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

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

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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  
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Seattle, WA 98199

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APPEARANCES

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

2 \* \* \* \* \*

3 THE COURT: Be seated, please.

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

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

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

12 THE COURT: Mr. Kalisek, thank you.

13 And?

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

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

19 MS. LOGES: Yes, I am.

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

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

25 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 29<sup>th</sup> and of March 18<sup>th</sup>, 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 15<sup>th</sup>.

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 29<sup>th</sup> 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 27<sup>th</sup>. 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 20<sup>th</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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 29<sup>th</sup> 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 29<sup>th</sup> 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 20<sup>th</sup> 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 17<sup>th</sup>.  
14 She's also in the process of filing a motion for revision  
15 on the February 13<sup>th</sup>, 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 20<sup>th</sup> 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.)

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A F F I D A V I T

STATE OF WASHINGTON )  
COUNTY OF KING )

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JANE WILKINSON  
AAERT Certified Transcriptionist  
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