Docket No. 22-5622

ORIGINAL

In the

Supreme Court of the United States

T. MATTHEW PHILLIPS

Petitioner

vs.

AMBER KORPAK

Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEVADA

PETITION APPENDIX

T. MATTHEW PHILLIPS, ESQ.
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Self-Represented

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* * *

AFFIDAVIT *of* T. MATTHEW PHILLIPS

My name is T. MATTHEW PHILLIPS, ESQ. I am Petitioner. All the attached documents are true and correct copies. If called upon to testify, I could and would give competent and truthful evidence.

A. Attached as Appendix A is a true and correct copy of Nevada Supreme Court denial of petition for rehearing, [(June 17, 2022); Case No. 82414, (COA 22-19315; (unpublished); (one page)].

B. Attached as Appendix B is a true and correct copy of Nevada Supreme Court Order of Affirmance, [(April 29, 2022); Case No. 82414, (COA 21-13646); (unpublished); (11 pages total)].

C. Attached as Appendix C is a true and correct copy of pages 19 and 20 (of 24 total pages), from Petitioner's appellant brief, ("fast track" brief), [July 21, 2021); Case No. 82414, (COA 22-13646)].

D. Attached as Appendix D is a true and correct copy of pages 1 and 44 (of 69 total pages), from the trial court's final order, [(Dec. 19, 2020); Case No. D-18-578142-D, Clark County, Nev.].

E. Attached as Appendix D is a true and correct copy of the divorce complaint filed by Respondent, Amber Korpak, [(Oct. 5, 2018); Case No. D-18-578142-D, Clark County, Nev.; (5 pages total)].

I declare under penalty of perjury under the laws of the United States of America, the foregoing is both true and correct.

Dated: **Sept. 15, 2022**

T. Matthew Phillips

T. Matthew Phillips, Esq.
Affiant.

APPENDIX A

Nevada Supreme Court denial of petition for rehearing,

[(June 17, 2022); Case No. 82414, (COA 22-19315; (unpublished);

(one page)].

IN THE SUPREME COURT OF THE STATE OF NEVADA

TODD MATTHEW PHILLIPS,
Appellant,
vs.
AMBER PHILLIPS, N/K/A AMBER KORPAK,
Respondent.

No. 82414

FILED

JUN 17 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.

C. J.
Parraguirre

J.
Cadish

Sr. J.
Gibbons

cc: Hon. Vincent Ochoa, District Judge
Todd Matthew Phillips
Hutchison & Steffen, LLC/Las Vegas
Eighth District Court Clerk

22-19315

APPENDIX B

Nevada Supreme Court *Order of Affirmance*, [(April 29, 2022); Case No. 82414, (COA 21-13646); (unpublished); (11 pages)].

IN THE SUPREME COURT OF THE STATE OF NEVADA

TODD MATTHEW PHILLIPS, Appellant, vs. AMBER PHILLIPS, N/K/A AMBER KORPAK, Respondent.	No. 82414
TODD MATTHEW PHILLIPS, Appellant, vs. AMBER PHILLIPS, N/K/A AMBER KORPAK, Respondent.	No. 82693

FILED

APR 29 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

These appeals challenge a district court child custody order (Docket No. 82414) and an award of attorney fees (Docket No. 82693) arising from divorce proceedings. Eighth Judicial District Court, Clark County; Vincent Ochoa, Judge.[1] After an evidentiary hearing on custody of the parties' minor child, the district court awarded sole legal and primary physical custody to respondent Amber Phillips and awarded her attorney fees. Appellant Todd Matthew Phillips now challenges these determinations on various grounds.

[1]Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in Docket No. 82414. And, having considered the pro se opening brief filed in Docket No. 82693, we conclude that a response is not necessary, NRAP 46A(c), and that oral argument is not warranted, NRAP 34(f)(3). We therefore have decided the appeal in Docket No. 82693 based on the pro se brief and the record. *Id.*

Child custody order (Docket No. 82414)

We first address the child custody order, which we review for an abuse of discretion. *See Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996). "In reviewing child custody determinations, we will not set aside the district court's factual findings if they are supported by substantial evidence, which is evidence that a reasonable person may accept as adequate to sustain a judgment." *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007) (footnote omitted).

Todd first challenges the district court's use of NRS 125C.0035(5)'s best-interest rebuttable presumption based on domestic violence to support its decision, arguing that it improperly relied on a 2018 temporary protection order (TPO) action to find that he engaged in one or more acts of domestic violence.[2] But the district court appropriately relied

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[2]NRS 125C.0035(5) provides:

> Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint physical custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:
>
> (a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and
>
> (b) Findings that the custody or visitation arrangement ordered by the court adequately

on the proceedings from the TPO action, by way of judicial notice, as they addressed issues relevant to the child custody determination and satisfied the requirements for judicial notice of records in closely-related cases.[3] *See* NRS 47.150(1) (providing that a court may take judicial notice *sua sponte*); NRS 47.130(2) (providing that a judicially-noticed fact must be "[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned"); NRS 125C.0035 (listing factors to consider in child custody determinations, including "the level of conflict between the parents," the parents' ability to cooperate, and "[w]hether either parent . . . has engaged in an act of domestic violence against . . . any other person residing with the child"); *Mack v. Estate of Mack*, 125 Nev. 80, 91-92, 206 P.3d 98, 106 (2009) (noting an exception to the general rule

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> protects the child and the parent or other victim of domestic violence who resided with the child.

[3]Indeed, the district court was required to consider the TPO action as proceedings impacting the district court's custody determination, *see* NRS 125A.355(2) (stating that "a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to NRS 125A.385"); NRS 125A.385 (setting forth required disclosures regarding other proceedings impacting child custody), and Todd fails to show the judicial notice violated his procedural due process rights, *see J.D. Constr., Inc. v. IBEX Int'l Grp.*, 126 Nev. 366, 376, 240 P.3d 1033, 1040 (2010) (explaining due process requirements). Finally, Todd's substantive challenges to the TPO are irrelevant as it has expired and is not before us on appeal, *see In re Temp. Custody of Five Minor Children*, 105 Nev. 441, 444, 777 P.2d 901, 902 (1989) (holding that no appeal may be taken from a temporary order subject to periodic mandatory review), and claim preclusion does not bar the finding of domestic violence in this case as child custody was not an issue in the TPO action, *see Five Star Cap. Corp. v. Ruby*, 124 Nev. 1048, 1052, 194 P.3d 709, 711 (2008) (setting forth a three-factor test for determining when claim preclusion bars a claim in a subsequent case), *holding modified on other grounds by Weddell v. Sharp*, 131 Nev. 233, 350 P.3d 80 (2015).

against taking judicial notice of records in another case where the closeness of the cases and the particular circumstances warranted it). Moreover, the evidence in the TPO action supports the district court's application of 125C.0035(5)'s best-interest rebuttable presumption, as it provided substantial evidence that Todd engaged in one or more acts of domestic violence against Amber. This evidence included that Amber was fired from a job based on safety concerns relating to Todd's conduct; and two restraining orders obtained against Todd by Amber and another woman in California. In addition to the evidence and findings made in the TPO action, the record contains documents from the child's school in response to the trial subpoena, which included a letter to the school's security site supervisor by the school's counsel. This letter alerted the supervisor to Todd's hostile language and demeanor, and to threats Todd allegedly made to shoot Amber and their child. Combined with Amber's testimony regarding various instances of abuse, deemed credible by the district court, and Todd's failure to meaningfully rebut this presumption,[4] the district court did not abuse its discretion by applying NRS 125C.0035's presumption to find that giving Todd physical custody of the child would not be in the child's best interest.[5] *See Castle v. Simmons*, 120 Nev. 98, 102-03, 86 P.3d 1042, 1045-46 (2004)

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[4]Todd did not request any transcripts, *see* NRAP 3E(c)(2)(A) (requiring appellant to file and serve a transcript request form "[w]hen a transcript is necessary for an appeal"), and states that his arguments can be resolved without transcripts. We do not address if the district court erred by ignoring evidence of a police report because Todd fails to show that he attempted to introduce the report at trial.

[5]We need not address Todd's arguments regarding NRS 432B.157's custodial presumption regarding domestic violence because this case did not involve Chapter 432B proceedings.

(explaining that the district court analyzes NRS 125C.0035(5)'s rebuttable presumption based on a totality of the evidence and further holding that "we will not reweigh the credibility of witnesses on appeal"). And because Todd does not otherwise contest the district court's specific findings on the NRS 125C.0035 best-interests-of-the-child factors, we conclude that the district court did not abuse its discretion in its child custody determination.[6] *See Wallace*, 112 Nev. at 1019, 922 P.2d at 543; *Castle*, 120 Nev. at 102-03, 86 P.3d at 1045-46.

Todd also claims that the custody order violated SCR 251, which states that the district court shall "resolve the issues affecting the custody or visitation of the child or children within six months of the date that such issues are contested by the filing of a responsive pleading that contests the custody or visitation issues." However, the rule further allows extensions of time for "[e]xtraordinary cases that present unforeseeable circumstances" so long as the district court enters "specific findings of fact regarding the circumstances that justify the extension of time." *Id.* Here, the district court made the required findings to justify an extension of time, and the record supports those findings, including that Todd sought several extensions of time, including four requests to continue the trial; that he

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[6]Todd further claims that the district court committed fraud by including a recitation of Amber's testimony in its order stating that "[Amber] learned that [Todd] made phone calls to the child's school and threatened to shoot up the school which resulted in the lockdown." He asks that we excise this from the custody order. In context, the district court was reciting Amber's testimony at the evidentiary hearing. Furthermore, the TPO evidence, properly admitted by the district court, and school records otherwise support this finding. *See Wallace*, 112 Nev. at 1019, 922 P.2d at 543; *Castle*, 120 Nev. at 102-03, 86 P.3d at 1045-46. Thus, we reject Todd's contention.

caused further delay by filing several failed motions to disqualify the presiding judge; and that the Covid-19 pandemic caused a continuance from approximately March 2020 to October 2020. Under these facts, we conclude the district court complied with SCR 251.

Todd next makes several constitutional arguments, all of which lack merit upon de novo review. *See Jackson v. State*, 128 Nev. 598, 603, 291 P.3d 1274, 1277 (2012) (holding that this court applies de novo review to constitutional issues). His constitutional challenge to NRS 125C.0035 fails because Todd and Amber have equal fundamental rights to care for their child, leaving the best interest of the child as the sole consideration to decide custody. *See Rico v. Rodriguez*, 121 Nev. 695, 704, 120 P.3d 812, 818 (2005) (holding that "[i]n a custody dispute between two fit parents, the fundamental constitutional right to the care and custody of the children is equal"; therefore, "the dispute in such cases can be resolved best, if not solely, by applying the best interests of the child standard"). And thus, we also reject Todd's argument the district court's order was subject to strict scrutiny review. *See id.* (reviewing the child custody order without addressing strict scrutiny).

Todd's due process challenge to the divorce complaint fails because it was the district court's later orders, not the complaint, that affected Todd's custodial rights.[7] *See Wiese v. Granata*, 110 Nev. 1410, 1412, 887 P.2d 744, 745 (1994) ("[D]ue process requires that notice be given before a party's substantial rights are affected."). And we also reject Todd's

[7]We further conclude that the district court properly rejected Todd's NRCP 12(b)(5) motion seeking to dismiss the complaint given that Amber alleged facts that, when taken as true, would entitle her to custody of the minor child. *See Edgar v. Wagner*, 101 Nev. 226, 228, 699 P.2d 110, 112 (1985) (providing the standard for dismissal under NRCP 12(b)(5)).

argument that the district court erred by not holding a jury trial. There is no right to jury trials in proceedings before the family court division. *See In re Parental Rights as to M.F.*, 132 Nev. 209, 215, 371 P.3d 995, 999-1000 (2016) (holding that there is no right to a jury trial for termination of parental right proceedings and explaining the policy rationale for why it is improper to hold jury trials in cases in family divisions of district courts); *Barelli v. Barelli*, 113 Nev. 873, 879, 944 P.2d 246, 249 (1997) (affirming the district court's conclusion that there is no right to a jury trial in divorce proceedings because there is no right to a jury trial in domestic proceedings). Additionally, Todd's double jeopardy and statute-of-limitations challenges to the court's finding of domestic violence would be relevant only if criminal charges were at issue, but no such charges are at issue here. *See Hudson v. United States*, 522 U.S. 93, 99 (1997) (holding that the Double Jeopardy Clause "protects only against the imposition of multiple *criminal* punishments for the same offense"); *see also* NRS 125C.230 (placing no time limit on the district court's consideration of domestic violence issues relevant to its custody determination).

Finally, Todd makes several arguments regarding the Honorable Judge Vincent Ochoa's refusal to recuse based on alleged appearances of impropriety.[8] We review a judge's decision not to recuse for a "clear abuse of discretion."[9] *Canarelli v. Eighth Judicial Dist. Court*, 138

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[8]Todd makes additional arguments that are irrelevant. As Todd's parental rights have not been terminated, we need not address his arguments that there were no grounds for such termination. And, because he fails to show that Amber was charged with kidnapping, we decline to address his argument that Amber kidnapped their child in 2018.

[9]We reject Todd's arguments to the extent he asserts that Judge Ochoa's conduct required disqualification. Todd does not challenge the

Nev., Adv. Op. 12 at *2 (2022); *see* NCJC Rule 1.2 ("A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid . . . the appearance of impropriety."). The test for an appearance of impropriety is "whether the conduct would create in reasonable minds a perception that the judge violated [the NCJC] or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge." NCJC Rule 1.2, cmt. 5; *see also* NCJC Rule 2.11(A).

We reject most of Todd's arguments because they are based on events that occurred during the course of the TPO and child custody proceedings, none of which displayed a "deep-seated favoritism or antagonism" by Judge Ochoa, *see Canarelli*, 138 Nev., Adv. Op. 12 at *3 (holding that, generally, an extrajudicial source is required for recusals) (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)); or on events which Todd himself created such as suing the judge in federal court, *cf. City of Las Vegas Downtown Redevelopment Agency v. Hecht*, 113 Nev. 644, 649, 940 P.2d 134, 138 (1997) (holding that a party "should not be permitted to create a situation involving a judge and then claim that the judge" should be removed due to the events the party created). As for Todd's argument that Judge Ochoa should have recused himself because he allegedly falsified TPO documents, Todd failed to raise this issue in the TPO case and we thus

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Honorable Chief Judge Linda Bell's orders denying his various motions and pleadings seeking disqualification below and he fails to identify any conduct requiring Judge Ochoa's disqualification. *See* NCJC Rule 2.7 (providing that a district court judge generally has a duty to sit and preside to the conclusion of all proceedings unless disqualification is required by law); *Millen v. Eighth Judicial Dist. Court*, 122 Nev. 1245, 1253, 148 P.3d 694, 699 (2006) (discussing the duty to sit).

do not consider it. *See Truesdell v. State*, 129 Nev. 194, 200, 304 P.3d 396, 400 (2013) (holding that "a party must challenge a TPO's validity before the court that issued the order"). Todd's next argument, that Judge Ochoa should have recused because Amber's counsel contributed to the judge's campaign, lacks merit. Todd does not allege that the campaign contributions were beyond the statutory limits for such contributions. *Cf. Ivey v. Eighth Judicial Dist. Court*, 129 Nev. 154, 162, 299 P.3d 354, 359 (2013) ("Campaign contributions made within statutory limits cannot constitute grounds for disqualification of a judge under Nevada law."); *In re Petition to Recall Dunleavy*, 104 Nev. 784, 790, 769 P.2d 1271, 1275 (1988) (explaining that "intolerable results" would occur if litigants could disqualify a judge because an attorney for the opposing party donated to the judge's campaign). And he otherwise fails to point to any facts regarding the contributions that reasonable minds would perceive as Judge Ochoa engaging in any conduct affecting his "honesty, impartiality, temperament, or fitness to serve as a judge."[10] NCJC Rule 1.2, cmt. 5. Lastly, Todd argues that Judge Ochoa should have recused himself because he allegedly gave Amber legal advice by instructing her to "file a motion" alleging domestic violence facts against him. Because Todd did not request any transcripts, *see* NRAP 3E(c)(2)(A) (requiring appellant to file and serve a transcript request form "[w]hen a transcript is necessary for an appeal"), we do not

[10]Because Todd fails to identify the specific issues with the campaign contribution, we further reject any argument that Judge Ochoa's recusal was compelled by the Due Process Clause. *See Ivey*, 129 Nev. at 159, 299 P.3d at 357 (analyzing whether a "judge's recusal was compelled by the Due Process Clause" due to campaign contributions by examining various factors "on a case-by-case basis," including the size and timing of the contributions).

have the necessary information to address his argument. Nevertheless, to the extent the district court informed Amber of her legal options, we do not believe this warranted recusal. NCJC Rule 1.2, cmt. 5.

Attorney fees order (Docket No. 82693)

Turning to the district court's award of attorney fees, we discern no abuse of discretion. *See Blanco v. Blanco*, 129 Nev. 723, 732, 311 P.3d 1170, 1176 (2013) ("The decision whether to grant . . . attorney fees is, by statute, purely discretionary with the district court."). The district court provided a valid statutory basis for the attorney fee award. *See* NRS 125.150(3) (providing that the district court may award reasonable attorney fees in a divorce proceeding); *Frantz v. Johnson*, 116 Nev. 455, 471, 999 P.2d 351, 361 (2000) ("It is an abuse of discretion to award attorney fees without a statutory basis for doing so."). Additionally, the district court noted that it had considered the disparity in income of the parties, and Amber's *Brunzell*[11] brief, which the district court specifically requested before ruling on attorney fees.[12] *See Miller v. Wilfong*, 121 Nev. 619, 623, 119 P.3d 727, 730 (2005) (clarifying what a district court must consider when a party represented by pro bono counsel seeks attorney fees, and further explaining the policy reasoning behind permitting pro bono counsel to receive such fees). Its order also analyzed each *Brunzell* factor, including Todd's

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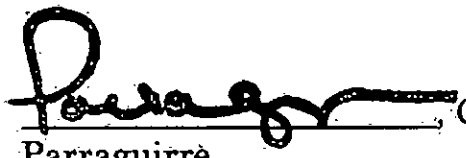
[11]*Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31 (1969).

[12]Regarding the disparity of income, Todd appears to argue that the district court did not consider the issue because it did not order Amber to file an updated Financial Disclosure Form. Todd fails to demonstrate that the district court had to order Amber to file such a form, especially where Todd failed to show that Amber's financial situation had changed. Additionally, to the extent Todd argues that the district court erred by imputing income of $5,000 per month to him, the record reflects that the parties stipulated to this amount.

litigation practices and how they increased Amber's legal fees, in finding the fees reasonable; and ultimately reduced the requested fee amount by nearly half. Finally, because the award was based on NRS 125.150(3), we need not address Todd's arguments regarding NRS 18.010(2)(b). Based on the foregoing, we

ORDER the judgments of the district court AFFIRMED.[13]



_____, C.J.
Parraguirre

_____, J.
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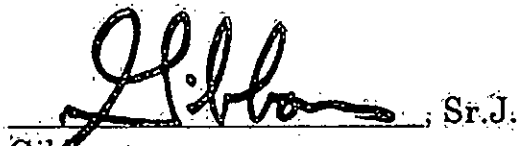

_____, Sr.J.
Gibbons

cc: Hon. Vincent Ochoa, District Judge
Todd Matthew Phillips
Hutchison & Steffen, LLC/Las Vegas
Eighth District Court Clerk

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[13]The Honorable Mark Gibbons, Senior Justice, participated in the decision of this matter under a general order of assignment.

The motions to stay the custody order are denied as moot.

APPENDIX C

Petitioner's appellant brief ("fast track" brief), [July 21, 2021);

Case No. 82414, (COA 22-13646); (pages 19 and 20 of 24)]

- NRS 125C.0035 – BEST INTERESTS OF CHILD: JOINT PHYSICAL CUSTODY.
- NRS 125C.004 – AWARD OF CUSTODY TO PERSON OTHER THAN PARENT.
- NRS 125C.0045 – COURT ORDERS.
- NRS 125C.0055 – DETERMINATIONS CONCERNING PHYSICAL CUSTODY.
- NRS 125C.007 – PETITION FOR PERMISSION TO RELOCATE.

All of the above-mentioned statutes must be struck down as unconstitutional because they rely on the "best interests"—to the exclusion of the Constitution. Again, parenting is a fundamental right—and "strict scrutiny" is the proper standard of review for fundamental rights, [citations].

Judges take an oath to uphold, protect and defend the Constitution. However, when it comes to parental rights, family court judges ignore the Constitution, and instead rely only on their own unfettered discretion to do what they subjectively believe is in the child's best interests—with utter disregard for the Constitution. Why?—because NRS 125C.0035 says that the "best interests" is the sole consideration—to the detriment of constitutional rights! This statute is facially defective.

THIRD ISSUE of FIRST IMPRESSION

Can family court judges make findings of fact that "domestic violence" occurred? No! Family court judges routinely make D.V. findings of fact, however, this should never happen because D.V. is a "crime." Phillips was tried for the "crime" of D.V. and the family court judge, lo and behold, concluded that Phillips did it! However, pursuant to Nev. Const., Art 1., Sec. 8, citizens may not be tried for "crimes" unless upon indictment. This is axiomatic. Family courts lack subject matter jurisdiction to try parents for "crimes." Phillips asks the Nevada Supreme Court to radically alter the way family court does business—no more D.V. "convictions" in civil court (family court). If parents commit crimes, then let the D.A. bring charges! When parents are accused of the crime of D.V., the County should appoint a lawyer to defend that person—because D.V. is a "crime!"

FOURTH ISSUE of FIRST IMPRESSION

Family court judges should henceforth be forbidden to issue "temporary" custody order that exceeded 6 months in the aggregate. Why? —because Supreme Court Rule 251 requires that all custody cases be dispo'd within 6 months (which never happens!). However, family court judges love to use "temporary" orders to divest custody because "temporary" orders cannot be appealed! This gives the judges absolute discretion and absolute power. Phillips was divested of custody based on a series of "temporary" custody orders—from Sept. 2018 through Dec. 2020. For 27 months— Phillips was divested of custody—based on a series of "temporary" custody orders. This should never happen. This court must announce a new rule: Temporary orders shall not exceed 6 months in duration—because SCR 251 requires that all custody matters dispo within 6 months.

FIFTH ISSUE of FIRST IMPRESSION

Can family court judges give legal advice? (No.) Can family court judges give "mandatory" legal advice? (No.) Can the judge order one party to allege facts against another? This is what happened in Phillips' case. Nine (9) days after issuing a TPO, (on Sept. 25, 2019), the judge "ordered" that Korpak "file a motion" alleging D.V. facts against Phillips? Yes! This really happened! When a judge "orders" one party to "file a motion" against the other, it shows blatant bias for one party and palpable prejudice against the other. The judge should have recused. Phillips wants a new trial.

SIXTH ISSUE of FIRST IMPRESSION

Should judges recuse themselves—in instances where a litigant before the bench files a meritorious complaint with Sec'y of State—alleging the judge violated campaign contribution reporting requirements of NRS 294A—and the Sec'y of State issues a monetary fine against the judge—and the judge has actual knowledge that the litigant is the whistleblower who caused the judge to be fined? This happened with Phillips, who ratted-out Ochoa. Having successfully busted Ochoa for campaign reporting violation, [NRS 294A], Ochoa should have recused. But he will never step down unless ordered to do so. Note, under the Code of Judicial Conduct, a violation of NRS 294A also results in a violation of parallel provisions of the Code of Judicial Conduct.

SEVENTH ISSUE of FIRST IMPRESSION

Should family courts give jury trials on demand? Yes! Family courts and family law attorneys are loathe to do jury trials! Appellant had asked for a jury trial well in advance of the trial date, but not within the parameters set by the local rules. The judge denied a jury trial on the basis that it was untimely. However, Appellant argues that the judge erred. Appellant believes that jury trial should be available upon demand because Nevada Constitution provides: "The right of trial by Jury shall be secured to all and remain inviolate forever," [see Nev. Const. Art. 1, Sec. 3]. What wondrous language! Notably, Appellant wanted a jury trial because he knows Ochoa could not be trusted with the facts. Predictably, the 69-page order and decision (Dec. 19, 2020) is the most slanted propaganda piece ever authored in the history of the Eighth District. Ochoa blocked Phillips' right to trial by jury—thus enabling Ochao to "control" the evidence.

At a minimum, Phillips should have had a jury trial—because he was facing criminal charges and the right to custody was at stake! This is sufficient grounds to overturn the custody order. Should family courts give jury trials on demand? Yes! Family courts and family law attorneys are loathe to do trial! Jury trials should be available on demand!

EIGHTH ISSUE of FIRST IMPRESSION

Must the court correct the falsehood in the ruling—where the judge falsely concludes that Korpak "learned" that Phillips threatened to shoot-up the son's school? Yes! Obvious falsehoods must be stricken from the record. There is no argument supporting this falsehood. Phillips never threatened to shoot up anything. Korpak and her attorney know it's a lie. And Ochoa knows it too. This court must correct the record.

APPENDIX D

The trial court's final custody order, [(Dec. 19, 2020); Case No. D-18-578142-D, Clark County, Nev.; (pages 1 and 44, of 69 total pages)].

DAO

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

AMBER PHILLIPS NKA AMBER KORPAK, PLAINTIFF, v. TODD MATTHEW PHILLIPS, DEFENDANT.	Case No.: D-18-578142-D DEPT. NO. S

DECISION AND ORDER

This matter came before the Court for an evidentiary hearing on December 20, 2019, and October 19, 2020. Plaintiff, Amber Phillips nka Amber Korpak (hereinafter referred to as "Plaintiff, Mom, or Applicant") was present with her counsel, Shannon Wilson, Esq. and Defendant, Todd Matthew Phillips (hereinafter referred to as "Defendant, Dad, or Adverse Party") was present in Proper Person. The Court hereby enters the following findings:

I. STATEMENT OF THE CASE

This was a two-day child custody trial for the initial determination of custody and visitation and Defendant's request to modify child support and alimony. Donovan Matthew Phillips (hereinafter referred to as "Child" or "Donovan") is the parties' fifteen year-old son. At the time of trial, Plaintiff had temporary sole legal custody and temporary primary physical custody of Donovan.

VINCENT OCHOA
DISTRICT JUDGE
FAMILY DIVISION, DEPT. S
LAS VEGAS, NV 89155

Defendant referred to the child as a "faggot" and the child has heard Dad refer to him using the derogatory terms. Defendant indicated that he hates the child because he looks like Plaintiff.

While the parties shared the same home, the child and Plaintiff were afraid of Defendant and often slept in the same room for self-protection.

In addition to instilling fear through verbal abuse and intimidation, there were several incidents where Defendant used physical violence against Plaintiff. Plaintiff testified to various incidents of physical abuse during trial. Defendant shoved Plaintiff against a wall when she was pregnant, wrestled her and twisted her arms behind her back in 2016, and shoved her and twisted her arms and shoulder during another incident.

Plaintiff is afraid of Defendant and she believes he is capable of killing her based on past threats. She believes he will continue to badger and bully her the way he has in the past.

The child was aware, observed and heard the verbal and emotional abuse that Plaintiff suffered. The child was himself a victim of the same type of abuse and isolation as suffered by the Plaintiff. Plaintiff and child slept in the same rooming for self-protection from Defendant.

The Court finds by clear and convincing evidence that Defendant engaged in multiple acts of domestic violence against Plaintiff. Per NRS 33.018, domestic violence occurs when a person commits coercion pursuant to NRS 207.190 or engages in knowing, purposeful or reckless course of conduct intended to harass acts against or upon the person's spouse.

APPENDIX E

Divorce complaint filed by Respondent, Amber Korpak,

[(Oct. 5, 2018); Case No. D-18-578142-D, Clark County, Nev.; (5 pages)].

COMD
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EIGHTH JUDICIAL DISTRICT COURT- FAMILY DIVISION

CLARK COUNTY, NEVADA

AMBER PHILLIPS, Plaintiff, v. TODD MATTHEW PHILLIPS, Defendant.	CASE NO. D-18-578142-D DEPT NO. B **COMPLAINT FOR DIVORCE**

Plaintiff, AMBER PHILLIPS, by and through her attorney of record, the law firm Hutchison & Steffen, PLLC, hereby files this Complaint for Divorce against Defendant, TODD MATTHEW PHILLIPS, and alleges as follows:

1. Plaintiff, for a period greater than six (6) weeks immediately preceding the filing of this action, has been and now is an actual, bona fide resident of the State of Nevada, County of Clark, and has been actually physically present and domiciled in Nevada for more than six (6) weeks prior to the filing of this action.

2. Plaintiff and Defendant were married on October 14, 2000, in Las Vegas, Nevada, and have been and still are husband and wife.

3. There is one (1) minor child, born of this marriage. There are no children adopted by the parties and Plaintiff is not currently pregnant to the best of her knowledge.

4. Pursuant to NRS 125A.385(1), the habitual residence of the minor child is Nevada as he has always resided in Nevada. For more than the last 12 years the child has lived with his parents. Presently, the child is living with Plaintiff. The name and date of birth of the minor child is as follows:

a. Donovan Matthew Phillips, age 12, born November 8, 2005.

5. Pursuant to NRS 125A.385(1)(a), there has never been any proceeding concerning the custody or visitation of the parties minor child.

6. Pursuant to NRS 125A.385(1)(b), Plaintiff filed an ex parte request for, and was summarily granted, a temporary protective order which was issued September 18, 2018 and expires October 18, 2018, Case No. T-18-191733-T.

7. Pursuant to NRS 125A.385(1)(c), except the parties to this proceeding, there are no other persons with any rights or claims of rights to child custody or visitation of the minor child named above.

8. Plaintiff should be awarded sole legal custody of the minor child.

9. Plaintiff should be awarded primary physical custody of the minor child with Defendant's visitation at the teenage discretion of minor child.

10. Child support should be ordered according to the statutory formula.

11. Pursuant to NRS 125B.085, the parties shall provide medical support for the child. Plaintiff will maintain medical and dental insurance for the minor child, for so long as it continues to be available at reasonable cost. Any deductibles and expenses not covered by insurance should be paid equally by the parties pursuant to the 30/30/rule.

12. There is community property that needs to be adjudicated and should be adjudicated, the exact amounts and descriptions of which are presently unknown to Plaintiff. Plaintiff reserves the right and, if required, will seek permission of this Court to amend this Complaint to insert this information when it becomes known to Plaintiff or at the time of trial.

13. Plaintiff should be awarded property including but not necessarily limited to:

(a) 2003 Jeep Cherokee that is in Plaintiff's name alone.

(b) Her clothing and personal affects and those of the minor child.

14. There are community debts that need to be adjudicated and should be adjudicated, the exact amounts and descriptions of which are presently unknown to Plaintiff. Plaintiff reserves the right and, if required, will seek permission of this Court to amend this Complaint to insert this information when it becomes known to Plaintiff or at the time of trial.

15. There is separate property that needs to be adjudicated and should be adjudicated, the exact amounts and descriptions of which are presently unknown to Plaintiff. Plaintiff reserves the right and, if required, will seek permission of this Court to amend this Complaint to insert this information when it becomes known to Plaintiff or at the time of trial.

16. There is separate debt that needs to be adjudicated and should be adjudicated, the exact amounts and descriptions of which are presently unknown to Plaintiff. Plaintiff reserves the right and, if required, will seek permission of this Court to amend this Complaint to insert this information when it becomes known to Plaintiff or at the time of trial.

17. Plaintiff should have her maiden name of Amber Korpak restored to her, if she so chooses.

18. The Plaintiff has been compelled to institute this action because of the conduct of the Defendant. As a result, the Plaintiff has been required to obtain the services of legal counsel. The Defendant should be required to pay the costs and legal fees incurred by the Plaintiff in bringing this action.

19. The Plaintiff and Defendant have become, and continue to be, incompatible in marriage and no reconciliation is possible.

WHEREFORE, Plaintiff prays for Judgment as follows:

1. That the marriage existing between the Plaintiff and Defendant be dissolved and that Plaintiff be granted an absolute Decree of Divorce and that each of the parties be restored to the status of single, unmarried person;

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2. That the Court grant the relief requested in this Complaint; and

3. For such other relief as the court finds to be just and proper.

DATED this 5th day of October, 2018.

HUTCHISON & STEFFEN, PLLC

By: _____
Shannon R. Wilson (9933)
Fargol Ghadiri (14526)
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorney for Plaintiff, Amber Phillips

VERIFICATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, AMBER PHILLIPS, under penalties of perjury, being first duly sworn, deposes and says:

That I am the Plaintiff in the action entitled *Amber Phillips v. Todd Matthew Phillips*; that I have read the Complaint for Divorce herein and know the contents thereof; that the same is true of my own knowledge, except for those matters therein stated on information and belief, and as to those matters, I believe the same to be true.

DATED this 5th day of October, 2018.

AMBER PHILLIPS

State of Nevada)
) ss.
County of Clark)

SUBSCRIBED and sworn to before me

this 5th day of October, 2018 by Amber Phillips.

NOTARY PUBLIC

LUCINDA L. PITTSENBARGER
Notary Public, State of Nevada
No. 93-0911-1
My Appt. Exp. Dec. 16, 2020