the parents is unknown, and the form specifically states that in such event the Notice of Hearing must be published. It does not appear that Petitioner has started the process of completing service by publication.

By Arizona law, A.R.S. §14-5207 provides the circumstances under which the Court may appoint a temporary Guardian "...but the authority of a temporary guardian shall not last longer than six months." As noted above, the parents are entitled to personal service or service by publication for any hearing that may affect their parental rights. The Court has considered the unsworn statement of Petitioner _____, attached as Exhibit A to the current *Petition*. Under the current circumstances, the Court cannot extend the temporary guardianship. Nor can the Court convert the temporary guardianship into a *Petition for Termination of the parental rights of the birth parents*. That procedure requires a separate procedure as described A.R.S. §8-534 and following statutes.

There are other procedural issues that also cause the Court concern. The original *Petition* by _____ listed her address as being in _____ Arizona. The current *Motion to Continue* lists Petitioner's address in _____. There is no indication whether the child has been moved outside the State of Arizona.

In the Matter of Guardianship of:

Page 2

The original Petition added _____ as co-Guardian but the current *Motion to Continue* the Temporary Guardianship is not signed by _____.

The current *Motion to Continue* inserted the State of Arizona as a Defendant. There is no evidence that the State of Arizona or the Arizona Department of Child Safety (DCS) is directly or indirectly involved in the care, custody or control of the minor child. There is no indication that the concerns of the Temporary Guardian or the facts alleged in Exhibit A have been reported to DCS.

IT IS THEREFORE ORDERED that the *Motion to Continue Temporary or Permanent Custody* must be DENIED at this time.

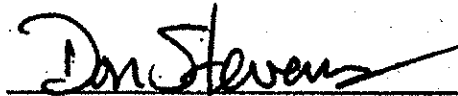
IT IS FURTHER ORDERED that Petitioner _____ promptly notify DCS about the information she has about the status of the natural parents, as well as the expiration of the Temporary Guardianship.

IT IS FURTHER ORDERED that Petitioner _____ return _____ to the State of Arizona before _____. If the child is still in Arizona, but under the care, custody and control of _____ and _____ is not going to be the primary custodial guardian, then new Petitions must be filed in accordance with Arizona law.

IT IS FURTHER ORDERED setting this matter for an Evidentiary Hearing on _____ at _____ for 1.5 hours at which hearing _____ shall appear in person.

IT IS FURTHER ORDERED that Petitioner _____ shall make reasonable efforts, including the use of a private process server or law enforcement, to complete service on each parent. The public records of the State of Arizona, readily available online, demonstrate that _____ has public records of his law enforcement contacts, including current probation terms verified less than thirty days ago. The Court finds that personal service must be made on _____ and _____ prior to the next hearing in this matter.

DATED this _____ day of _____.



HON. DON STEVENS
Judge of the Superior Court, Verde Div. SPT

cc:

Probate Registrar- Verde (e)

Name: _____

Mailing Address: _____

Daytime Telephone _____

Representing Self, Without a Lawyer

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

NO

DONNA McQUALITY, CLERK

For Clerk's Use Only



BY: Heather Diaz

IN THE SUPERIOR COURT OF ARIZONA IN YAVAPAI COUNTY

In the matter of the Guardianship of:

**WAIVER OF NOTICE OF HEARING
ON GUARDIANSHIP OF A MINOR**

_____ a Minor.

I STATE UNDER OATH AS FOLLOWS:

- I have received and read a copy of the following document(s):
 - Petition for Temporary and/or Emergency Appointment of Guardian of a Minor
 - Notice of Hearing For Temporary and/ or Emergency Guardianship of a Minor
- My relationship to the minor named in the caption above is:

MOTHER
- I waive all notice of any hearing or court proceeding in connection with this matter. I understand that I can reverse this Waiver by filing a written document with the Court, under this court case number, declaring that I no longer waive notice of hearings and other court proceedings.

Signature: _____

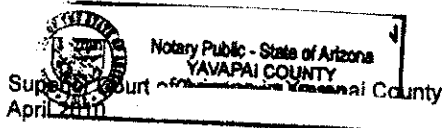
Print name and address: _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____

by _____

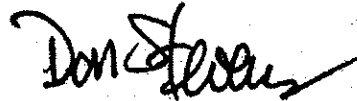
My Commission Expires: _____

Notary Public



3. **IT IS FURTHER ORDERED** that the Guardians shall be jointly and severally responsible for scheduling a pediatric follow-up examination for _____, with a pediatric specialist in _____ within ten (10) days of arrival in _____. The Guardians shall obtain all records at _____ as well as any other records generated by _____, and shall provide all of those records to the physician(s) responsible for ongoing medical care to be provided to _____.
4. **IT IS FURTHER ORDERED** that in addition to the "close Pediatric follow-up upon arrival in _____ strongly recommended by _____, the Guardians shall have the child examined on or before his three-month birthday by a physician who is board certified in Pediatric Development to follow his milestones secondary to his intrauterine drug exposure.
5. **IT IS FURTHER ORDERED** that the Guardians shall promptly provide the Court with copies of all medical records or reports by the physicians caring for _____ to allow the Court to verify that the recommendations of _____ for the care and treatment of _____ are being completed in a timely fashion, and further to advise the Court of the physical, mental and developmental status of the child. All such medical information shall be filed with the Court under seal and restricted from public access.
6. **IT IS FURTHER ORDERED** that the Guardians understand and have agreed that they have voluntarily submitted to the jurisdiction and legal authority of this Court for all further matters involving or related to _____ and/or to _____. The Guardians have agreed to voluntarily return to Arizona with the children at such times and for such hearings as the Court may subsequently determine is in the best interests of the children.
7. **IT IS FURTHER ORDERED** that subject to the foregoing conditions the Guardians are permitted to transport _____ to _____ for further care and treatment as recommended by treating physicians and/or specialists.

DATED this _____ day of _____



HON. DON STEVENS
Judge of the Superior Court, Verde Div. SPT

cc:

Probate Registrar- Verde (e)

Defendant Name:		MISDEMEANOR RELEASE CONDITIONS and RELEASE ORDER
Address:		
Email:	TELEPHONIC <input type="checkbox"/> TIME <input checked="" type="checkbox"/> am <input type="checkbox"/> pm	
Phone:	<input type="checkbox"/> Interpreter - Language:	

- | | |
|---|---|
| <input type="checkbox"/> VERDE VALLEY JUSTICE COURT - 928-639-5820
10 S. 6th Street, Cottonwood, AZ 86326
<input type="checkbox"/> COTTONWOOD MUNICIPAL COURT - 928-634-7537
665 E. Mingus Avenue - Cottonwood, AZ 86326
<input type="checkbox"/> SEDONA MUNICIPAL COURT - 928-282-1189
102 Roadrunner Drive, Sedona, AZ 86336
<input checked="" type="checkbox"/> CAMP VERDE MUNICIPAL COURT - 928-567-6635
435 S. MAIN RM 206A (473 S. Main Street-MAILING), Camp Verde, AZ 86322 | <input type="checkbox"/> DEWEY-HUMBOLDT MAGISTRATE COURT - 928-632-0008
2735 S. Highway 69, Humboldt, AZ 86329
<input type="checkbox"/> PRESCOTT JUSTICE / CITY COURTS - 928-771-3300
120 S. Cortez Street, Room 103, Prescott, AZ 86303
<input type="checkbox"/> PRESCOTT VALLEY MAGISTRATE COURT - 928-772-8277
7501 E. Civil Circle, Prescott Valley, AZ 86314
<input type="checkbox"/> OTHER COURT: _____ |
|---|---|

CHARGES: ARS§13-1602A1-CRIMINAL DAMAGE – DV ARS§13-2904A1-DISORDERLY CONDUCT FIGHTING- DV

- Defendant has been advised of the charges and the right to silence, counsel and trial.
 Public Defender Appointed Denied Declined Limited Purpose/Bond Review only IF STILL IN CUSTODY
 Financial Statement needed If Public Defender appointed, Defendant MAY pay \$25 fee plus attorney reimbursement

THE DEFENDANT IS ORDERED TO COMPLY WITH THE FOLLOWING CONDITIONS OF RELEASE:

- (1) **Appear at the Court marked above on** _____ **at** _____ a.m. p.m. for:
 Arraignment Pretrial Trial Sentencing Warrant Bond Review IF STILL IN CUSTODY.
 Other _____
- (2) Obey all orders of the Court; Do not commit any crimes; Notify the Court immediately if your address changes; Do not leave the State of Arizona without permission of the Court. If applicable, diligently prosecute appeal following judgment and sentence.
- (3) **Do not contact the alleged victim(s) in any manner:** _____
- (4) Do not go near the location of the alleged offense. You may return one time with a police officer as civil standby to obtain belongings.
- (5) Remain in contact with your attorney, if hired (Public Defender or privately-retained attorney).
- (6) Do not possess or consume any alcohol or drugs without a valid prescription.
- (7) Do not possess any firearm.
- (8) Defendant shall not drive without a valid driver's license.
- (9) DNA Test per A.R.S. §§13-3967, 13-610. Report within 5 days to Yavapai County Sheriff's Office to submit sample for DNA testing.
- (10) Fingerprint Order per A.R.S. §41-1750 (C), (U). Report within 20 days to Yavapai County Sheriff's Office for Ten-Print fingerprinting.
- (11) Other: _____

RELEASE TYPE: (ALL CHECKED CONDITIONS APPLY)

- Own Recognizance (O.R.)** - Defendant is released on his or her promise to appear in Court as required.
- Appearance Bond** - Defendant shall post bond in the amount of \$ _____. Secured Appearance Bond Cash Only
- No Bond** - Hold Defendant without bond per A.R.S. §13-3961
- Thrd Party Release** - Defendant shall be placed in the custody of: _____
 (Address and phone: _____ who agrees: (a) to supervise Defendant according to the conditions of this Order: (b) to use every effort to assure that Defendant appears at all hearings before the Court; and (c) to notify the Court immediately if Defendant violates any condition of release or if Defendant disappears. **Custodian Signature:** _____
 If the County Attorney notifies the Jail that no misdemeanor charges are being filed, then Defendant may be released on this case only.

DEFENDANT TO READ AND SIGN: I promise to comply with my release conditions. I understand I have the right to be present at my trial and other proceedings in my case, and if I fail to appear the trial or proceedings will be held without me and any bond posted may be forfeited. If I violate any condition of this Order, I understand my release can be revoked and a warrant may be issued for my arrest.

 Date Defendant Judge