

COMMISSION ON JUDICIAL SELECTION APPLICATION

EIGHTH JUDICIAL DISTRICT  
DEPARTMENT O

**By**

Kerri J. Maxey, Esq.



Personal Information
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1.	Full Name	Kerri Jean Maxey
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	N/A
3.	How long have you been a continuous resident of Nevada?	25 years
4.	City and county of residence	Henderson, Clark County
5.	Age	46

Employment History
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6. Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current or Last Employer	Legal Aid Center of Southern Nevada
Phone	(702) 386-1070
Physical Address & Website	725 E. Charleston Blvd., Las Vegas, NV 89104 lacs.n.org
Date(s) of Employment	03/12/2020 - Current
Supervisor's Name and Title	Marina Dalia-Hunt Team Lead of the Minor Guardianship Advocacy Program
Your Title	Staff Attorney in the Minor Guardianship Advocacy Program
Describe Your Key Duties	The Minor Guardianship Advocacy Program was created in early 2020. As one of the original staff attorneys hired for the program, I was an integral part of creating the program. I helped develop attorney duties, standards of practice, and the scope of attorney representation. I currently represent vulnerable children in minor guardianship proceedings in District Court as well as in the Nevada Supreme Court. I protect their Constitutional rights and legal interests. I advocate for their wishes and make sure their voice is heard. I represent my clients in crossover cases with dependency and custody proceedings. I ensure my clients' estates are secure and readily intact for when they reach the age of maturity. I am scheduled to teach a Continuing Education Class on the difference between NRS 159A guardianship and NRS432B guardianship. I am a member of the committee proposing a dependency diversion court as an oversight for the dependency cases that cross over to guardianship. Finally, I am also part of the

	committee proposing a legislative bill to reform NRS 159A so it reflects how minor guardianship should actually be applied.
Reason for Leaving	N/A

Previous Employer	Clark County Public Defender's Office
Phone	(702) 455-4685
Address & Website	601. N. Pecos Rd., Las Vegas, NV 89101 ClarkCountyNV.gov
Date(s) of Employment	2005-2019
Supervisor's Name and Title	Darin F. Imlay Clark County Public Defender
Your Title	Chief Deputy Public Defender – Juvenile Division
Describe Your Key Duties	I represented youth ages 8-21 charged with a diversity of crimes and represented minors facing transfer proceedings from the juvenile court system to the adult system. Additionally, I represented my clients within the criminal adult system through to case completion in the District Court, as well as in the Nevada Supreme Court. I supervised Boyd School of Law student attorneys and trained new attorneys within the Juvenile Division. I taught Continuing Education Classes on Juvenile Sex Offenders and on the law and process of transferring a minor from the delinquency system to the criminal system.
Reason for Leaving	I wanted to diversify my knowledge and representation of minors by representing them in the guardianship process.

Previous Employer	Rebel Oil Company Inc.
Phone	(702) 382-5866
Address & Website	58 S. Water St., Henderson, NV 89015, 1200 W. Warm Springs Rd., Henderson, NV 89014, & 2200 Highland Dr., Las Vegas, NV 89102 roc1954.com
Date(s) of Employment	1998-2005
Supervisor's Name and Title	Teresa Griffen Store Manager and Gerald Cobb General Counsel
Your Title	Cashier, Deli Attendant, and Legal Clerk
Describe Your Key Duties	Performed a diverse range of responsibilities to include, but not limited to: processing sales transactions, reconcile cash drawers, ordering products, taking orders, making sandwiches,

	maintaining stock, answering customers questions/complaints, and researching landlord tenant, contract, and environmental law issues.
Reason for Leaving	I was hired by the Clark County Public Defender's Office

Previous Employer	Federal Public Defender's Office
Phone	(702) 388-6577
Address & Website	411 E. Bonneville Ave., Las Vegas, NV 89101 fpdnevada.org
Date(s) of Employment	01/2003-05/2003
Supervisor's Name and Title	Art Allen Assistant Federal Public Defender
Your Title	Intern
Describe Your Key Duties	I researched criminal issues, wrote motions, and interviewed clients.
Reason for Leaving	I graduated from William S. Boyd School of Law

### Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

#### Milford High School

Address: 62 N. 300 W.

Milford, UT 89475

Dates of Attendance: 1990-1994

Certificates or Degrees Awarded:

1994: Valedictorian

1990-94: Class Honor Student

1990-94: All-American Scholar Award Winner

1990-94: High School Honor Award

1991-94: Who's Who of American High School Students

1993-94: National Honor Society

1990: National Math Honor

1993: Awarded the Outstanding Student in Physical Science at Milford High School by the U.S. Department of Energy

1990-91: First place winner in the region team debate

1991-92: Top ten in state for Oratory

1992-93: Top ten in state for Legislative Form

1990-94: United States Achievement Academy Award Winner for Leadership & Service, Honor Roll, Math, History, and Volleyball

1993: Elected Sergeant at Arms at Girls' State

1990-94: Four-year varsity letter in Drill Team

1991-92: All-State Drill Team  
1993-94: Academic All-State Drill Team  
1991-92: Miss Super Sensational at the USA Drill Team camp  
1991-92: First Attendant and Third Attendant in the Mohey Tawa Jr. Drill Team  
Individual Competition

Reason for leaving: I graduated

#### Iowa State University

Address: 3410 Beardshear Hall  
Ames, IA 50011

Dates of Attendance: 1994-1997

Certificates or Degrees Awarded: Honors Program

Reason for leaving: I transferred to University of Nevada Las Vegas

#### University of Nevada Las Vegas

Address: 4505 S. Maryland Pkwy.  
Las Vegas, NV 89154

Dates of Attendance: 1997-1999

Certificates or Degrees Awarded:

Bachelor of Arts in Economics

Cum Laude

Reason for leaving: I graduated

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

In high school, I was involved in every extracurricular activity that was available. I was the president of the High School Drill team, choreographed the team's competition routines, the try-out routines, and the Lettermen's Homecoming Dance. I organized and choreographed for the Mini Drill Team Camp. I choreographed for individuals and groups participating in pageants, contests, and shows. I assisted in the choreography and instruction of the Junior Prom promenade. I organized a Drug-Free Drawing Contest for Milford Elementary School and gave speeches about the dangers of drug abuse. I was editor of the Milford High School yearbook and newspaper. I was a member of the volleyball team and statistician for the football and wrestling teams. I was a member of the high school student counsel, 4-H, Project Teamwork Governor's Youth Counsel, Candy Striper, Future Homemakers of America, Model United Nation Club, Academic Decathlon Team, and Forensics. I was the Prom and Homecoming Float Chair Person. I decorated the Milford Library for Christmas, helped with the restoration of the Milford Museum, planted flowers at the community's new swimming pool, and helped with the fundraiser to replace the city's Christmas decorations that were destroyed in a fire.

While attending Iowa State University, I was a member of Orechsis, the university's dance company. I choreographed performances for the annual review.

While attending University of Nevada Las Vegas, I tutored fellow classmates in algebra and economics.

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

William S. Boyd School of Law

Address: 4505 S. Maryland Pkwy.  
Las Vegas, NV 89154

Degree and Date Awarded: Juris Doctorate, Cum Laude, 2003

Rank: Unknown

Awards: CALI award in First Amendment Rights

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

I was employed part-time at Rebel Oil, Inc. I was a cashier and a deli attendant. After I graduated, the in house counsel for Rebel Oil, Inc. hired me as a law clerk. I worked at Rebel Oil, Inc. from 1998-2005.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.

From the fall of 2002 to the spring of 2003, I participated in the Juvenile Justice Clinic. The Juvenile Justice Clinic gave me the passion for juvenile law. Because of the Juvenile Justice Clinic, I knew that I was going to dedicate my legal profession to the representation of minors.

Law Practice

12. State the year you were admitted to the Nevada Bar.

2004

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

N/A

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 16-20 for the five years directly preceding your appointment or election to the bench.

100% of my legal profession has involved litigation. 97% has been trial litigation and 3% and been appellate litigation.

16. Estimate percentage of time spent on:

Legal Discipline	Percentage of Practice
Domestic/family	20%
Juvenile matters	80%
Trial court civil	95%
Appellate civil	3%
Trial court criminal	5%
Appellate criminal	0%
Administrative litigation	0%
Other: Please describe	

17. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

In the past 5 years, 0% of my cases involved jury trials. 100% of my cases involved non-jury trials.

18. Give the approximate number of jury cases tried to a conclusion during the past five years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

Zero jury trials in the past 5 years  
25 non-jury trials in the past 5 years

19. List courts and counties in any state where you have practiced in the past five years.

Clark County 8<sup>th</sup> Judicial District Court  
Nevada Supreme Court

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), complete the following tables:

**Because some of the cases deal with a minor's delinquent history, dependency history, and medical information, I will refer to those minors by their initials.**

Case 1
Case name and date: In the Matter of Guardianship: A.C.L. Proposed Protected Minor, 06/10/2020
Court and presiding judge and all counsel: Department B, Judge Linda Marquis, Department I, Judge Soonhee "Sunny" Bailey, Kurt Smith, Esq., and Christopher Cannon, Esq.
Importance of the case to you and the case's impact on you:

When A.C.L.'s case was assigned to me, she was 5 years old. A.C.L.'s parents were teenagers. A.C.L.'s natural mother tragically passed away from a drug overdose. Because A.C.L. was present when her mother died, Child Protective Services ("CPS") took jurisdiction over A.C.L. CPS found that A.C.L.'s natural father was a non-offending parent and placed her with him. The maternal grandmother did not agree with A.C.L. being placed with her father, so she hired an attorney and filed for guardianship and custody simultaneously.

When the father picked up A.C.L., she had severe dental neglect. Her teeth were rotting out of her mouth. They were broken off at the gum line and oozing puss. The dentist that father took A.C.L. to was so horrified as to the state of her teeth, he offered to testify at the guardianship and custody trials for free.

Through my investigation for the guardianship trial, I found out that the maternal grandmother had her own CPS history. Maternal Grandmother failed to protect her own daughters (including A.C.L.'s natural mother) from sexual abuse by her husband. Even though her daughters contracted genital warts, she did not believe that her husband sexually abused her daughters and failed to work her CPS case plan. Eventually, the maternal grandmother agreed to allow her sister to have NRS 432B guardianship over her daughters. The abuser went to prison and the maternal grandmother never divorced him. He was up for parole in August of 2021.

This was my first guardianship non-jury trial. If I lost, then A.C.L. would be placed with the person that aided in her dental neglect and with someone who failed to protect her own children from a pedophile. Due to a procedural technicality, the guardianship case was dismissed. A.C.L. no longer had legal counsel, but I continued to assist her in the custody matter. I appeared at every hearing. The judge assigned to A.C.L.'s custody case asked me why I was in her courtroom. I explained my role and that I wanted to observe the custody trial given the procedural history of the case. She ordered me to continue my representation of A.C.L. in her custody case. My first guardianship non-jury trial turned into my first custody non-jury trial.

After the non-jury custody trial, the judge found that placing A.C.L. with the maternal grandmother would not be in her best interest. She denied the maternal grandmother's complaint for custody and her motion for primary custody and sole legal custody.

A.C.L.'s case taught me to never give up. If I had given up, then I would not have been able to represent her in her custody case, and there is a strong possibility that the maternal grandmother would have won and gained custody of A.C.L. The father of A.C.L. keeps me updated on how she is doing. He sends me pictures of holidays, first day of school, and of her beautiful smile.

Your role in the case:

Court Appointed Counsel for the Proposed Protected Minor

Case 2

Case name and date:

In the Matter of Guardianship: A.C., Proposed Protected Minor, 08/04/2020

Court and presiding judge and all counsel:

Department F, Judge Denise L. Gentile, Pro Se Litigants

Importance of the case to you and the case's impact on you:



A.C. is a 5 year old girl. Her natural mother has a substantial and substantiated history with CPS. A.C.'s mom is a drug addict, she engages in domestic violence in front of her kids, and allows her boyfriend to use a belt for corporal discipline upon her children. Mom's boyfriend would mostly inflict corporal discipline upon the oldest child and leave bruises on the child's face, back, and buttocks. He also made A.C. stand in the cold shower as punishment.

CPS removed A.C. from natural mom's home and placed her with the maternal grandparents. They were informed, and/or suggested, and/or directed by CPS to file for guardianship under NRS 159A.

I met with A.C. at the maternal grandmother's home. Due to A.C.'s age, she was unable to direct me, but I hoped to be able to assess if she liked where she lived and if she felt safe. During my meeting with A.C., I noticed unusual behavior. She was pacing, making squeaky noises, and would not make eye contact. I used her dolls to play with her and ask her safety questions. I asked about her mom and she exploded on me. She yelled at me and hid in the corner. I realized that A.C. had been traumatized and needed treatment that could not be provided through a guardianship under NRS 159A. I got A.C. to come out of the corner by playing with her bowling ball and no longer asking her questions.

After talking to A.C., I talked to her maternal grandparents. They informed me that if they sought guardianship through CPS, they would not be able to make educational and medical decisions. They were also under the impression that the guardianship judge would be able to give mom a case plan to work, drug test her, and order her not to live with her abusive boyfriend. Unfortunately, their impression was wrong. I explained the difference between a guardianship through a guardianship court and guardianship through a dependency court. The maternal grandparents decided that they wanted a CPS caseworker and/or a dependency judge to have oversight of A.C. and her mom. They decided to withdraw their petition for guardianship.

A.C.'s case is one example of the many dependency cases that get diverted inappropriately to guardianship court. Some cases are appropriate for diversion, but some cases are not. Because of A.C. and other cases like hers, I am part of the Legal Aid Center of Southern Nevada Committee that has addressed this issue. We are working with the District Attorney's Office and the Division of Family Services, to create an oversight plan for dependency diversion cases. We want to make sure that the correct information is provided to the parents and petitioners so that an informed decision can be made by all parties that best meets the needs of the minor.

Your role in the case:

Court Appointed Attorney for the Proposed Protected Minor

Case 3

Case name and date:

In the Matter of Guardianship: E.C. Proposed Protected Minor, 10/12/2022

Court and presiding judge and all counsel:

Department F, Judge Denise Gentile, David Ernesto Chavez, Esq., and Kenneth Webster, Esq.

<p>Importance of the case to you and the case's impact on you:</p> <p>E.C. is a 10 year old boy. He is diagnosed with Acute Myeloid Lukemia and acute anemia. E.C. was in need of a blood transfusion, but his parents were refusing to allow E.C. to receive a blood transfusion due to their religious beliefs. An employee of Summerlin Hospital filed a petition for guardianship over E.C. so that they could allow Summerlin Hospital to provide E.C. with a blood transfusion.</p> <p>E.C. is a devout Jehovah's Witness. Blood transfusions go against the teachings of the Jehovah's Witness religion. If a person who is Jehovah's Witnesses voluntarily receives a blood transfusion, that person is shunned by members of the religion. E.C. did not support an employee of Summerlin Hospital obtaining guardianship over him. He objected to blood transfusions being forced upon him. E.C. knew that if he did not receive the blood transfusion he would die. His faith in God and his religion was so strong, he was at peace with the thought that he would die following the teachings of Jehovah's Witness.</p> <p>As a guardianship attorney, I am client directed. I represent what my client wants, not what is in my client's best interest. This is the first time that my client did not want what was in their best interest. I was prepared to fight for E.C.'s wishes and watch my client possibly die. I never had to make that argument. The matter was resolved and the employee of Summerlin Hospital withdrew her Petition for Guardianship.</p> <p>I learned what it meant to truly be client directed from this case. I could have tried to convince E.C. not to follow his religious beliefs, or sidestep his religious beliefs by agreeing to the guardianship. By doing so, I would be undermining my client's direction. It would be taking power away from my client. E.C.'s case showed me that I can and will make the difficult arguments on behalf of my client.</p>
<p>Your role in the case:</p> <p>Court Appointed Counsel for the Proposed Protected Minor</p>

<p>Case 4</p>
<p>Case name and date:</p> <p>In the Matter of D. T., a Subject Minor; 2012, Darnell Robert T., a minor, vs. State of Nevada, 2012, &amp; State of Nevada vs. Darnell Townsel, 2017</p>
<p>Court and presiding judge and all counsel:</p> <p>Department A, Judge William O. Voy, Nevada State Supreme Court, Department 32, Judge Eric Johnson, Judge Christy Craig, and the Clark County District Attorney's Office</p>
<p>Importance of the case to you and the case's impact on you:</p> <p>In 2012, Darnell was arrested for a sex offense charge against his girlfriend. He was 17 years old and Darnell's girlfriend was 18 years old. Darnell was diagnosed with Mild Mental Retardation ("MMR"). His IQ was 59. Even with this very low IQ and diagnosis of MMR he was found competent to aid in his defense. The State of Nevada sought certification of his case to the adult criminal court system. Judge Voy agreed with the State's argument and transferred his case to the adult criminal system.</p> <p>I appealed Judge Voy's decision on the basis that he violated Darnell's due process rights by not making a clear record that it is cruel and unusual punishment to transfer a MMR minor to the criminal system, and that it is against a national consensus to transfer a MMR minor to the criminal system.</p>

It took 5 years for the Nevada Supreme Court to issue their decision. For 5 years, I visited Darnell every month at Clark County Detention Center (“CCDC”). I would read Scooby Doo books to him, we would sing songs, play games, and I would listen to him talk about his life at CCDC. Because of his low IQ, it was very difficult for Darnell to live and survive at CCDC. We would discuss the difference between being kind and being nice. Every time I left the visit, instead of saying good-bye, we would say to each other, “be kind”.

The Nevada Supreme Court decided to up-hold Judge Voy’s decision to transfer Darnell’s case to the adult system. I continued my representation of Darnell in the adult criminal system. He admitted to a registrable sex offense, given credit for time served, and was sentenced to probation. A Public Defender Social Worker obtained housing for Darnell at a group home run by Desert Regional Center. Darnell outgrew the clothes that he was wearing while he was booked at CCDC, so I bought him some clothes that he could wear and take with him upon release.

Darnell completed his probation in 2021 and earned an honorable discharge. He had some struggles on probation, but he eventually completed his sentence. Darnell taught me that no matter how many trials and tribulations life throws at you, always do the best you can, stay positive, and no matter what, be kind.

Your role in the case:

Court Appointed Defense Counsel for the Subject Minor

#### Case 5

Case name and date:

In the Matter of J.G., a Subject Minor; 2013

Court and presiding judge and all counsel:

Department A, Judge William O. Voy, and the Clark County District Attorney’s Office

Importance of the case to you and the case’s impact on you:

At the age of 13, J.G. was arrested for inappropriately touching his little sister. J.G. was born deaf with profound hearing loss. He cannot read lips and can only communicate through the use of a qualified sign interpreter. J.G.’s skills in American Sign Language (“ASL”) were not great. Because J.G. grew up with deaf parents, he was taught “home signs” that were not easily translated by an ASL interpreter. To efficiently communicate with J.G., a Certified Deaf Interpreter (“CDI”) was needed to assist the ASL interpreter.

J.G. was deemed incompetent and unable to aid in his defense. I suspected this incompetent determination was inaccurate because the evaluator only used an ASL interpreter to communicate with J.G. A CDI was never used. Due to J.G.’s incompetent determination, Judge Voy took jurisdiction over him and ordered J.G. to complete restoration classes and juvenile sex offense specific (“JSO”) treatment.

The Department of Juvenile Justice Services (“DJJS”) acquired the services of a licensed clinical social worker to provide J.G. with his JOS treatment. This therapist never used an ASL or a CDI interpreter to communicate with J.G. Because the therapist has a deaf family member, she believed she was fluent in ASL and could accurately communicate with J.G. This was a grave mistake. The therapist misinterpreted what J.G. said. It lead to J.G. being arrested, detained, and then placed into a “hearing only” group home.

As J.G.’s defense attorney, I had to file a motion to compel the State of Nevada, all DJJS departments, Clark County Interpreters Office, and the owner of the group home to comply with the American Disabilities Act Regulations and Laws. I had to fight to get my client an

ASL and CDI interpreter for court, for detention, for therapy, and for the group home. Once J.G. was provided an ASL and CDI interpreter, he was deemed competent. He completed all court orders, JSO treatment, and was successfully terminated from probation. He never reoffended.

J.G.'s case shows how important communication is. It is important to get the right translator. A translator that can speak not only the person's language, but the dialect as well. It is also important to get a translator that is licensed. Communication that gets lost in translation can take away a person's freedom, livelihood, and family.

Your role in the case:

Court Appointed Defense Counsel for the Subject Minor

21. Do you now serve, or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

No

22. Describe any pro bono or public interest work as an attorney.

For 19 years, I have represented low-income Nevadans. As a Clark County Public Defender from 2004-2019, I represented juveniles facing criminal and/or delinquency charges at all levels of the judiciary system. As a Legal Aid Center of Southern Nevada staff attorney in the Minor Guardianship Advocacy Program from 2020 to today, I represent vulnerable children in guardianship matters. I have devoted my legal profession to public interest work. To me, being an attorney is to give back to my community by helping individuals that cannot afford an attorney or have the ability to be their own advocates.

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

N/A

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past five years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

Yes, I am in compliance with the continuing legal education requirements applicable to me as a lawyer

01/11/2018	Everything You Need to Know About ICE Detainers
02/09/2018	Forensic Pathology (Day 2)
06/07/2018	Outside Influences on Representation
07/27/2018	Juvenile Sex Offenders: A Primer for Child Welfare Attorneys
12/03/2018	Hope for Second Chances Program
12/03/2018	Appellate & Supreme Court Review of 2018

12/12/2018 Attorney Wellness & Addiction Issues  
 05/10/2019 Systematic Guide to Raising a Fair Cross-Section Challenge to a Veni  
 06/10/2019 Medical Records Revealed  
 10/30/2019 Legal Ethics: Debating the Duty to Report  
 10/30/2019 Ethics in Jeopardy: Lawyer Gaffes and Mishaps  
 12/12/2019 Substance Abuse: Lawyer on the Rocks  
 05/15/2020 Finding a New Normal: Advocating for Children Transitioning Out  
 06/17/2020 Preparing for Trial Day One  
 06/19/2020 Preparation and Examination of Witnesses in Contested Dependency  
 Hearings  
 07/16/2020 A look at that Uniform Child Custody Jurisdiction & Enforcement Act  
 07/17/2020 Trauma & Self-Care  
 08/28/2020 Introduction to Representing Children in Abuse & Neglect Cases  
 11/27/2020 Signs & Symptoms of Substance Abuse in the Workplace  
 11/27/2020 Family Law Basics for Non-Family Practitioners  
 11/27/2020 How Social Media Evidence Can Win Your Case  
 03/05/2021 Minor Guardianship  
 05/14/2021 Ethics: Questions Arising From Working with Parents, Placements, & C  
 07/08/2021 Eviction Prevention & Responding to the COVID Eviction Crisis  
 12/01/2021 Bar Exam Survey Participation  
 12/03/2021 Deposition Preparation & Strategies  
 12/14/2021 Remote Legal Services Delivery Using Best Practices and Technology 2  
 12/17/2021 PLI's California MCLE Marathon 2021  
 04/20/2022 Substance Abuse in the Legal Community  
 06/06/2022 How to Avoid Pitfalls in Discovery Disputes  
 11/09/2022 Trauma-Informed Lawyering: Best Practices for Interacting with Client  
 11/11/2022 Working with LGBTQ+ Youth: Professional Obligations  
 11/12/2022 Orientation to Domestic Violence  
 11/16/2022 Basics of Family Law 2022  
 11/16/2022 Presenting and Objecting to Evidence Presented at Trial  
 11/28/2022 Ethical Issues in Working with Pro Bono Clients in 2022  
 12/06/2022 Over and Under Representation of Children of Color, Children with  
 Disabilities  
 12/08/2022 Relief for Attendees of Predatory For-Profit Schools  
 12/08/2022 A Changing HR Compliance Landscape: Why Companies Need to Rethink  
 Their Approach to Sexual Harassment  
 12/12/2022 Basic Overview of Child Custody and Visitation  
 12/15/2022 Guardianship Process in California  
 12/20/2022 Family Law 101/Overview in Low-Income Family Law Cases Part I  
 12/20/2022 Family Law 101/Overview in Low-Income Family Law Cases Part II  
 12/20/2022 Family Law 101/Overview in Low-Income Family Law Cases Part III  
 12/20/2022 Professionalism as a Racial Construct: Unpacking How Professionalism  
 Can be Used as a Tool  
 12/21/2022 Psychological Safety in the Legal Workplace  
 12/27/2022 Divorce Litigation Overview for the Non-Matrimonial Attorney Roadmap  
 of a Divorce Action  
 12/27/2022 Asylum Adjudication Trends and Tips for Success

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

Yes I have Profession Liability Insurance through Legal Aid Center of Southern Nevada

### Business & Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

May-August 1996

Housekeeper for the Milford Railroad Lodge in Milford, UT

August-December 1996

Pizza Delivery Person and Cashier for Pizza Pit in Ames, IA

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:

- a. the nature of the business
- b. the nature of your duties
- c. the extent of your involvement in the administration or management of the business
- d. the terms of your service
- e. the percentage of your ownership

N/A

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

N/A

### Civic Professional & Community Involvement

29. Have you ever held an elective or appointive public office in this or any other state?

No

Have you been a candidate for such an office?

No

If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

Clark County Public Defenders Union  
2018-2019: President  
2016-2018: Vice President  
2014-2016: Board Member

I assisted in writing the Union's Bargaining Agreement, and strategically negotiated pay increases for Union members, Cost of Living Increases ("COLA's"), and ensured that Clark County followed the bargaining agreement contract and Union member rights.

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

In 2017, I taught a continuing education class to the Special Public Defender's Office on the law and process of transferring a minor from dependency court to adult criminal court.

In 2018, I taught a continuing education class to Legal Aid Center of Southern Nevada about Juvenile Sex Offenders and Offenses for Child Welfare Attorneys.

In 2023, I am scheduled to teach a continuing legal education class for Legal Aid Center of Southern Nevada on the difference between guardianship under NRS 159A and NRS 432B.

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

From 2005 – 2012, I donated my time as a choreographer for the Rosel Seastrand Performing Arts Foundation. I choreographed the musicals that were annually performed at the Summerlin Library Theater. All proceeds went to the James Seastrand Helping Hands of North Las Vegas, a non-profit organization that provides programs and services to low income Senior Citizens in Clark County. Unfortunately, Summerlin Library Theater increased their rent and we could no longer afford to perform there. It effectively ended the Rosel Seastrand Performing Arts Foundation's ability to perform musicals and donate the proceeds.

Not only did I dedicate my time choreographing for the Rosel Seastrand Performing Arts Foundation, I also provided bag lunches for the homeless. Every month in 2018, my best friend and I would make 100 bag lunches. We would drive around the valley and give a bag lunch to any homeless person that we saw and was willing to take it.

33. List honors, prizes, awards, or other forms of recognition.

N/A

34. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so,

detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

N/A

36. During the past ten years, have you been registered to vote?

Yes

Have you voted in the general elections held in those years?

Yes

37. List avocational interests and hobbies.

I have been dancing since two years old. My love for dance has evolved into a passion for choreography. Given the opportunity, I will choreography for any occasion. When I have the time, I also enjoy Community Theater, musicals, and concerts.

I like traveling and exploring new places. I enjoy experiencing different cultures and trying food that I have never eaten before.

Conduct
---------

38. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?

Yes

39. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.

No

40. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to the corresponding question in the confidential section.

No

41. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

No



42. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

No

43. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

No

44. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

No

45. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.

No. I am not aware of anything that may require me to recuse or disqualify myself from hearing a case if I am appointed to serve as a member of the judiciary.

Other

46. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

N/A

47. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify you as a supreme court justice. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

**See Attachment A**

48. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

I am a confident leader. Through empathy, compassion, and encouragement, I can mobilize people. I am not afraid to be a delegator, to ask for help, to be transparent, or to be held accountable. Using creativity and vision, I will accomplish my goals. I have strong moral values, respect others, and treat everybody how I would like to be treated. Most importantly, I enjoy celebrating other people's success.

49. Attach a sample of no more than ten pages of your original writing in the form of a decision, “points and authorities,” or appellate brief generated within the past five years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

**See Attachment B**

## Attachment A

## **Personal Statement**

For nineteen years, I have dedicated my practice to representing children. My passion for juvenile law began in law school. While attending William S. Boyd School of Law, I was chosen to participate in the Juvenile Justice Clinic. The clinic was designed to be taken for only one semester, but I elected to participate for two semesters. After participating in the Juvenile Justice Clinic, I knew that my legal career would involve helping or representing minors.

In 2005, the Clark County Public Defender's Office hired me. I was assigned to the juvenile division. As a Chief Deputy Public Defender, I represented children from ages eight to twenty-one. I defended minors charged with delinquency acts that ranged from property offenses, violent offenses, to sex offenses. I have represented minors in transfer proceedings from juvenile court to the adult system. If my client was transferred to the adult criminal system, I would follow the case and continue my representation in jury trials and/or sentencing proceedings. Furthermore, my representation of minors included adult sex offense registration hearings and appeals.

After 16 years as a Public Defender, I decided it was time to represent minors with different legal issues. I am currently employed at Legal Aid Center of Southern Nevada, Inc. as a staff attorney in the Minor Guardianship Advocacy Program. This program provides representation for vulnerable minors going through the guardianship process. The age of my clients range from birth to eighteen. I represent children whose parents are deceased, whose parents are abusive, whose parents suffer from mental illness and/or drug addiction, or whose parents have abandoned them.

Guardianship cases often cross over with dependency and custody matters. Occasionally, a family member will file for guardianship and custody simultaneously, a family member will file a custody case after they do not prevail with their guardianship case, or a parent will try to use a custody case to overturn a guardianship ruling. I will protect my client's legal and personal interests by following them to their custody hearings. There are times when the Department of Family Services decides that it would be best for a family member to file for guardianship instead of referring the case for services. I am part of the committee that is developing an oversight for such cases through a dependency diversion court.

By focusing my legal career on representing children, I have obtained knowledge on childhood development and brain development. I understand the effects of domestic violence on children, the effects of in utero substance exposure, the effects of peer pressure, and the effects of the internet/social media on children. I also have comprehension of Nevada Revised Statutes Titles 2, 3, 4, 5, 11, 13, 14, 15, and 38.

Representing children has taught me to how to be quick to listen and slow to speak. When a child is facing transfer to the adult court, adult sex offense registration, loss of a parent, abuse by a parent, or abandonment by a parent, there are many emotions that the child has to process. Furthermore, when a parent is facing the fact that they may lose their child to the criminal adult system, the dependency system, or the guardianship system, they too have many emotions that they have to process. I have acquired the ability to problem-solve my clients and their parents' concerns while implementing viable solutions.

Throughout my legal profession, I have developed the ability to establish and maintain high-level interaction and rapport with clients, my clients' family members, fellow staff, law

firms, District Attorneys, judges, and pertinent agencies. My kind and positive personality enables me to maintain effective and efficient relationships in a conscientious manner.

Applying for District Court Department O is not a decision I have made lightly. The responsibility of being a judge is astounding. I am ready for this responsibility. My leadership, interpersonal listening, and communication skills are unsurpassed. I will bring to this position strong character, integrity, and dedication. I have an extremely high-energy level, and will work arduously to complete my work and satisfy my personal rigorous standards. For 19 years, I have been a champion for children by being their advocate. It is now time for me to be a champion for children as a District Court Judge.

## Attachment B

**OBJ**

Kerri J. Maxey, Esq.  
Nevada Bar No. 9118  
[kmaxey@lacs.org](mailto:kmaxey@lacs.org)

**LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

725 E. Charleston Blvd  
Las Vegas, NV 89104  
Telephone: (702) 386-1558  
Facsimile: (702) 386-1558

*Attorney for P. M., Protected Minor*

**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

In the Matter of Guardianship of the Person of:

**Case No.: G-21-055407-M  
Dept. No.: B**

P. M.,

A Protected Minor.

**PROTECTED MINOR’S OBJECTION TO THE PETITION TO TERMINATE  
GUARDIANSHIP**

P. M., the Protected Minor herein, by and through counsel, Kerri J. Maxey, Esq., of Legal Aid Center of Southern Nevada, Inc., hereby files this Objection to the Petition to Terminate Guardianship. This Objection is made pursuant to and supported by the following Memorandum of Points and Authorities, and all pleadings and papers on file herein.

DATED this 4<sup>th</sup> day of May, 2022.

**LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

/s/ Kerri J. Maxey

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*Attorney for P. M., Protected Minor*



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTS**

3 P.M. was born on January 13, 2006, and is 15 years old. She is the biological daughter  
4 of Yessenia Adrianna Murillo (“Ms. Murillo”) and Noe Gill Perez (“Mr. Perez”). P.M. has two  
5 siblings. P.M. is currently residing with her maternal aunt, Karla Jareth Ramos Ramos (“Ms.  
6 Ramos”), her half-sibling, S. M., and S.M.’s natural father, Arnulfo Perez Carrera (“Mr.  
7 Carrera”). In 2011, Child Protective Services (“CPS”) open an investigation on Ms. Murillo  
8 after she gave birth to a baby boy who tested positive for methamphetamines.<sup>1</sup> The case was  
9 closed due to Ms. Murillo signing temporary guardianship of P.M. and S.M. to their maternal  
10 grandmother.<sup>2</sup> After the case was closed, the maternal grandmother left P.M. and S.M. in the  
11 care of Ms. Ramos. P.M. is currently under guardianship with Ms. Ramos. The guardianship  
12 was granted on October 18, 2021.

13 P.M. has suffered an alarming history of physical and emotional abuse by Ms. Murillo.<sup>3</sup>  
14 In 2011, CPS substantiated allegations of physical abuse against P.M. by Ms. Murillo.<sup>4</sup> In 2017,  
15 P.M. and her step-sibling suffered sexual abuse while in the care and custody of Mr. Perez.<sup>5</sup>  
16 Though P.M.’s and the step-sibling’s sexual abuser is not Mr. Perez, at the time of their abuse,  
17 Mr. Perez failed to protect P.M. and her step-sibling.<sup>6</sup> It is unknown if Mr. Perez has voluntarily  
18 engaged in any kind of Non-Offending Parenting Class due to the sexual abuse that occurred in  
19 his home.

20 Due to the tremendous trauma she experienced at such a young age, P.M. has extensive  
21 mental health needs, including a history of suicidal ideations and self-harming.<sup>7</sup> She is currently  
22 in therapy and dealing with her victimization by the order of the Guardianship Court. She does  
23 not feel safe living with her father and does not wish to return to his care.

24 ///

25 \_\_\_\_\_  
26 <sup>1</sup> See Generally CPS records for Case 1373220.

27 <sup>2</sup> *Id.*

28 <sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*, and See Ex Parte Motion for an Order Shortening Time, filed on September 14, 2021, under G-21-0554074-M.

## II. PROCEDURAL HISTORY

On September 7, 2021, Ms. Ramos filed a Petition for Appointment of Guardian(s) over Child Including Request for Temporary Guardianship over P.M. and S.M..<sup>8</sup> In the Petition, Ms. Ramos stated that the guardianship was not only requested by CPS, but also needed due to Ms. Murillo's inability to care for her kids because of her mental health issues and drug use.<sup>9</sup> P.M.'s Consent and Waiver of Service was filed on September 9, 2021.<sup>10</sup>

After a continuance, the Citation to Appear and Show Cause was held on October 12, 2021.<sup>11</sup> At the hearing, Mr. Perez appeared and stated on record that he had spoken with P.M. and consented to the guardianship.<sup>12</sup> He did not file a formal consent. The Court granted the guardianship over P.M. only and denied the guardianship over S.M.. The Court also ordered P.M. to attend therapy, and ordered Ms. Murillo to have no contact with P.M..<sup>13</sup> Contact between P.M. and Mr. Perez was not addressed.<sup>14</sup>

Twenty-six days after the guardianship was granted and after Mr. Perez purportedly agreed to the guardianship, Mr. Perez initiated a custody case over P.M..<sup>15</sup> Mr. Perez also filed a Motion for primary physical custody of P.M., to set child support and visitation with P.M., and for permission to relocate P.M. to Texas.<sup>16</sup> At the hearing for Mr. Perez's motion, Ms. Ramos stated that P.M. didn't want to go to Texas and that contact between P.M. and Mr. Perez would set Pricilla back in any progress that she has made in therapy.<sup>17</sup> Despite P.M.'s wishes and the obvious emotional harm P.M. would be subjected to if forced back into her father's care, Judge Ritchie ordered P.M. to spend seven days with Mr. Perez in Texas over the winter holiday.<sup>18</sup>

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<sup>8</sup> See Petition for Appointment of Guardian(s) Over Child Including Request for Temporary Guardianship, filed on September 7, 2021, under G-21-055407-M.

<sup>9</sup> *Id.*

<sup>10</sup> See Consent and Waiver of Child (Age 14 or Older), filed September 7, 2021, under G-21-055407-M.

<sup>11</sup> See October 12, 2021, Court Minutes under G-21-055407-M.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> See Complain for Custody, filed November 7, 2021, under D-21-637517-C.

<sup>16</sup> See Plaintiff's Motion for Primary Physical Custody, To Set Child Support and Visitation for Defendant, for Permission to Relocate the Child to Cline, Texas, for Attorney's Fees and Other Related Relief, filed on November 16, 2021, under D-21-637517-C.

<sup>17</sup> See December 21, 2021, Court Minutes under D-21-0637517-C.

<sup>18</sup> *Id.*

1 On March, 16, 2022, Mr. Perez filed for a default judgement on his Custody  
2 Complaint.<sup>19</sup> On April 6, 2022, Ms. Ramos filed a Motion to Intervene on the custody case.<sup>20</sup>  
3 The hearing for Mr. Perez’s default judgement was held on April 11, 2022, and was taken off  
4 calendar.<sup>21</sup> Ms. Ramos’ Motion to Intervene is scheduled to be heard on May 18, 2022.

5 On April 21, 2022, Mr. Perez filed a Petition to Terminate Guardianship.<sup>22</sup> In his  
6 Petition, he states that the guardianship is no longer needed as he has filed a complaint for  
7 custody and because P.M.’s welfare will be substantially enhanced by returning to his care.<sup>23</sup>  
8 He further states that there is no conflict, domestic violence, abuse or neglect, no illegal  
9 activity or warrants issues in his name, and that there is a strong bond between him and  
10 P.M..<sup>24</sup> He claimed it would be in P.M.’s best interest to be with him.<sup>25</sup> The Citation to  
11 Appear and Show Cause for Mr. Perez’s Petition to Terminate Guardianship is scheduled for  
12 May 21, 2022.

### 13 III. LEGAL ARGUMENT

14 Guardianship of minors in Nevada is governed by NRS 159A. In order for this Court to  
15 grant a petition to terminate guardianship, the Petitioner has the burden of proof to show by clear  
16 and convincing evidence that termination is in the best interests of the protected minor, that the  
17 reasons for need for guardian have been corrected, and that there has been a material change of  
18 circumstances since the guardianship was granted.

#### 19 **NRS 159A.1905 Petition for termination or modification; appointment of** 20 **attorney to represent protected minor; burden of proof; issuance of citation;** 21 **penalties for not filing petition in good faith.**

22 1. A protected minor, the guardian or another person may petition the court  
23 for the termination or modification of a guardianship. The petition must state or  
24 contain:

- 25 (a) The name and address of the petitioner.
- (b) The relationship of the petitioner to the protected minor.
- (c) The name, age and address of the protected minor, if the protected minor is  
not the petitioner, or the date of death of the protected minor if the protected minor  
is deceased.
- (d) The name and address of the guardian, if the guardian is not the petitioner.

26 <sup>19</sup> See Default, filed March 16, 2022, under D-21-0637517-C.

27 <sup>20</sup> See Motion to Intervene, filed April 6, 2022, under D-21-0637517-C.

28 <sup>21</sup> See April 11, 2022, Court Minutes for D-21-637517-C,

<sup>22</sup> See Petition to Terminate Guardianship filed on April 21, 2022, under G-21-055407-M.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

- 1 (e) The reason for termination or modification.  
2 (f) Whether the termination or modification is sought for a guardianship of the  
3 person, of the estate, or of the person and estate.  
4 (g) A general description and the value of the remaining property of the  
5 protected minor and the proposed disposition of that property.  
6 ...

7 3. The petitioner has the burden of proof to show by clear and convincing  
8 evidence that the termination or modification of the guardianship of the person, of  
9 the estate, or of the person and estate is in the best interests of the protected minor.

10 4. The court shall issue a citation requiring all interested persons to appear  
11 and show cause why termination or modification of the guardianship should not be  
12 granted. The court shall serve the citation on the guardian and the petitioner. The  
13 petitioner shall serve the citation on all interested persons.  
14 ...

15 (Added to NRS by 2017, 860, 2562)

16  
17 **NRS 159A.1915 Termination of guardianship before emancipation of  
18 protected minor; burden of proof.**

19 1. If, before a protected minor is emancipated, a parent of the protected minor  
20 petitions the court for the termination of a guardianship of the protected minor, the  
21 parent has the burden of proof to show by clear and convincing evidence that:

22 (a) There has been a material change of circumstances since the time the  
23 guardianship was created. The parent must show that, as part of the change of  
24 circumstances, the parent has been restored to suitability as described in NRS  
25 159A.061.

26 (b) Except as otherwise provided in subsection 2, the welfare of the protected  
27 minor would be substantially enhanced by the termination of the guardianship and  
28 the placement of the protected minor with the parent.

2. If the parent consented to the guardianship when it was created, the parent  
is required to make only that showing set forth in paragraph (a) of subsection 1.

(Added to NRS by 2017, 862)

**A. The Guardianship Should Not be Terminated.**

The parents of a protected minor, if qualified and suitable, are preferred over all others  
for appointment as guardian for the person of a protected minor.<sup>26</sup> The Nevada Supreme Court  
has consistently affirmed that “parents have a fundamental right in the care and custody of their  
children.” *See Lawrimore v. Lawrimore*, 461 P.3d 896, \*2 (2020) (citing NRS 126.036(1); *Rico*  
*v. Rodriguez*, 121 Nev. 695, 704 (2005) (“The United States Supreme Court has recognized  
several fundamental interests including the interest of parents in the care, custody, and control  
of their children.”). Additionally, the Supreme Court has emphasized it is “usually in the child’s  
best interest to award custody to a fit parent.” *Id.* (citing *Locklin v. Duka* 112 Nev. 1489, 1495  
(1996)). This “Parental Preference Doctrine” governs when and whether a guardianship may be

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<sup>26</sup> NRS 159A.061(1)

1 granted over a parent’s objection and what standard a court must apply when considering  
2 whether or not to terminate a guardianship.

3         However, when a parent objects to a guardianship at the inception of a guardianship, they  
4 are subject to a heightened standard when they then petition to terminate the guardianship. Under  
5 NRS 159A.1915(1)(a)&(b), when a parent of a protected minor petitions the court for a  
6 termination of a guardianship, the parent has the burden of proof to show by clear and convincing  
7 evidence that (a) there has been a material change of circumstances since the time the  
8 guardianship was created and (b) the welfare of the protected minor would be substantially  
9 enhanced by the termination of the guardianship and the placement of the protected minor with  
10 the parent.<sup>27</sup> NRS 159A.1915(2) states that, “[i]f a parent consented to the guardianship when it  
11 was created, the parent is required to make only that showing set forth in paragraph (a) of  
12 subsection 1.” By statute, if a parent fails to consent to a guardianship at its inception, they face  
13 a heavy burden if they seek to later terminate the guardianship.

14         Case law affirms that the Parental Preference Doctrine is preserved when parents make  
15 the decision to consent to a guardianship and to allow someone else to take care of their child  
16 while they work to return to suitability. In *Hudson v. Jones*, 122 Nev. 708 (2006), the Nevada  
17 Supreme Court differentiated between a guardianship where the parent voluntarily consented  
18 versus a case where the parent did not: “The situation in this case can be distinguished from our  
19 decisions in *Litz [v. Bennum]* and *Locklin [v. Duka]*. The parents in those cases voluntarily  
20 relinquished custody of their child to a nonparent and assumed that the custody arrangement was  
21 temporary. ‘The theory in continuing the parental preference after a voluntary placement is that  
22 courts should encourage parents to seek help if and when necessary.’<sup>28</sup> As we noted in *Litz*, we  
23 do ‘not want to discourage parents from willingly granting temporary guardianships, while  
24 working through problems in their own lives if that is in the child's best interest.’ 111 Nev. at 38,  
25 888 P.2d at 440. The natural parent, by voluntarily establishing the guardianship, does not waive  
26 their right to the parental preference at a subsequent proceeding to reevaluate the custody  
27 arrangement. As a result, when the mother in each case sought to terminate the guardianship, the

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28  
<sup>27</sup> NRS 159A.1915.

<sup>28</sup> *Hudson v. Jones*, 122 Nev. 708 (2006) (quoting *Guinta v. Doxtator*, 20 A.D.3d 47, 794 N.Y.S.2d 516, 520 (2005)).

1 district court properly applied the parental preference. In contrast, a parent who seeks to modify  
2 custody in cases involving a litigated custody dispute and a prior determination of either parental  
3 unfitness or extraordinary circumstances justifying the award of custody to a nonparent is no  
4 longer entitled to the parental preference.”<sup>29</sup>

5 In this case, Mr. Perez was initially silent as to his consent to the guardianship. He did  
6 not file a written consent or appear at the original citation hearing. Mr. Perez did appear at the  
7 continued citation hearing and placed his verbal consent on the record.<sup>30</sup> However, he then  
8 immediately attempted to circumvent the guardianship by initiating a separate custody action.  
9 Further, even though Mr. Perez appeared at the continued citation hearing, Mr. Perez made  
10 statements to Judge Ritchie that he was never provided notice of the guardianship case.<sup>31</sup> These  
11 statements made Judge Ritchie question whether Mr. Perez’s consented to the guardianship over  
12 P.M..<sup>32</sup>

13 Though Mr. Perez stated his consent to the guardianship on the record at the continued  
14 Citation Hearing, he never filed a written consent to the guardianship and immediately sought to  
15 undermine it. Based on these actions, the Court should subject Mr. Perez to the higher burden  
16 of proof under NRS 159A.1915.

17  
18 **i. Mr. Perez Cannot Meet the Higher Burden under NRS 159A.1915, so the  
Guardianship Should Remain in Place.**

19 If the Court considers Mr. Perez’s action of immediately filing a custody case after  
20 agreeing to the guardianship as a false representation of consent to this Court, then Mr. Perez did  
21 not consent to the guardianship. As such, he should be subject to the higher standard for  
22 termination contained in NRS 159A.1915. Mr. Perez cannot meet the higher burden.

23 Pursuant to NRS 159A.1915, Mr. Perez would have to prove: (a) there has been a material  
24 change of circumstances since the time the guardianship was create *and* (b) the welfare of the  
25 protected minors would be substantially enhanced by the termination of the guardianship and the  
26

27  
28 \_\_\_\_\_  
<sup>29</sup> 122 Nev. At 712 (emphasis added).

<sup>30</sup> See October 12, 2021, Court Minutes under G-21-055407-M.

<sup>31</sup> See December 21, 2021, Court Minutes under D-21-637517-C.

<sup>32</sup> See March 9, 2022, Court Minutes under D-21-637517-C.

1 placement of the protected minor with the parent.<sup>33</sup> In this case, Mr. Perez is unable to prove that  
2 the welfare of Pricilla would be substantially enhanced by the termination of the guardianship as  
3 Ms. Ramos has been a competent guardian who has attended to all her needs.

4 Ms. Ramos has provided a safe and stable home for the P.M. during this guardianship in  
5 addition to providing food, shelter, clothing, medical care and education. Most importantly, Ms.  
6 Ramos has provided P.M. with therapeutic treatment to deal with her suicidal ideations and  
7 trauma from physical and sexual abuse. Since Mr. Perez cannot show that Ms. Ramos has  
8 neglected her duties, it is difficult to show that P.M.'s welfare would be substantially enhanced  
9 if she was to be placed with him. If anything, P.M.'s bonded relationship with Ms. Ramos is  
10 such that a change of custody could cause significant emotional harm to her and detrimental to  
11 her welfare.

12 Based on the above, the guardianship should remain in place and the Petition to  
13 Terminate the Guardianship should be denied.

14 **ii. Mr. Perez Cannot Meet the Lower Burden to Terminate Guardianship.**

15 Even if this Court applies the lower standard of proof, Mr. Perez's Petition to Terminate  
16 cannot succeed. The Nevada Supreme Court has recognized certain factors a court should  
17 consider when determining whether or not to apply the parental preference doctrine in the context  
18 of child custody disputes. In *Locklin v. Duka*, the Nevada Supreme Court held: "[I]n Nevada,  
19 extraordinary circumstances sufficient to overcome the parental preference presumption are  
20 those circumstances which result in serious detriment to the child. Factors which may be  
21 considered in evaluating whether such extraordinary circumstances exist include: abandonment  
22 or persistent neglect of the child by the parent; likelihood of serious physical or emotional harm  
23 to the child if placed in the parent's custody; extended, unjustifiable absence of parental custody;  
24 continuing neglect or abdication of parental responsibilities; provision of the child's physical,  
25 emotional and other needs by persons other than the parent over a significant period of time; the  
26 existence of a bonded relationship between the child and the non-parent custodian sufficient to  
27 cause significant emotional harm to the child in the event of a change in custody; the age of the  
28

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<sup>33</sup> NRS 159A.1915.

1 child during the period when his or her care is provided by a non-parent; the child's well-being  
2 has been substantially enhanced under the care of the non-parent; the extent of the parent's delay  
3 in seeking to acquire custody of the child; the demonstrated quality of the parent's commitment  
4 to raising the child; the likely degree of stability and security in the child's future with the parent;  
5 the extent to which the child's right to an education would be impaired while in the custody of  
6 the parent; and any other circumstances that would substantially and adversely impact the  
7 welfare of the child.” 112 Nev. 1489, 1495-96 (1996).

8 As to Mr. Perez, the initial reason for the need for a guardianship – which was granted a  
9 mere six months ago – was due to the fact that Mr. Perez caused a safety risk to P.M.. He failed  
10 to protect her from the sexual abuse that occurred while she was in his care and her resulting  
11 mental health struggles. Mr. Perez’s Petition to Terminate fails to even acknowledge his  
12 daughter was the victim of sexual assault in his home. It further fails to acknowledge her  
13 significant mental health needs stemming from this sexual assault. From this omission alone, it  
14 is clear that Mr. Perez remains unsuitable to care for his daughter under NRS 159A.1915 which  
15 requires in part that a parent be restored to suitability under NRS 159A.061. NRS 159A.061 in  
16 turn states that a parent is presumptively unsuitable to care for their child if, by action *or inaction*,  
17 they pose a risk of physical or emotional harm to their child.<sup>34</sup> By failing to acknowledge P.M.’s  
18 trauma or discuss how he will help his daughter through her significant mental health needs, Mr.  
19 Perez demonstrates he poses a risk of emotional harm to his daughter. Further, Mr. Perez fails  
20 to discuss *any* material changes that have occurred in the mere six months since the guardianship  
21 was granted. His Petition is substantively deficient and must be denied.

22 Further, the *Locklin* factors favor maintaining the guardianship. Here, there exists a  
23 bonded relationship between P.M. and Ms. Ramos sufficient to cause significant emotional harm  
24 in the event of change of custody. Ms. Ramos has provided P.M. with therapy to address her  
25 sexual abuse and suicidal ideations. Ms. Ramos has provided P.M. with a home where she feels  
26 safe to live and fall asleep at. The CPS records show that P.M. was sexually abused while in the  
27 care and custody of Mr. Perez.<sup>35</sup> However, Mr. Perez’s Petition fails to address or even

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<sup>34</sup> See generally NRS 159A.061(4).

<sup>35</sup> See Generally CPS records for Case 1373220.



1 acknowledge that P.M. was sexually abused in his home.<sup>36</sup> It fails to address how returning P.M.  
2 to the home where she was sexually abused will substantially enhance her welfare.<sup>37</sup>

3 Not only does Mr. Perez's Petition fails to address or acknowledge P.M.'s sexual abuse,  
4 he also fails to address or acknowledge P.M.'s suicidal ideations.<sup>38</sup> The Petition fails to address  
5 how returning P.M. to his home without a safety plan will substantially enhance her welfare.<sup>39</sup>

6 If the Petition to Terminate was granted, it would shatter P.M.'s stability by forcing her  
7 to move back to Texas to live with a parent who failed to protect her from sexual abuse. It would  
8 force her to live with a parent that does not acknowledge her mental health issues.

9 Here, there is sufficient detriment to the welfare of the P.M. to overcome the Parental  
10 Preference Doctrine. As such, the Petition to Terminate the Guardianship should be denied.

11 **iii. The Court should give Consideration to the Protected Minor's Preferences.**

12 In determining which qualified person is most suitable to care for a minor, the court shall,  
13 in addition to considering any applicable factors set forth in NRS 159A.061(2)-(4), give  
14 consideration to any request made by the proposed protected minor, if he or she is 14 years of  
15 age or older, for the appointment of a person as guardian for the proposed protected minor.<sup>40</sup>

16 In this case, P.M. is 15 years old. Throughout this case and the custody case, she has  
17 been consistent that she wants to continue to live with Ms. Ramos. As such, this Court should  
18 take the Protected Minor's preference into account and deny the Petition to Terminate  
19 Guardianship.

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<sup>36</sup> See Petition to Terminate Guardianship filed on April 21, 2022, under G-21-055407-M.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> NRS 159A.061(6)(b)

1 **IV. CONCLUSION**

2 Accordingly, P.M. respectfully requests that this Court deny Mr. Perez’s Petition for  
3 Termination of Guardianship, and to deny his request for an evidentiary hearing, visitation, and  
4 phone contact.

5 DATED this 4<sup>th</sup> day of May, 2022.

6  
7 **LEGAL AID CENTER OF**  
8 **SOUTHERN NEVADA, INC.**

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