

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MICHAEL GANTINE,)	
)	
petitioner,)	
)	Cause No. 17-2-03892-0 KNT
v.)	
)	
MICHELLE WATTS,)	
)	
respondent.)	

Official record of proceedings
Held before The Honorable
Judge LeRoy McCullough
On February 17, 2017
In Kent, Washington
Petition for Writ of Habeas Corpus

Jane Wilkinson, Transcriptionist
Ballard Transcription
3500 W. Government Way, #2
Seattle, WA 98199

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

FOR THE PETITIONER - MICHAEL GANTINE:

David Kalisek, Attorney at Law

GOLDBERG & JONES

1200 Westlake Ave. N., Suite 700

Seattle, WA 98109

(206)448-0736

FOR THE RESPONDENT - MICHELLE WATTS:

Kimberly Loges, Attorney at Law

1752 NW Market St.

Seattle, WA 98107

(425)977-3168

INDEX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Argument by petitioner.....5
Argument by the respondent.....8
Guardian ad Litem appearing by telephone.....12
Examination of Guardian ad Litem by Petitioner.....18
Examination of Guardian ad Litem by Respondent.....19
Court's ruling.....26

~~*~~
~~*~~
~~*~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Audio for February 17, 2017, begins at 11:57.)

* * * * *

THE COURT: Be seated, please.

Here on a petition for writ of habeas corpus. Thank you for your patience. I was given this stack of materials a few minutes ago and I've tried to work my way through it. I think I've read through all of the pertinent materials.

And let me have the persons present identify themselves for this record. Who is asking for the writ?

MR. KALISEK: I am, Your Honor. David Kalisek appearing on behalf of Michael Gantine the petitioner.

THE COURT: Mr. Kalisek, thank you.

And?

MS. LOGES: Good morning, Your Honor. My name is Kimberly Loges and I am here on behalf of Michelle Watts who is the mother.

THE COURT: Thank you very much. Are you opposing the petition?

MS. LOGES: Yes, I am.

THE COURT: All right. So, Counsel, we're at 11:58, but when they come in we take them, so make your record.

MR. KALISEK: Very good, Your Honor. Well, if the Court's had an opportunity to review the materials, I won't --

THE COURT: I have.

1 MR. KALISEK: -- regurgitate everything there.

2 Basically our position of accord, which I believe will be
3 supported by the guardian ad litem that is still appointed
4 on behalf of this child in the state of Illinois who is
5 available to testify, I believe he will support the
6 position that the Court of Illinois issued an order. The
7 court that has had the most intimate knowledge regarding
8 these parties, these children and what is going on in this
9 case has issued an order directing this child be brought
10 into my client's care. And I believe that order should be
11 enforced today.

12 The writ that we are asking for, obviously, we need to
13 establish consistent with 7.36.190 that someone is being
14 held illegally in custody. We believe the order of
15 February 29th and of March 18th, 2016, provides that the
16 person that is entitled to the custody of this child is my
17 client as pursuant to the order of the court, and have good
18 reason to believe that this child will be carried out of
19 the jurisdiction if this Court doesn't issue this writ
20 today. And I believe the testimony provided in our
21 declaration supports that. It's by the Bellevue Police
22 Department. And their position, as well as the testimony
23 of the opposing party in her statements fabricating her
24 name, her social is security number, things of nature,
25 going to an extreme extent to disguise herself, her

1 location, her parents, and obviously it took my client 18
2 months to track her down, and so I believe the evidence
3 established that. And I believe the guardian ad litem will
4 support that he is in fear that, if this child is not a
5 taken into custody and turned over, this mother will flee
6 with this child.

7 And though it's unfortunate we have to be here today,
8 obviously the mother has acted in a fashion that has
9 brought us before it. And I believe the court, like I
10 said, the state of Illinois has weighed what is in the best
11 interests of this child and believes it should go over to
12 my client.

13 I believe the respondent may likely assert that either,
14 as she has asserted in the protection order proceedings,
15 that due process has not been provided, that she wasn't
16 provided with notice to appear at all these latest orders
17 of the court which we are utilizing to give my client
18 custody. Obviously there are four orders that were issued
19 that she did not attend that are reflected in our materials
20 and to assert that obviously that assertion has not been
21 made before the Court and I have nothing before me that the
22 state of Illinois that there is any motion addressing that
23 besides this March motion that's set up on March 15th.

24 Obviously if the respondent believed that the March and
25 February 2016 orders were not enforceable she could have

1 sought an emergency order as soon as this whole matter came
2 to her attention on January 29th to obtain some sort of
3 emergency stay, and she did not do that.

4 The only order before the court that is involved with
5 this child that is -- obviously the state of Washington
6 asserted that they do not have emergency jurisdiction, and
7 so we come back to the state of Illinois. And the current
8 enforceable order from the state of Illinois says to turn
9 this child over to my client and that's what we believe is
10 important.

11 We believe the respondent may also assert that there is a
12 protection order danger matters and that is what should
13 inhibit this Court from turning this child over. Obviously
14 in the materials provided to the Court the protection order
15 and the renewal of the protection order that was previously
16 entered was contested and was denied. There is no current
17 protection order in the state of Illinois in regards to
18 this matter. And so -- -- and obviously that matter was
19 not appealed with anything before me.

20 So the fact of the matter is there is a protection order
21 in Washington regarding the two parties. That matter will
22 be addressed in court. There is nothing involving this
23 child. The only order enforceable by this court I believe
24 is the state of Illinois.

25 Thank you, Your Honor.

1 THE COURT: Are you asking that the guardian ad litem be
2 contacted or what?

3 MR. KALISEK: If the Court would find that, I guess,
4 helpful to the Court he is readily available to support, I
5 believe, all the positions I provided to the Court.

6 THE COURT: Thank you.

7 Ms. Loges, how do you spell your last name, please?

8 MS. LOGES: L-O-G-E-S.

9 THE COURT: Thank you.

10 Go ahead, Ms. Loges.

11 MS. LOGES: May I stand right here with my computer?

12 THE COURT: Yes.

13 MS. LOGES: Thank you.

14 Your Honor, we're asking that this petition be denied and
15 that this process really slow down here. The current
16 custody and contempt order from Illinois that the father
17 used to pick up the child was obtained by default and the
18 mother never received notice of the father's requests. She
19 only learned of that order on January 27, 2017, the same
20 day the father took the child. There are questions about
21 whether service was proper and if the mother did actually
22 fail to follow the order in Illinois. But there is
23 currently a pending motion to vacate those orders in
24 Illinois with a hearing set on March 17, 2017, just a month
25 from today.

1 The father has a history of filing pick-up orders that
2 are eventually vacated by the court. He did so twice in
3 2011. He's filed a missing person report for the child in
4 Illinois prior to obtaining the default custody order. To
5 file a missing person report he had to claim he was the
6 custodial parent when the mother was in fact the custodial
7 parent. The mother has been the custodial parent the
8 entire life of this child, of this 8-year-old child. The
9 child would be at risk of imminent danger if he goes with
10 his father, and it's not in the best interests of this
11 child to go with the father because these issues in
12 Illinois could potentially be vacated and jurisdiction --

13 THE COURT: What's the imminent risk if --

14 MS. LOGES: I'm sorry?

15 THE COURT: What's the imminent risk if he goes with the
16 dad?

17 MS. LOGES: He's only had eight visits with the father
18 between the ages of 16 months and 3 years old. And six out
19 of those eight visits the child has been subjected to
20 physical and emotional abuse.

21 THE COURT: Other than the mother's statement to that
22 effect is there anything from any child safety agency,
23 police department, social and health services, or any other
24 division which confirms that?

25 MS. LOGES: Your Honor, I was given this case yesterday

1 afternoon from the King County Bar Association.

2 THE COURT: Okay.

3 MS. LOGES: I'm asking that ultimately that this petition
4 be denied; if not, I'm asking for a stay or a continuance
5 of at least a week so I can provide that information to the
6 Court.

7 THE COURT: All right. Go ahead.

8 MS. LOGES: The child has been traumatized here by having
9 the father pick him up on January 27, 2017, when the child
10 had been living in Washington for 15 months with his
11 mother, and the child is now withdrawn. The petitioner
12 here is asking to assert additional trauma on an already
13 traumatized little boy who was taken from the only home
14 he's ever known, flown to Florida, only to have to be flown
15 back and now they want to start additional trauma and have
16 him put in the custody and care of a father he does not
17 know.

18 The mother is in the process of filing a motion for
19 revision regarding the domestic violence protection order
20 because she feels that the court did err in declining
21 emergency jurisdiction here. That motion will be filed
22 today.

23 There are issues with regard to the child's trauma. The
24 child was a good student prior to January 27th. He had
25 never missed a day of school, and now he's afraid to go to

1 school because of the trauma asserted by his father of
2 picking him up.

3 The father has not complied with the Illinois custody
4 order that he obtained in default which ordered him to
5 bring the child to court the following business day. He's
6 not reported his whereabouts to the Illinois court as
7 requested. There's also a long history of abuse by the
8 father toward the mother and the child. The mother left
9 the father here when she was 7 months pregnant due to a
10 history of domestic violence, due to a history of
11 deception, manipulation, mental health concerns, and
12 violence. And she's obtained three Illinois orders of
13 protection with abuse findings against the father and one
14 Florida order with endangerment findings.

15 She's only asking to keep the status quo in place which
16 has been the status quo in place for the last five and a
17 half years. None of the parties live in Illinois
18 currently. If the order is vacated in Illinois the parties
19 are left with having to establish jurisdiction in the case
20 some place. That would be here in Washington.

21 We're asking that this petition be denied or in the
22 alternative that I be given a week to be able to provide
23 additional information to the Court to counter the
24 information provided today.

25 Additionally I have not seen the missing questionnaire

1 which is required when filing a petition for a writ of
2 habeas.

3 THE COURT: Thank you.

4 Let me get the guardian ad litem on the phone.

5 And, Mr. Kalisek, I'll hear from you after I hear from
6 the guardian ad litem.

7 COURT CLERK: Counsel, would you just repeat the number
8 for me.

9 MR. KALISEK: Sure. It is (630) 781-8957 and his name is
10 Thomas Kenny.

11 THE COURT: Last name spelled?

12 MR. KALISEK: K-E-N-N-Y.

13 THE COURT: Thank you.

14 MR. KENNY: Tom Kenny.

15 BAILIFF: Hi good morning. My name is Katheryne. I'm
16 Judge McCullough's bailiff. We have you on speaker phone
17 for a hearing here in Kent, Washington.

18 MR. KENNY: Yes, ma'am.

19 THE COURT: This is Judge McCullough. Are you able to
20 hear me?

21 MR. KENNY: I am, yes. Judge, can you hear me?

22 THE COURT: I can. Thank you so much.

23 This is regarding Jacob Gantine.

24 MR. KENNY: Yes, sir.

25 THE COURT: I have in court Counsel Kalisek for the

1 father who is requesting the writ and Counsel Loges for the
2 mother who is requesting that the writ be denied or in the
3 alternative that things slow down so that the court in
4 Illinois and here can act on the mother's request that some
5 of the adverse rulings against her be revisited or revised.

6 There's been a representation for -- by counsel for the
7 mother, who was just retained yesterday, that the child has
8 been traumatized by the father's pick-up; that the mother
9 has been subject to domestic violence on the part of the
10 father; that the mother has three Illinois abuse orders
11 naming the father as the perpetrator; that the child
12 himself has been abused by the dad.

13 So I am putting you on the phone to -- so you can give me
14 some information relative to the case and then the
15 attorneys might want to ask you some questions and they
16 might not.

17 MR. KENNY: Sure.

18 THE COURT: So given that background are you able to
19 assist the Court?

20 MR. KENNY: Sure, in any way that I can. And I can
21 summarize briefly, Your Honor, the orders that have been
22 entered here in Illinois. And I was appointed in Illinois,
23 you know, a few years ago when the father, Mr. Gantine
24 petitioned the court for parenting time with the child. We
25 went through a long hearing in Illinois and there was a

1 court order entered in April of 2015 which required the
2 parties to coordinate the retention of mental health
3 experts to work towards a reunification of Mr. Gantine with
4 the child. That was the order presented on April 20th of
5 2015.

6 What's been happening, the retention of that mental
7 health experts was not happening with much haste. And in
8 August of 2015 Ms. Watts was ordered to contact a
9 psychologist here in our county, DuPage County, by the name
10 of Goldstein within 14 days and to comply with his intake
11 procedure. She eventually did contact Mr. Goldstein and
12 did actually meet with Dr. Goldstein. And I had some
13 conversations with Dr. Goldstein concerning Ms. Watts'
14 cooperation with this reunification process.

15 Dr. Goldstein notified me that he, you know, had had two
16 initial appointments with Ms. Watts. Then he had set up an
17 appointment for the following week to meet with Ms. Watts
18 and the child and they were going to have a discussion with
19 the child about Mr. Gantine. And Ms. Watts didn't appear
20 for that session with Dr. Goldstein. Dr. Goldstein then
21 scheduled another meeting with Ms. Watts for this same
22 purpose on a Saturday to accommodate her schedule and
23 according to Dr. Goldstein Ms. Watts didn't appear for that
24 either. This was in November of 2015.

25 After that nobody heard anything more from Ms. Watts.

1 And as I understand it Ms. Watts in about November of 2015
2 took the child and moved to the state of Washington.

3 Now, in Illinois under the Illinois Marriage and
4 Dissolution of Marriage Act there is a provision that
5 requires a party intending to move from the state with a
6 child and to relocate to another jurisdiction on a
7 permanent basis, it requires the approval of the court.
8 And Ms. Watts never sought the approval of the court to
9 move with the child out of the state of Illinois, never
10 notified anybody that she was moving with the child out of
11 the state of Illinois, and when she took the child nobody
12 knew where the child was.

13 Mr. Gantine's attorney filed a petition for a rule of a
14 show cause. And eventually on February 1st of 2016 there
15 was an order entered in Illinois granting physical
16 possession of the child to Mr. Gantine. Ms. Watts was
17 ordered on February 1st of 2016 to turn the child over to
18 Mr. Gantine. I have records that I emailed to Ms. Watts a
19 copy of that order and I emailed it to the email address
20 that she had given me and I had corresponded with her by
21 that -- with that email address up until then but I never
22 heard anything from Ms. Watts.

23 And then on February 29th there was an order entered
24 changing the physical possession order to one of custody
25 and Mr. Gantine was awarded custody of the child on

1 February 29th of 2016.

2 Ms. Watts has -- there is a body of writ of attachment
3 outstanding presently for Ms. Watts for her failure to turn
4 the child over. And so that remains outstanding presently.
5 Ms. Watts has, as far as I know, never returned to the
6 state of Illinois to seek modification of the existing
7 custody order.

8 So I think the last order, then, that I'm aware of that
9 deals with custody of the child is an Illinois order. If
10 Ms. Watts is in Washington right now she's there without
11 the approval of the Illinois court, the child is in the
12 state of Washington without the approval of the Illinois
13 court, and so I guess I question the jurisdiction of the
14 court in Washington to deal with, you know, a custody type
15 issue.

16 So, you know, if I can be -- if anyone has questions or
17 if Your Honor has more questions I'd gladly answer them.

18 THE COURT: Thank you very much. I do have one question
19 before I turn this over to the attorneys. With regard to
20 the allegation of physical abuse perpetrated by the father
21 on the mother and/or on the child, do you have any
22 information at this time in your record which would say one
23 way or the other if that was an issue?

24 MR. KENNY: Judge, I can tell you that was an issue that
25 was discussed at great length in the hearing in DuPage

1 County, that reflected in that order of April 20th of 2015
2 requiring the reunification between the child and the
3 father.

4 The allegations were certainly made by Ms. Watts. They
5 were disputed by Mr. Gantine. It is -- it's about two
6 years ago, Judge, so I have to tell you that I don't have
7 specific recall of what those allegations consisted of but
8 I do specifically recall being satisfied that whatever
9 those allegations were they should not have prevented a
10 reunification between the child and the dad.

11 And I do specifically recall a few allegations being made
12 about physical abuse by the dad with respect to the child.
13 There was an occasion when dad was exercising parenting
14 time with the child down in Florida and when mom got the
15 child back from dad she immediately made an allegation that
16 the child was bruised and alleged that the child had been
17 physically abused by dad. I spoke with a person who wasn't
18 affiliated with dad but who actually took the child and was
19 turning the child over to mom from dad. That person
20 actually changed the diaper of the child and did an
21 examination of the child and said that, you know, there
22 were no bruises on the child whatsoever, and she believed
23 that the allegations were contrived.

24 And so, in short, Judge, I did an investigation with
25 respect to those allegations and I know I was not

1 personally convinced that the child was ever physically
2 abused by the father.

3 THE COURT: Thank you very much for that. We're into the
4 noon hour so I'm not going to hold the parties long but I
5 do want you to be available to answer any brief questions.
6 First from you Mr. Kalisek, on behalf of the father who has
7 joined us.

8 MR. KALISEK: Yes, Your Honor, very briefly.

9

10

EXAMINATION

11 BY MR. KALISEK:

12 Q. Mr. Kenny, can you hear me?

13 A. I can.

14 Q. Okay. A few questions for you first. Based on your
15 involvement in this case do you have any fear or concern at
16 this time regarding Mr. Gantine's ability to parent this
17 child?

18 A. Remember, sir, I've not had any contact with Mr. Gantine
19 since -- you know, it's been over a year really, and so I
20 am in no position to testify as to what's occurred in that
21 one year period. Back when I did testify in this case in
22 DuPage County, in fact when this order was entered with
23 reunification, I had no concern.

24 Q. Do you have any fear or concern at this time regarding this
25 child being immediately placed n the custody of Mr. Gantine

1 A. You know, with the -- look, I can tell you that from my
2 perspective that the last court order, valid court order as
3 it related to the custody of this child places the child in
4 the custody of Mr. Gantine. You know, Ms. Watts has never
5 done anything, in the state of Illinois anyway, to, you
6 know, to overturn or reverse that order. And so just from
7 a legal standpoint it's my position that the child ought to
8 be in the custody of Mr. Gantine until, you know, a court
9 of competent jurisdiction says to the contrary.

10 And my only reticence in answering your question is, is
11 that which I've already expressed. I mean, the fact of the
12 matter is I've had no contact with anybody in this case for
13 over a year.

14 MR. KALISEK: I have no other questions, Your Honor.

15 THE COURT: Thank you.

16 Ms. Loges counsel for mother may have some questions.

17 MR. KENNY: Yes, sir.

18

19

EXAMINATION

20 BY MS. LOGES:

21 Q. Hello, Mr. Kenny. How are you?

22 A. Fine thank you.

23 Q. As a guardian ad litem in the state of Illinois are you
24 also an attorney?

25 A. I am. I'm an attorney licensed to practice law in the

1 state of Illinois. I've been licensed since 1982.

2 Q. Are you aware that Ms. Watts has filed a motion to vacate
3 the orders in Illinois and there's a pending hearing on
4 March 17, 2017?

5 A. I am aware that there was -- that Ms. Watts has filed
6 something, yes. That I am aware of.

7 Q. Are you aware --

8 A. I'm told by an attorney today, I received a call from an
9 attorney here in Illinois today that Ms. Watts filed last
10 night in the state of Illinois an emergency petition to for
11 an order of protection.

12 Q. So earlier you said you do not recall the allegations that
13 were made against the father in this case, correct?

14 A. The specific allegations, as I sit here today, I don't
15 recall.

16 Q. But the court ordered reunification therapy, correct?

17 A. True.

18 Q. When the court ordered reunification therapy did the court
19 give him any unsupervised visitation with his son at that
20 time?

21 A. No.

22 Q. Why not?

23 A. Because Miss -- from my perspective because Ms. Watts had
24 kept the child from him for an extended period of time and
25 the court thought it might be a harmful to the child to

1 throw the child back into, you know, just immediately back
2 with the father until the parties had gone through this
3 therapy.

4 Q. Is that a belief that you would agree with?

5 A. Back at the time that was my recommendation, frankly.

6 Q. But if a child is not seen a parent for an extended period
7 of time do you believe that it is beneficial to throw that
8 child into the primary care of a parent which he has not
9 had a relationship with that child?

10 A. That of course depends on the circumstances and the basis
11 for the lack of contact between the child and the parent.
12 In this case, for example, in the last year or so the child
13 has been deprived of any contact with the father because
14 Ms. Watts has, in my view, ignored the order of the court
15 and fled with the child to keep the child away from her
16 father. And so under those circumstances I don't know that
17 I feel the same way about it, frankly.

18 Q. How long was your investigation of the parties?

19 A. This is rough, please, but it was probably six months. But
20 I assure you that's rough, so it could be within a month or
21 so either way.

22 Q. Have you --

23 A. And I can tell you my investigation consisted of a number
24 of things, including meeting with the parents at my office
25 and at their homes. I went down to Miami and visited Mr.

1 Gantine and visited his house, met with him and his wife
2 and child -- can't remember if it was child or children --
3 I think child at the time.

4 I can tell you also I met with Ms. Watts at what she told
5 me was her home here in the state of Illinois, and I have
6 learned subsequently that that wasn't her home at all.
7 That actually she brought me to a home that she really
8 didn't live in and had me -- and led me to believe that
9 that was her home and that of the child. And I learned
10 that that was all a deceit, that that was never the case at
11 all.

12 Q. Did you speak with any collateral contacts or service
13 providers for the children in conducting your
14 investigation?

15 A. Yes, I did.

16 Q. And who were those?

17 A. I spoke with -- I know I spoke with the person who I
18 referred to earlier who took the child from Mr. Gantine
19 following the parenting time and turned the child over to
20 Ms. Watts. That was a person who was appointed by the
21 court down there in Florida. And I met with Ms. Watts'
22 mother. I spoke with other people in the state of Florida
23 but as I sit here today I can't tell you who they were.

24 Q. When was the first time counsel for the father contacted
25 you about today's hearing?

1 A. What do you mean?
2 Q. About today's hearing --
3 A. I'm sorry?
4 Q. About today's hearing.
5 A. Oh, about today's hearing. This morning, I believe.
6 Q. And have you had time to review your file to prepare for
7 today's hearing?
8 A. I had about 10 minutes to review my file to prepare for
9 today's hearing.
10 MS. LOGES: No further questions.
11 THE COURT: Thank you.
12 Mr. Kenny, anything else you feel you need to add?
13 MR. KENNY: No, sir. Unless Your Honor has some
14 questions for me, no, I do not.
15 THE COURT: All right. Thank you.
16 In as much as this is an emergency hearing as opposed to
17 a motion hearing I'm going to release Mr. Kenny at this
18 point and then hear final comments from you, Mr. Kalisek,
19 and from you, Ms. Loges.
20 MR. KENNY: Thank you, sir.
21 THE COURT: Thank you very much.
22 Mr. Kalisek?
23 MR. KALISEK: Thank you, Your Honor. I guess one thing
24 that I'm hearing from the respondent is with regard to
25 these prior domestic violence allegations, the concerns

1 that there should be things out there regarding domestic
2 violence and concerns for this child that that's what needs
3 to be brought to attention. I guess logic dictates to me
4 both from what I hear, what I see in the orders, and from
5 what I hear from Mr. Kenny, that all that predates the
6 February ord -- the orders in 2016 which the court ordered.
7 It's nothing that has happened since then based on what I'm
8 hearing. So that all obviously was before the court, was
9 flushed out by the court in Illinois, and so I don't
10 believe any of those sort of concerns whatsoever should be
11 before the Court to inhibit the Court's ability to rule on
12 this matter.

13 Obviously Mr. Kenny provided his testimony of great
14 experience at length and the Court heard his
15 recommendations and I believe the domestic violence
16 concerns from there were dismissed.

17 Counsel tries to bring up about this father picking up
18 the child, taking him to Florida, things like that, father
19 did all these things through the use of the police and by
20 an order of the court. He has done nothing to hide,
21 deceive, to do anything but to follow the court protocols.
22 And I believe unfortunately it's the respondent that is
23 wanting to evade the court. And I believe that there is
24 significant testimony that if this Court doesn't enter an
25 order she is willing, ready, and prepared to take action to

1 evade, to move, to do what she can to avoid Mr. Gantine
2 from having a relationship. And I believe the concerns are
3 real, I believe the concerns satisfy the statutory
4 authority, and unfortunately I feel the way the Court needs
5 to err on this side is to get this child into Mr. Gantine's
6 care and then allow the issues to be flushed out from
7 there.

8 THE COURT: Thank you.

9 And, Ms. Loges?

10 MS. LOGES: Your Honor, we're asking that this petition
11 be denied.

12 So we currently have Ms. Watts who has filed a motion to
13 vacate the Illinois orders that we heard on March 17th.
14 She's also in the process of filing a motion for revision
15 on the February 13th, this last Monday, 2017 denial order
16 that removed the child from the order for protection and
17 denied emergency jurisdiction. She believes the court
18 erred when it did not grant emergency jurisdiction in this
19 case. So we have two issues that are pending before the
20 court.

21 If the court -- this Court needs additional information
22 that has not been provided to be able to make a decision
23 about the best interests of the child here. She is not
24 evading the father. The child has been here for 15 months.
25 He's been enrolled in school and now she is taking a number

1 of different steps with three different states to try to
2 figure out what needs to happen in order to keep her child
3 in her care. There is no emergency basis here. There is
4 no -- there would be imminent danger to this 8-year-old
5 little boy by taking him out of the care of his mother, the
6 only parent he has known, and placing him in the care of
7 his father who he has not had an opportunity to build a
8 relationship with, who lives in Florida.

9 Let's keep the child here, let's slow the process down,
10 let's figure out which state has jurisdiction and go from
11 there. We're asking that this petition be denied.

12 THE COURT: Thank you.

13 The Court is going to grant the petition for a couple of
14 reasons. One, even though the orders that the mother --
15 even though the mother intends to seek review of the
16 orders, the fact of the matter is that these orders from
17 Illinois date from 2015 and this is 2017. I don't
18 understand why the delay but the fact of the matter is
19 there was an order April 20th of 2015 that ordered
20 reunification of the father with the child. According to
21 the guardian ad litem the mother blew off the appointments
22 that she was supposed to make with the doctor which would
23 have been in line with -- strike that -- she didn't make
24 the appointments that she was supposed to. Those
25 appointments were supposed to work toward the reunification

1 of the child. So she violated that court's order according
2 to this brief presentation.

3 She violated the order of the court by moving out of
4 Illinois without getting approval of the court with the
5 child. She apparently gave a house as an address that the
6 guardian ad litem says wasn't her house, she made
7 allegations about child abuse. The guardian ad litem says
8 that the person who did the transfer changed the diaper
9 with the child and found there to -- found that there were
10 no bruises on the child and it was after the transfer that
11 the mother made the allegations.

12 So based on this pattern that we have, the mother not
13 having returned to Illinois, having left Illinois without
14 court approval, having ignored the court's orders, there is
15 no reason for this Court to do anything but issue the writ
16 and that is what we are going to do. I do not believe that
17 this record, as brief as it is, supports any concern of
18 domestic violence on the part of the dad. The guardian ad
19 litem was very clear that throw ing the child back into the
20 dad's custody, if you will, this issue is because the
21 mother has absconded with the child and the Court thinks
22 that that really needs to be considered.

23 And finally, in reviewing this stack, I have to tell you
24 that one of the interesting statements, observations made
25 by one of the police here -- give me just a second.

1 And I think Commissioner Hillman, the order on revision
2 will address that, the one that said this court doesn't
3 have jurisdiction.

4 There's a Bellevue Police Department report that reads in
5 relevant part as follows: "Principal X brought Jacob to
6 his office." This was at the school. "I introduced myself
7 and to Jacob and explained the purpose of my visit. Jacob
8 was smiling, did not appear nervous to speak with us.
9 Jacob told us the following: He currently lives with his
10 mom and his grandmother; he stated his mom used to go by
11 another name; he stated he never had a different name."

12 Second bullet and this is dated 01/27/2017: "I asked
13 Jacob about his father and he stated he did not want to
14 talk about him. When I told Jacob his father wanted to see
15 him he lit up and started clapping his hands in excitement.
16 He asked when he could see him. Jacob stated his father's
17 name was John. Jacob stated he missed his father and
18 sometimes he cried at night because he couldn't see him.
19 He stated his mom told him he couldn't see him because John
20 was going through some hard times. I completed the
21 Children's Administration Child Custody Transfer Form and
22 took protective custody of Jacob."

23 So with this statement from the Bellevue Police
24 Department along with the statement from guardian ad litem
25 I see no reason to do anything, as I have suggested, other

1 than granting the order requested and it is so ordered.

2 Order to issue the writ signed. Warrant in aid of the
3 writ both given to Madam Clerk.

4 Thank you, staff, for staying through the noon hour.

5 Counsel, thank you both for making yourselves available
6 on such short notice.

7 Questions?

8 MR. KALISEK: No, Your Honor. Thank you.

9 THE COURT: All right.

10 (Break from 12:36 to 4:07.)

11 THE COURT: Parties may come forward in Michael Gantine
12 v. Michelle Watts. Case 17-2-0389-2 -- I'm sorry --
13 03892-0 KNT.

14 I think that counsel for respondent was going to appear
15 by phone, yes?

16 MR. KALISEK: Your Honor, I notified her an hour ago and
17 I think she was -- personally I thought -- but I had her
18 phone number. She wanted to appear one way or the other
19 and I can provide the Court with her cell phone number if
20 need be.

21 THE COURT: Was your understanding -- and for the record,
22 who are you?

23 MR. KALISEK: I'm David Kalisek, Your Honor, appearing
24 with and on behalf of Michael Gantine who is to my left,
25 petitioner in this matter.

1 THE COURT: All right so your understanding was that she
2 was going to call in or she wanted us to call her?

3 MR. KALISEK: At 3:00 I notified her that we were pushing
4 back the 4:00. She emailed in response, "Thank you." And
5 so --

6 THE COURT: All right. Let me find out from the bailiff
7 if you've heard from her at all -- yes?

8 MS. WATTS: She asked for me to have the Court call her.

9 THE COURT: Okay. You are?

10 MS. WATTS: Michelle Watts.

11 MR. KALISEK: I can provide the court with her phone
12 number.

13 MS. LOGES: This is Kimberly.

14 BAILIFF: Good afternoon. This is Katheryne, Judge
15 McCullough's bailiff. We have you on speaker phone with
16 everyone else on the writ matter.

17 MS. LOGES: Thank you.

18 THE COURT: Thank you. And, Counsel, if you would like
19 to approach. As well, Ms. Watts, if you want to come
20 closer to the telephone you can.

21 So this is not going to be a long hearing. I will say to
22 you, Ms. Loges, we've called the case for the record. Your
23 client is present.

24 And you may approach, Ms. Watts, so that you -- do you
25 want to come up here so that you can be closer to the

1 telephone?

2 Mr. Gantine is present and of course Mr. Kalisek is here.

3 So Mr. Kalisek, what is it that you're asking the Court
4 to do here?

5 MR. KALISEK: Your Honor, consistent with the Court's
6 finding this morning that a writ should be issued to
7 produce Jacob Gantine and deliver him into possession of
8 Michael Gantine, his father, we're asking the Court to
9 effectuate that writ. The child been taken into possession
10 by King County Sheriff's Department and ask the Court to
11 turn custody over to my client.

12 THE COURT: I can anticipate that there's some concerns
13 about the disruption. Do you want to do this now? Do you
14 want to do this as a temporary order? Where will the child
15 be? Tell me something.

16 MR. KALISEK: Your Honor, my client resides in Miami,
17 Florida, and it's his intention to take the child back to
18 Miami, Florida, at the conclusion of this hearing.

19 THE COURT: How young is the child?

20 MR. KALISEK: The child is 8 years old.

21 THE COURT: So that means changing schools?

22 MR. KALISEK: Yes, Your Honor.

23 THE COURT: What are your thoughts about how that should
24 be done minimizing the disruption to the child?

25 MR. KALISEK: Yes, Your Honor. I believe we're in the

1 midst of midwinter break at this point and time for the
2 child possibly, and so my client can begin taking all
3 necessary steps to have the child enrolled at a school down
4 there. And I guess that's about it at this point.
5 Unfortunately there's a lot of distance between Mr. Gantine
6 and here and that's about what I guess we can try and do at
7 this point.

8 THE COURT: The concern from the Illinois court, based on
9 our earlier hearing, was that there was to be some kind of
10 transition between the two and it didn't happen for reasons
11 that can be talked about at trial. In the absence of that
12 transition, that professional transition, is there anything
13 that you can recommend to the Court as counsel?

14 I'm going to let you think about that as I hear from you,
15 Ms. Loges. What is your response, Ms. Loges?

16 MS. LOGES: We're still asking that the petition be
17 denied, Your Honor. We believe that it is not in the best
18 interests of this child to leave the only parent this child
19 has ever known and travel to Florida to remain with his
20 father, a parent he has not known. And we are concerned
21 that the child will not have any contact or be able to
22 contact the mother whatsoever.

23 This Court does not have jurisdiction to place any type
24 of temporary orders in place given that Illinois has
25 jurisdiction and the child will be going to Florida. We

1 have serious concerns that placing this child on a plane to
2 Florida is going to continue to put trauma on to an already
3 traumatized little boy and prevent this child from being
4 able to communicate with the only parent he has ever known.

5 THE COURT: How do we, from a policy perspective, then,
6 keep parents from engaging in behavior, Ms. Loges, from
7 keeping the child from the parent that the court says that
8 they're supposed to have? In all cases there will be some
9 disruption when the child is going to be -- when the child
10 will be sent back to the person that the child is supposed
11 to be with. How do we, as a policy matter, keep that from
12 happening over and over again?

13 MS. LOGES: Could you repeat your question, Your Honor?
14 You're kind of muffled.

15 THE COURT: That may be the phone. I'm not muffled.

16 Put the phone up here.

17 The question is: Policy-wise, why should the fact that a
18 child is not with a parent keep the rightful parent from
19 getting the child? In other words, you could frustrate the
20 policy by keeping the child away from the rightful parent.
21 What's different about this?

22 MS. LOGES: Well, what's different about this, Your
23 Honor, is we were asking -- we're asking that things slow
24 down and we could figure out who has jurisdiction over
25 this over -- we were trying to assert emergency

1 jurisdiction and we're going to be asserting emergency
2 jurisdiction and arguing that the court erred in not
3 asserting emergency jurisdiction through the domestic
4 violence order for protection.

5 Here, no one lives in Illinois and there's currently a
6 motion going to be heard to vacate the orders that were
7 entered in Illinois regarding parenting. If those orders
8 are successfully vacated --

9 THE COURT: Counsel, let me interrupt you. You're not
10 answering my question. Policy-wise, what is to keep any
11 parent from holding on to a child when they're not supposed
12 to hold on to them and then saying that the other parent
13 does not know the child and therefore we should continue
14 with the situation?

15 MS. LOGES: We should not be continuing with the status
16 quo as it is right now, Your Honor. That's correct. There
17 is no policy.

18 THE COURT: All right.

19 MS. LOGES: Instead what I am proposing is that there is
20 a line of communication so that this behavior does not
21 continue to happen so that this child can have a
22 relationship with both of his parents. Something needs to
23 stop here. These parents need to learn how to co-parent
24 and this mother needs to be able to get hold of her son and
25 vice versa. Her son now will be able to get hold of mom

1 should he wish to talk to his mom. These parents need to
2 be able to communicate with each other about their child.

3 THE COURT: I couldn't agree with you more that the
4 parents need to learn how to co-parent and that the child
5 deserves communication with both parents. I'm going --

6 MS. LOGES: But how do we do that?

7 THE COURT: -- I'm in agreement with you on that. From a
8 legal perspective is there anything else that you want to
9 argue relative to why this writ should not be granted or
10 effectuated?

11 MS. LOGES: It is premature. There are too many things
12 going on right now and right now if these orders are
13 vacated then what are we at? We're at ground one again.
14 If her motion on revision is granted and Washington asserts
15 emergency jurisdiction, we have to go bring -- we have to
16 go and get the child and bring the child back. I am just
17 asking for a month to be able to figure out what is going
18 on between Illinois, what's going on here, who has
19 jurisdiction, and so that she can get something filed here
20 so that the custody matter could be transferred here.
21 Washington is the home state of this child. It's been the
22 home state for the last 15 months.

23 THE COURT: All right. And, detective, did you have any
24 comment? Did you wish to address the Court at all?

25 UNIDENTIFIED SPEAKER: No, Your Honor. I just received

1 the writ today. I served it. I was aware of this case
2 from earlier. I was contacted by both Ms. Watts and Mr.
3 Gantine regarding the custody situation. I know there's an
4 investigation I believe going on in Issaquah right now but
5 I don't know what the status of that is at this point.

6 THE COURT: Thank you for being here.

7 All right. Thank you, Ms. Loges.

8 Mr. Kalisek, back to you.

9 MR. KALISEK: Yes, Your Honor. I guess the issues that
10 are being submitted, that your orders are going to be
11 vacated, all such things, I guess, the likelihood of all of
12 these dots being connected and things like that to result
13 in a drastic change in this arrangement I don't find to be
14 as likely as that the court is going find in Illinois that
15 things should be consistent with the order they entered.

16 I'd also point out to the Court, though, that the court
17 in the February 29, 2016, order which was previously
18 submitted awarded my client that educational decision
19 making, obviously school enrollment, all those powers
20 specifically awarded those to him. And --

21 MS. LOGES: And I'm going to object because those orders
22 were entered by default and she was not properly served.

23 MR. KALISEK: Well, obviously she can assert that at a
24 later date --

25 THE COURT: Objection noted. Go ahead.

1 MR. KALISEK: And then, Your Honor, I'd also note for the
2 Court that the court ordered at this time at February --
3 yeah -- February 29, 2016, to award immediate custody to my
4 client. Again, similar to this situation the court entered
5 an order in February in the midst of a school year just a
6 year ago that ought to turn custody over as soon as you
7 find this child and turn -- take to Miami, Florida, is what
8 it reflects. So obviously that court anticipated the exact
9 same scenario, ironically, at about the exact same time of
10 the year. And I believe obviously that court is the court
11 that is intimately knowledgeable about the facts and the
12 matters in this case and that's specifically what they
13 found. And for all the reasons we talked about earlier I
14 believe there's absolutely no reason that unfortunately Mr.
15 Gantine that the child should be turned over to him. He
16 can have the child enrolled. Illinois should have to flush
17 that out.

18 Should there be ability for Ms. Watts to communicate,
19 absolutely. There's no objection to allowing for regular
20 Skype contact, telephone contact, if she can arrange to be
21 in Florida to have visitation, absolutely. We can order
22 all that stuff, and Mr. Gantine has no problem with that.
23 If any in-person visitation takes place it would obviously
24 need to be supervised. But there will be contact in place
25 pending everything going on here. But unfortunately I

1 believe it's Ms. Watts' behavior which has led us to this
2 court and unfortunately put this upon us and I think
3 unfortunately this child -- something has to happen and
4 unfortunately it has to happen now.

5 THE COURT: Ms. Loges, anything else?

6 MS. LOGES: Something does have to happen but does it
7 have to happen today or can it wait until -- can it wait
8 until some other issues are resolved so that this Court can
9 have a clearer picture of what exactly is going on versus
10 bouncing this child potentially back and forth between
11 Florida and Washington?

12 There is no immediate emergency here right now today to
13 put this child on a plane to Florida given that there are
14 outstanding issues in Illinois and she was filing a motion
15 for revision to address what the court -- that the court
16 erred in not granting emergency jurisdiction here under the
17 UCCJEA. We are asking for a continuance, we're asking that
18 things be slowed down, there's no emergency here, we're
19 asking that the petition be denied.

20 THE COURT: All right. I'm granting the petition. The
21 child will be allowed to go to the father.

22 What I have indicated earlier is that the situation was
23 one that was created I think in part, for whatever reason,
24 I don't know what happened, but the mother's violation of
25 what appears to have been the Illinois order. And the

1 Illinois order indicated that the mother could not leave
2 that jurisdiction without the court's permission. She did
3 do that and she took the child with her. And now we're in
4 a situation, because the child has been in Washington
5 state, the police had to find the child and now I'm being
6 asked to essentially reward the violation of the court
7 order and I'm not going to do that. There is nothing in
8 this brief record which indicates that the father is any
9 risk to the child. It sounds like, based on what I heard
10 from the guardian ad litem, they looked at this and there
11 were collaterals that were contacted. I am going to order
12 that the child be released to the father.

13 Now, in part this is based on the transition period that
14 you're talking about, Counsel, that he can get the in
15 school. It's also based on the fact the mother will have
16 the opportunity to stay in contact with this child. I
17 agree with counsel that it would be absolutely disruptive
18 if there is a marked, jagged disruption in the mother-child
19 relationship. So I am indicating that in-person visitation
20 is authorized if supervised. I am indicating that contact
21 with the mother by telephone, email -- what do you --

22 MR. GANTINE: I just want to -- I'm sorry, Your Honor.

23 MS. LOGES: I believe my client would like telephone
24 contact with her son on a daily basis.

25 THE COURT: All right. Let me -- counsel is conferring

1 with his client.

2 MR. KALISEK: Your Honor, I guess the issue was there is
3 still a temporary order for protection in place prohibiting
4 my client from contacting Ms. Watts. And so --

5 MS. LOGES: The child is 8 years old. The child can dial
6 the telephone on his own.

7 MR. KALISEK: And that's fine. That was what my client
8 was concerned about was insuring there wasn't any
9 violation.

10 THE COURT: All right. So we're not -- thank you --
11 we're not inviting any violation of any court orders.

12 While you were conferring with your client the request
13 was made by Ms. Loges that her client be able to have
14 telephone -- daily telephone contact with the child.

15 MR. KALISEK: Yeah, there's no objection to that.

16 THE COURT: And that would be included in the order that
17 that is permitted, along with Skype and all the other
18 social media things that have transpired since some of
19 us were -- all right.

20 Anything else at this point? Now, the outstanding issues
21 as to whether or not Illinois will vacate the orders, I
22 don't think I should wait on that possibility. I think
23 that Illinois has already spoken in one sense, the state of
24 Washington has already spoken in one sense in terms of the
25 ruling that there's no jurisdiction. Those cases -- those

1 rulings could be revisited, but in the meantime we're not
2 holding the child in this limbo possibly because something
3 may change. The Court has ordered -- entered -- or has
4 given its order.

5 Is there anything further at this time?

6 MR. KALISEK: Nothing from me, Your Honor.

7 THE COURT: So, Ms. Loges, do you need to have a proposed
8 order faxed to you?

9 MS. LOGES: Yes, please.

10 THE COURT: May I suggest then -- I'm going to finish my
11 other hearing -- that you and counsel work that out. Mr.
12 Kalisek, can you do that?

13 MR. KALISEK: Yes, Your Honor.

14 THE COURT: And the detective is with us and he'll be
15 able to figure it out as well.

16 Thank you very much. That concludes this matter.

17 MS. LOGES: Thank you, Your Honor.

18 MR. KALISEK: Thank you, Your Honor.

19 * * * * *

20 (Audio for February 17, 2017, ends at 4:24.)

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A F F I D A V I T

STATE OF WASHINGTON)
COUNTY OF KING)

I, the undersigned AAERT Certified Transcriptionist do hereby certify:

That the annexed and foregoing audio- or video-recording was taken stenographically before me and reduced to typewriting under my direction;

I further certify that I am not a relative or employee or attorney or counsel of any of the parties to said action, or a relative or employee of any such attorney or counsel, and that I am not financially interested in the said action or the outcome thereof;

I further certify that the recording as transcribed, is a full, true and correct transcript of the audio, (to the degree audible);

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of March 2017.

Jane Wilkinson
JANE WILKINSON
AAERT Certified Transcriptionist
in and for the State of Washington,
residing at Seattle, Washington.