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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

2009 FEB -9 PM 3:19

IN AND FOR THE COUNTY OF APACHE

SUE HALL, CLERK
APACHE COUNTY SUPERIOR COURT

In re the Matter of:)
)
CHRISTIAN RYAN ROMERO)
)
A person under 18 years of age)
)
)
)
)
)
)

CASE NO. JV 2008065

TRANSCRIPT OF STATUS CONFERENCE

January 6, 2009

BEFORE THE HONORABLE MICHAEL P. ROCA

Lynne McSeaton
Certified Electronic Reporter and
Transcriber No. 00281

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APPEARANCES

FOR THE STATE:

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FOR THE JUVENILE:

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THE GUARDIAN AD LITEM:

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FOR THE PARENT OF
THE JUVENILE:

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ALSO PRESENT:

CHRISTIAN RYAN ROMERO, Juvenile

ERYN BLOOMFIELD (Telephonically),
Parent of the Juvenile

HENRY THOMPSON,
Victim Services Coordinator

JENNIFER HIMES,
Juvenile Detention Center

Juvenile Probation Department

P R O C E E D I N G S

(Proceedings commenced at 9:08:23 a.m.)

THE COURT: We're on the record in JV2008065, *In the matter of Christian Romero*, the time set for a status conference. Let the record show --

Mr. Williams, are you asking for permission for --

MR. WILLIAMS: I'm sorry, Judge.

THE COURT: Are you asking for permission for your client to appear by phone?

MR. WILLIAMS: I am, Judge. That's right.

THE COURT: Okay. Anybody object?

MR. CARLYON: No.

MR. BREWER: No.

THE COURT: Okay. Please send her in.

Let the record show the presence of Mr. Carlyon for the State.

Mr. Whiting, it's a pleasure to see you.

The Victim's Services Coordinator, Mr. Thompson.

Ms. Bloomfield, are you there?

MS. BLOOMFIELD: Yes, Your Honor, I am.

THE COURT: Okay. Mr. Williams for Ms. Bloomfield. The minor is present, as is Mr. Brewer on his behalf, and Mr. Lassen is scratching his head.

Okay. First of all, Mr. Carlyon, I take it by your

1 continued presence that you're the attorney for the State?

2 MR. CARLYON: Mr. Whiting signed the appropriate
3 paperwork this morning.

4 THE COURT: Okay. It's kind of interesting. I was
5 -- I was rereading the appointment -- the earlier appointment,
6 and it struck me at the time that you'd been appointed as
7 independent prosecutor, akin to Lawrence Walsh or one of those
8 Captain Ahab figures.

9 MR. CARLYON: It should've been -- the new documents
10 do not contain that same language.

11 THE COURT: Oh. Okay.

12 MR. CARLYON: I'm just a --

13 THE COURT: So you're giving up your status as
14 independent prosecutor and becoming a special deputy county
15 attorney in this County?

16 MR. CARLYON: Correct.

17 THE COURT: Okay. All right. Mr. Whiting, what
18 role are you going to play, if any, if I may ask?

19 MR. WHITING: Just support of Mr. Carlyon, Judge.

20 THE COURT: Okay. So when somebody needs to scream
21 at him and he's unavailable, you're the target?

22 MR. WHITING: That's correct.

23 THE COURT: Wonderful.

24 Where are we on the State's exam report? It was my
25 understanding it was going to be sent straight to the Court.

1 Was I mistaken about that?

2 MR. CARLYON: What I understand is Dr. Johnson has
3 been trying to get the IQ test that Dr. Cady performed. I
4 don't believe he's been able to get it yet. I told him to try
5 to get it one more time indirectly, and if Dr. Cady does not
6 willingly give it up, then we'll go to the Court to either ask
7 --

8 THE COURT: Is --

9 MR. CARLYON: -- the Court to order it provided or
10 to allow Dr. Johnson to do a new one.

11 THE COURT: Wechsler Intelligence Scale for Children
12 is real easy to administer, and there are lots and lots of
13 copies of it. What's the -- I don't understand. What's going
14 on?

15 MR. CARLYON: He didn't want -- he didn't see --
16 from what I understand -- I have not talked to Dr. Johnson, so
17 this is being relayed through I'm not sure how many mouths --

18 THE COURT: Yeah.

19 MR. CARLYON: -- is that he wanted to see the
20 underlying test; not just the net result.

21 THE COURT: Okay.

22 MR. CARLYON: And he has been trying to get that.
23 Instead of having the child go through another one --

24 THE COURT: Okay.

25 MR. CARLYON: -- just to get the one that was

1 already administered.

2 THE COURT: All right. Mr. Brewer, re-
3 administration of tests like that has a tendency to skew the
4 results on subsequent events. Do you have any particular
5 objection to the raw scores being made available?

6 MR. BREWER: I mean, the evaluation has already been
7 done, Judge. I think they -- you know, he can rely on
8 whatever he wants to rely upon. I haven't been made aware of
9 any need for any documentation. I could've been in assistance
10 with regard to that.

11 THE COURT: And you can still can.

12 MR. BREWER: Probably don't have an objection. I'd
13 just like to make sure that he acknowledges that he is relying
14 upon Dr. Cady's evaluation or assessment with regard to that
15 particular tool.

16 THE COURT: Well, no, no. We're not talking about
17 the conclusions. We're talking about the raw data in the
18 WISC.

19 MR. BREWER: And that's fine, Judge. I just -- but
20 I just --

21 THE COURT: Yeah. There's --

22 MR. BREWER: -- would like him to be able to set
23 forth that that is what he is using; not something that he
24 generated with Christian; something that he did or he -- he's
25 getting from Dr. Cady just so it's all clear. Presumably he's

1 going to do that, but I would like that to be safe.

2 THE COURT: Okay. I don't see that there would be a
3 problem with that then. Would you, Mr. Carlyon?

4 MR. CARLYON: Not since he's asking for Dr. Cady's
5 test that he administered.

6 THE COURT: Okay. May I impose on the two of you to
7 make a couple of phone calls and see if you can facilitate
8 that?

9 MR. BREWER: And, Judge, for purposes of just
10 timeframes, the 10 days has already passed with regard to the
11 requirement that the report be provided. You know, we would
12 like to move things along as fast as possible.

13 THE COURT: I understand.

14 MR. BREWER: If there are any other delays, I would
15 ask that they go through us as soon as possible so we can try
16 to get that information ASAP. I just would rather not have
17 any delays.

18 The other -- the other interest -- or just want to
19 remind, I guess, everyone is that my understanding of the rule
20 is that the report is to be submitted under seal to the clerk,
21 then the actual copy or whatever will be sent to defense for
22 redaction, and then the redacted copies will be sent to the
23 Court and counsel. That is my understanding of the rule.

24 If I'm misreading that, I'd like to -- I'd like to
25 be -- I'd like to be informed of that. But that's my

1 understanding; that we would be the first to see it, we would
2 be redacting it, then we would be providing it to the Court
3 and the -- and the State.

4 THE COURT: Mr. Carlyon?

5 MR. CARLYON: That's what the rule says. I believe
6 Dr. Johnson knows that. I have issues with redactions, but
7 that's a separate matter.

8 THE COURT: Let's get the report first then worry
9 about that. Okay.

10 MR. CARLYON: Okay.

11 THE COURT: So sometime today request from the State
12 to the defense to contact Dr. Cady to release the actual
13 testing responses in the WISC.

14 MR. CARLYON: The raw data, yeah.

15 THE COURT: Yeah. Okay.

16 MR. BREWER: In the what, Judge?

17 THE COURT: The Wechsler Intelligence Scale for
18 Children testing materials.

19 Anything else that needs -- okay. There were a
20 couple of other tests that --

21 MR. CARLYON: That is the only one that has been
22 communicated to me that he wanted to see the raw data.

23 THE COURT: Okay. All right. I had it on my list
24 to ask about a response to Motion to Suppress. I see that's
25 filed today.

1 And to the other, Mr. Brewer, do you intend to or do
2 you know if you intend to file replies?

3 MR. BREWER: With regard to the motions that were
4 recently filed?

5 THE COURT: The two responses to your two Motions to
6 Suppress.

7 MR. BREWER: I just received those, Judge,
8 downstairs. We certainly will be filing a reply.

9 THE COURT: Okay. All right. So we can expect that
10 within a week or so.

11 What's the status of the special action?

12 MR. CARLYON: I received a Minute Entry from the
13 Court of Appeals yesterday giving the Wood Law Office to the
14 9th to respond. That's all the information I have.

15 THE COURT: Think the Wood Law Office already
16 responded at least briefly.

17 MR. BREWER: I read that differently, Judge. I --

18 THE COURT: Do you intend to supplement it?

19 MR. BREWER: My information is the State had --

20 MR. CARLYON: Do you have a respons?

21 MR. BREWER: -- till then to reply to our response.
22 That's my --

23 MR. CARLYON: Well, I haven't seen a response.

24 THE COURT: Oh.

25 MR. BREWER: And we provided a response. We emailed

1 it to you.

2 MR. CARLYON: Not to me.

3 MR. BREWER: Yeah, we did.

4 MR. CARLYON: I've never received an email on your
5 response.

6 THE COURT: I got a copy of it if you want to read
7 it.

8 MR. CARLYON: Yeah. I --

9 THE COURT: Somewhere.

10 MR. CARLYON: Mr. Brewer says there was emailed a
11 copy to me. I've never received an email on it in special
12 action.

13 MR. BREWER: Well, let me -- let me clarify, Judge.
14 I put forth that directive. I did not email it personally to
15 Mr. Carlyon, but my information is that it has been, but,
16 again, I don't want to, you know, say for sure on that because
17 I didn't do it.

18 THE COURT: I thought I had a copy of it. I know I
19 saw it.

20 MR. BREWER: I believe we provided two hard copies
21 to the Apache County Attorney's Office in their office, and I
22 thought we emailed a copy to Mr. Carlyon.

23 THE COURT: Hum. Well, it doesn't appear that I do.
24 My apologies.

25 Anyway --

1 MR. BREWER: Well, it shouldn't --

2 THE COURT: -- I saw a copy of it. It was
3 forwarded.

4 MR. CARLYON: Do you have a copy with you?

5 MR. BREWER: Yeah. I have a copy of it.

6 MR. CARLYON: Okay. Give me a copy.

7 THE COURT: As I said, it was brief.

8 MR. BREWER: Judge, and the Court probably doesn't
9 have a -- I mean, there's not a copy in the file, I don't
10 think, because we don't -- we didn't file it with this Court.

11 THE COURT: No, I understand, but --

12 MR. BREWER: Okay. I just --

13 THE COURT: -- following the practice of the Court
14 of Appeals, I think your office sent me a copy, captioned
15 "Objection to Petition for Special Action."

16 Anyway --

17 MR. BREWER: Judge, yeah, I have a -- I'm providing
18 a copy to Mr. Carlyon --

19 THE COURT: Okay.

20 MR. BREWER: -- of the...

21 THE COURT: All right. So you've got until the 9th
22 to file any reply. Then what?

23 MR. CARLYON: I guess. I thought it was a response.

24 THE COURT: Okay.

25 MR. CARLYON: And I'll reread that. And I may have

1 been reading that because I didn't realize the Wood Law Office
2 filed something.

3 THE COURT: Okay. So the pleadings are done by
4 Friday. Are they -- do they have a conference set?

5 MR. BREWER: They denied oral argument. I don't
6 think it was requested by either party. So I -- presumably
7 they're just going to rule on it in their own good time, I
8 guess.

9 THE COURT: Okay. So the earliest is Tuesday, next
10 week.

11 Okay. Additional disclosure, request on December 31
12 for materials related to the autopsy, is that going to be do
13 -- well, you're busy reading. Sorry.

14 MR. CARLYON: Oh. We're -- we received the diagrams
15 they requested. I'm not sure if they've been copied and given
16 yet. I don't know about the photographs taken by the medical
17 examiner. And I forgot the third item on the list.

18 THE COURT: One of the -- the last one was of the
19 medical examiner's file. I don't know --

20 MR. CARLYON: They requested --

21 THE COURT: -- the utility of that.

22 MR. CARLYON: Do they want any more? We did the
23 medical examiner interview last week. They requested specific
24 items.

25 Are there more items that you wanted?

1 MR. BREWER: Well, we just want to make sure we
2 encompass everything. There were -- there were some diagrams
3 that were generated, there were some notes, and instead of --

4 MR. CARLYON: That, you've got. Did you want more
5 besides that?

6 MR. BREWER: If there is more, yes.

7 MR. CARLYON: But you saw the file. Did you want
8 anything else out of the file?

9 MR. BREWER: We want everything.

10 MR. CARLYON: Then why didn't you ask for it then?

11 MR. BREWER: Sometimes we aren't perfect, Judge.

12 THE COURT: They did ask for it on the 31st.

13 MR. CARLYON: Right. And we were down there, we
14 addressed it. I thought they got what they wanted, but now it
15 sounds like they want everything else. I will get a missive
16 off to her and request the remainder of the file that they
17 didn't want --

18 THE COURT: Yeah.

19 MR. CARLYON: -- a week ago.

20 THE COURT: Copies of the photos, copies of the
21 transfer sheet, copies of all paperwork from the examiner's
22 office regarding possession and transfer, et cetera, et
23 cetera, and copy of the file; so one of --

24 MR. CARLYON: And we'll let her know that they --

25 THE COURT: -- one of each of everything.

1 MR. CARLYON: We'll let them know that they --

2 THE COURT: Okay.

3 MR. CARLYON: -- her know they changed their mind.

4 THE COURT: All right. There was a request for
5 additional disclosure previously regarding Lieutenant Jones
6 and all of the materials that he generated. How's that going?

7 MR. BREWER: I have not received anything along
8 those lines, Judge. The State has indicated that that may not
9 be very informative to us because they don't believe that it
10 may --

11 THE COURT: Well --

12 MR. BREWER: -- contain anything. However, we would
13 like to have whatever they got.

14 THE COURT: I think Mr. Brewer deserves an
15 opportunity to gored by it; don't you?

16 MR. CARLYON: Well, no, I do. The only thing I
17 remember that he had that there was a problem with was that --
18 what was directed for them to be given was a CD or DVD disc
19 that had problems with it that did not seem to keep the
20 recordings. So supposedly he had made recordings and stuff,
21 but they seem to have been somehow messed up.

22 They were supposed to be given a copy of what we
23 have. I could give him the original, if he wants, to try to
24 get it fixed if it can be.

25 MR. BREWER: If we just see whatever they have,

1 Judge. A copy's fine, and if we can -- think there's
2 something fruitful on there, we may ask --

3 THE COURT: Okay.

4 MR. BREWER: -- that it be enhanced.

5 THE COURT: Where is the original of the prosecution
6 file? Is it in Mr. Whiting's office, or is it in your office?

7 MR. CARLYON: Mr. Whiting's office. I don't have
8 anything.

9 THE COURT: Okay.

10 MR. CARLYON: If Mr. Brewer wants to come down and
11 see everything in our possession, they can come down right now
12 -- or as soon as we're done.

13 THE COURT: Well, yeah. How about as soon as we're
14 done?

15 Okay. And then there was a request for initial
16 discovery made December 15th.

17 MR. CARLYON: To my knowledge, everything that's
18 currently in our possession has been provided.

19 THE COURT: Okay.

20 MR. BREWER: Judge, there is one additional request.
21 I contacted Mr. Carlyon telephonically and asked him for an
22 evidence list continuation. We had up until Item Number 36,
23 and we -- then we saw something indicating a 99, and we didn't
24 have anything from 37 to 99.

25 So Mr. Carlyon said I should put that in a letter.

1 I did that, I believe on the 15th. I haven't received
2 anything. I would just like that so we can have a --

3 THE COURT: Sixty-two missing items?

4 MR. BREWER: What's that?

5 THE COURT: Sixty-two missing items?

6 MR. BREWER: Well, just what those are. I mean,
7 we've had references to these items, and we don't have what
8 they are, so it makes it very difficult to, you know, go back
9 and forth and find out what we're dealing with. So if it's
10 further than 99, we would just like them all, but we certainly
11 don't have up until 99 from 37. So if we could just get the
12 list, that would be great.

13 THE COURT: Okay. Looking for a list. What other
14 discovery issues are lurking in the woods?

15 MR. CARLYON: I would just suggest that if Mr.
16 Brewer has time after this, before any matters that he might
17 have on -- later on the calendar, that --

18 THE COURT: I think --

19 MR. CARLYON: -- we go both downstairs into the PD,
20 and he can look and see what he doesn't have, and we'll get
21 him copies then and there.

22 THE COURT: All right.

23 MR. BREWER: And, Judge, I think that would probably
24 be fruitful. However, I have a limited file with me today. I
25 don't have everything, and so I'm not completely certain of

1 everything we have and what we don't have. It'd probably be
2 better if we set a time in the future where I could be
3 prepared with what I have and what I don't have, and then I
4 could -- it may be a little quicker when we do that.

5 THE COURT: Okay. You're likely to be back here
6 next Monday. How about Wednesday for the regular juvenile
7 calendar?

8 MR. BREWER: Yeah. I -- more than likely, I will be
9 back here on Wednesday, Judge.

10 THE COURT: Well, you don't know off the top of your
11 head?

12 MR. BREWER: I can look at my cheat sheet here.

13 THE COURT: There is a long juvenile calendar.

14 MR. BREWER: That would be the -- I don't know.

15 THE COURT: The 7th.

16 MR. BREWER: 7th.

17 THE COURT: Tomorrow. And you've got a chunk of it
18 early on.

19 Mr. Carlyon --

20 MR. BREWER: I do, Judge. So I will be here.

21 THE COURT: -- what does your calendar look like? I
22 know you're just head-up with spare time.

23 MR. CARLYON: Your Honor, I don't think I personally
24 need to be there. Somebody from the Apache County Attorney's
25 Office, I think, can handle that part. And I'll defer to Mr.

1 Whiting. I'm sure he can get somebody there.

2 THE COURT: Mr. Whiting?

3 MR. WHITING: That's fine, Your Honor. We'll have
4 somebody there.

5 THE COURT: You got your hands full, too.

6 MR. WHITING: I do.

7 THE COURT: Is it going to be possible to detail
8 somebody to go over that with Mr. Brewer?

9 MR. WHITING: We will. That --

10 THE COURT: Well --

11 MR. WHITING: -- that'll be fine.

12 THE COURT: -- this is the time to say no.

13 MR. WHITING: No. We'll get it done.

14 THE COURT: Okay. Is tomorrow workable?

15 MR. BREWER: Tomorrow?

16 THE COURT: Tomorrow --

17 MR. BREWER: Is that --

18 THE COURT: -- the 7th.

19 MR. BREWER: Oh, it is tomorrow. Yeah. I guess
20 that's --

21 THE COURT: Yeah, it is tomorrow.

22 MR. BREWER: Sorry, Judge.

23 THE COURT: Hey, it's the -- it's the 6th of next
24 month already.

25 MR. BREWER: Yeah. Okay.

1 THE COURT: Okay.

2 MR. WHITING: We'll be ready, Judge.

3 THE COURT: Well, that's -- it's pretty short
4 notice. Would next week be better?

5 MR. WHITING: It would be better, but if we need to
6 do it tomorrow, we can.

7 THE COURT: Okay. Mr. Brewer, your Monday
8 obligations on the 12th close out around 10:30, realistically
9 setting you free about 11:00?

10 MR. BREWER: Right.

11 THE COURT: Okay. How about next Monday when your
12 office, Mr. Whiting, is also going to be busy and in chicken
13 without a head mode? Is that better? Well --

14 MR. WHITING: It's better for our office.

15 MR. BREWER: That's fine with us, Judge.

16 THE COURT: Well, he's short staffed. You're not --

17 MR. BREWER: Right.

18 THE COURT: -- yet.

19 MR. BREWER: No, not -- just --

20 THE COURT: Okay.

21 MR. WHITING: That would be better.

22 THE COURT: Wouldn't next Monday be better? Okay.

23 Why don't we plan on that inspection and copying session
24 taking place next Monday; start before noon, break for lunch
25 if need be, and get back after it and finish it in the

1 afternoon?

2 MR. BREWER: Okay.

3 THE COURT: All right. Okay. The defense Second
4 Renewed Motion for Appointment of Therapist is still -- looks
5 like the defense wants to control the Juvenile Probation
6 Department and the juvenile detention facility. I'm not
7 really very big on this. Remember, the initial reason given
8 was -- in addition to getting some help for the minor, but it
9 was also basically to come through on premises made by defense
10 counsel.

11 The Court is even more reluctant because yesterday
12 we got billings at the -- at the hundred-dollar rate for
13 services that weren't authorized. And I'm on the verge of
14 throwing up my hands and walking away from that.

15 MR. BREWER: Well, Judge, I mean, I'm -- my whole
16 purpose and the whole purpose of this was to try to get
17 Christian some assistance and some help. That was my whole
18 goal.

19 If we can't iron it out, then, you know, I guess we
20 can't iron it out. But in any event, all I'm trying to do is
21 get him someone to talk to and presumably have that person not
22 come and testify about what was said. That's my goal.

23 I want to try to make this person be able to be as
24 helpful as she can within the confines of juvenile detention,
25 within the confines of what she's allowed to do. That is my

1 goal. But I have to protect my client's interests, and I'm
2 also trying to protect his internal psyche, and that's
3 becoming very difficult. So that's all I'm asking.

4 You know, whatever you want to pay, we'll agree to
5 it. Whatever you want to order, we will agree to it. But I
6 -- I'm trying to protect his interests as best I can but also
7 get him the assistance that he needs in dealing with the
8 issues that he has. That's all I'm trying to do, Judge.

9 And my -- maybe my language is not correct. If the
10 Court would be willing to just strike the language that the
11 Court finds objectionable and we can proceed, that would be
12 great. But that is really all I'm trying to do, and that's
13 what I've been trying to do, I believe, for about a month.

14 And it's -- and I apologize to the Court. There
15 was, I believe, a preliminary granting of the use of a
16 therapist; not any specifics, just that we could go find one.
17 And based on that, I made some statements to this person
18 because I had to; that she would be compensated for that. I
19 told her I would pay her out of my own pocket if she wasn't
20 paid. And that -- you know, I don't have a problem doing
21 that.

22 I'm just wanting to make sure that Christian gets
23 the services that he needs. That's all I want to do. And if
24 that means he has to waive whatever, you know, I'm almost to
25 the point where I'm willing to do that, but I'd rather not. I

1 want him -- his statements made to her to be protected as best
2 they can.

3 THE COURT: Okay. Well, let me confer with the
4 people from juvenile detention. I'll see what we can come up
5 with.

6 Okay. What else needs to be addressed today?

7 MR. BREWER: What's that, Judge?

8 THE COURT: What else needs to be addressed today?
9 Actually, let's let Mr. Carlyon go first.

10 MR. BREWER: Okay.

11 THE COURT: What else needs to be addressed today,
12 sir?

13 MR. CARLYON: Nothing.

14 THE COURT: Okay. I'm so breathy.

15 MR. BREWER: My turn, Judge?

16 THE COURT: Yep.

17 MR. BREWER: Okay. Just a couple of issues that are
18 becoming somewhat concerning: We're finding ourselves hearing
19 on the media of disclosure that has been provided that we have
20 not yet seen. And, I guess, does it really matter? Probably
21 not. But it is -- it is a bit unsettling when we see on the
22 radio -- or hear on the radio and see on the TV that things
23 have been out there that we have not yet received.

24 THE COURT: Such as...?

25 MR. BREWER: And if there's way the State can simply

1 provide those to us before they put it on the worldwide web,
2 that would be appreciated; just so we can at least have it
3 first. I think we're entitled to that, and that's what we
4 would ask on that. I don't think it's a big issue, but if
5 they could just, you know, change the way they format how they
6 put this thing out, I would -- I would appreciate that; that
7 it come to us first.

8 A couple of issues pertaining to Christian
9 specifically: His mother, as we know, is not in the state
10 presently and will not be back, my understanding is, until the
11 -- Thursday, I believe --

12 THE COURT: Or Friday.

13 MR. BREWER: -- and the detention has been willing
14 to allow the grandmother, I believe her name is Liz Castillo,
15 to visit him, and we are thankful and appreciative of that.
16 Because his mother was allowed to visit a little more
17 frequently than the normal person was, we would ask that the
18 Court authorize her to -- Ms. Castillo to come see him today,
19 which is not a visitation day.

20 Christian has been having some difficult times with
21 his mother being gone. You know, I don't think it's going to
22 cause a great amount of problems if that happens, but, again,
23 that's probably up to Detention, and I would ask the Court to
24 consider that.

25 THE COURT: Ms. Himes, any problem with that?

1 MS. HIMES: Grandma's been coming every day. So I
2 don't know where this is coming from.

3 THE COURT: Okay.

4 MR. BREWER: Well, if that's the case, then I can
5 withdraw that, Judge.

6 THE COURT: What greater frequency than every day
7 would you like?

8 MR. BREWER: Well, that's fine, Judge.

9 THE COURT: Okay.

10 MR. BREWER: That'll be sufficient.

11 There also has been some discussion -- and, again,
12 these are issues that we find -- we find important. Christian
13 was wanting to have a photograph of his mother in detention,
14 and that has created some bit of a controversy. I was hoping
15 that that could happen. If it -- if it can't, then we'll deal
16 with that; but just for something to look at, I guess.

17 THE COURT: Had you discussed this with detention
18 personnel?

19 MR. BREWER: I have not, Judge. And I --

20 THE COURT: Try that first.

21 MR. BREWER: -- and I attempted to. The person in
22 charge was not present. I tried to speak with -- and I don't
23 remember their names, but I tried to speak with another
24 individual. They said that I would probably --

25 THE COURT: I --

1 MR. BREWER: -- get a call if there was an issue,
2 and --

3 THE COURT: I commend persistence to you.

4 MR. BREWER: I agree, Judge.

5 THE COURT: Okay. What else?

6 MR. BREWER: Other than that, Judge, I believe that
7 those are all the issues that we have for today's hearing.

8 THE COURT: Okay. Are we likely to get something
9 from the Court of Appeals in less than two weeks?

10 MR. BREWER: I would hope so.

11 THE COURT: A sly smile, Mr. Carlyon.

12 MR. CARLYON: Judge, you've been dealing with the
13 Court of Appeals for how many years in your career? They work
14 at the rate they wish to work at.

15 MR. BREWER: Judge, if the Court would like a
16 suggestion. If the Court would withdraw the stay, that
17 usually seems to kick them in gear a little more quickly than
18 normal. The State would then presumably have to request a
19 stay if it got to that, but I think at that point in time, the
20 Court of Appeals is kind of on a different -- a different
21 mode. And so I think that may be one avenue to maybe light a
22 fire under them.

23 THE COURT: Would it have the same effect to put a
24 fuse on the stay?

25 MR. BREWER: I apologize, Judge. What was that?

1 THE COURT: Would it have the same effect to put a
2 fuse on it? Say --

3 MR. BREWER: I don't know --

4 THE COURT: -- absent some further action, the stay
5 evaporates on -- at 5:00 p.m. on the 20th?

6 MR. BREWER: I would rather have it a little quicker
7 than that, Judge. I mean, all it is, is a stay. They can
8 still wait if they want, even after the stay is lifted.

9 THE COURT: Oh, yeah.

10 MR. CARLYON: Your Honor, you're probably not going
11 to be able to get the competency hearing scheduled before the
12 20th anyhow.

13 THE COURT: That's true.

14 MR. CARLYON: So I don't see a need to --

15 THE COURT: And we don't still have the report yet.

16 MR. CARLYON: True, which is one of the reasons why
17 I don't think we'll be able to have it scheduled before the
18 20th. And then we're still going to have to coordinate the
19 calendar of two doctors. So I don't think the 20th is --

20 THE COURT: Okay.

21 MR. CARLYON: -- out of line.

22 THE COURT: That was going to be another question
23 that I had that didn't yet seem appropriate, and that is:
24 Live body testimony or telephone?

25 MR. CARLYON: Live body.

1 MR. BREWER: I would probably agree with that,
2 Judge.

3 THE COURT: We can sing for our supper before we get
4 the two docs in the same room on the same day.

5 MR. CARLYON: Your Honor, what I would suggest is
6 that the Court Administration, since we know who our two docs
7 are, try to start communicating with them now and see if we
8 can get some date late January, early February where we can
9 get them both here or two dates that are very close in time.

10 THE COURT: Okay.

11 MR. CARLYON: If we need to break --

12 THE COURT: All right.

13 MR. CARLYON: -- them up into two, we may need two.

14 THE COURT: Okay. The Court --

15 MR. BREWER: I would agree that we start working on
16 trying to get their schedules set up.

17 THE COURT: Okay.

18 MR. BREWER: I think counsels' schedules, as busy as
19 they are, can probably accommodate a lot better than the
20 doctors. If we --

21 THE COURT: Well, this one has some substantial
22 priority --

23 MR. BREWER: Right.

24 THE COURT: -- so.

25 MR. BREWER: If they -- if they can get on the same

1 page and we can set something sooner than later, that would be
2 great.

3 THE COURT: Okay. The Court Administrator will be
4 requested to coordinate with the offices of the respective
5 examining experts to determine their availability for
6 appearance at a hearing at the earliest possible opportunity.

7 What else? Everybody's looking down at the table.

8 MR. BREWER: I think that's it, Judge.

9 THE COURT: That's it. Okay. When do we want to
10 set another status conference?

11 MR. CARLYON: Two weeks?

12 THE COURT: Okay. Two weeks, the regular long
13 motion calendar's on a Tuesday.

14 MR. CARLYON: Oh. Martin Luther King Day?

15 THE COURT: Exactly. Do we want to talk about this
16 on a Wednesday? The --

17 MR. CARLYON: If you're going to --

18 THE COURT: -- the long motion calendar on Monday --
19 or excuse me -- Tuesday, the 20th, is a little full.

20 MR. BREWER: Yeah. I'd rather not do it on Tuesday,
21 Judge. I mean, long motion day, I'd rather not do it.

22 THE COURT: Okay.

23 MR. CARLYON: I assume Mr. Brewer has Saint Johns
24 Justice Court on Wednesday morning and juvenile calendar on
25 Wednesday afternoon. I don't know what his calendar looks

1 like to squeeze it in. However, usually, from my recollection
2 --

3 THE COURT: Okay.

4 MR. CARLYON: -- is that Saint Johns really doesn't
5 get started in gear till about 10 o'clock.

6 MR. BREWER: Yeah, Judge. Whenever you set it, we
7 can have someone here. This case takes priority over all
8 others, so it's --

9 THE COURT: Okay. Well, Mr. Whiting, do you know
10 right off the top of your head whether or not the Michelle
11 Wallace trial is really going to get off the ground on January
12 21st?

13 MR. WHITING: I don't, Judge.

14 THE COURT: It's --

15 MR. WHITING: Do you want me to get back to you on
16 that? I don't know.

17 THE COURT: It's Ms. Atencio and Marsha Gregory.

18 MR. WHITING: Right.

19 UNIDENTIFIED SPEAKER: Judge, that's actually my
20 case --

21 THE COURT: Okay.

22 UNIDENTIFIED SPEAKER: -- Michelle Wallace.

23 THE COURT: Oh. Okay.

24 UNIDENTIFIED SPEAKER: And my understanding was the
25 Court at the last pretrial conference, we set it out --

1 because I was just appointed on it, we set it out to March.

2 THE COURT: Okay. So that's a phantom a date that
3 should've been vacated?

4 UNIDENTIFIED SPEAKER: Yes.

5 THE COURT: Okay. All right. Let's look at
6 Wednesday, January 21st; morning or afternoon? Mr. Carlyon,
7 you indicate that the JP Court may --

8 MR. CARLYON: The --

9 THE COURT: -- have a calendar that runs into the
10 afternoon?

11 MR. CARLYON: The afternoon does not work for me,
12 but typically while the JP Court -- and I don't know if
13 they've changed since I've been gone -- would schedule things
14 at 9:00, but the judge typically wouldn't take the bench till
15 9:30, 10 o'clock. And it's mainly --

16 THE COURT: So do you want to try it at 9:00 on
17 Wednesday?

18 MR. CARLYON: I'll defer to Mr. Brewer since he's
19 the one who typically covers the Saint Johns calendar for the
20 Wood Law Office.

21 MR. BREWER: That's on the 21st, Judge?

22 THE COURT: Yeah.

23 MR. BREWER: Yeah, 9:00 would be fine.

24 THE COURT: Okay. 9:00 a.m., Wednesday, January
25 21st.

1 Mr. Williams, anything?

2 MR. WILLIAMS: (No audible response.)

3 THE COURT: Mr. Lassen, anything?

4 MR. LASSEN: Only in chambers, Judge.

5 THE COURT: Okay. Okay. I'll see counsel in
6 chambers. Thank you very much.

7 Ms. Bloomfield?

8 MS. BLOOMFIELD: Yes, Your Honor.

9 THE COURT: Can I impose on you to call back?

10 MS. BLOOMFIELD: Yes, I sure can.

11 THE COURT: Okay. Because I don't have the facility
12 of putting you on hold and transferring the call.

13 MS. BLOOMFIELD: Okay. I can call --

14 (Whereupon, the proceedings were concluded at
15 9:37:52 a.m.)

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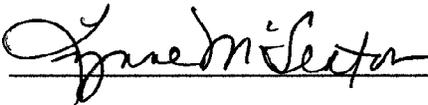
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C E R T I F I C A T E

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3 I, LYNNE McSEATON, CERT, do hereby certify that the
4 foregoing pages numbered 1 through 31 constitute a full, true,
5 and accurate transcript from a copy of the electronic
6 recording of the proceedings had in the foregoing matter, all
7 done to the best of my skill and ability.

8 I further certify that I am in no way related to any
9 of the parties and that I am not in any way interested in the
10 outcome thereof.

11 SIGNED and dated this 2nd day of February, 2009.

12
13 

14 Lynne McSeaton

15 Certified Electronic Court Reporter
16 and Transcriber No. 00281
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