

COMMISSION ON JUDICIAL SELECTION APPLICATION

EIGHTH JUDICIAL DISTRICT
DEPARTMENT Y

By

Melvin R. Grimes, ESQ.



Personal Information

1.	Full Name	
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	No
3.	How long have you been a continuous resident of Nevada?	19 years
4.	City and county of residence	Henderson, Clark Country
5.	Age	58

Employment History

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

Current or Last Employer	Roberts Stoffel Family Law Group
Phone	702-474-7007
Physical Address & Website	4411 S. Pecos Rd. Las Vegas, NV 89121
Date(s) of Employment	7/2021 – Present
Supervisor's Name and Title	Amanda Roberts, Esq. Managing Attorney
Your Title	Senior Attorney
Describe Your Key Duties	Supervise and train staff and associate attorneys. Overall supervision of the Appellate work in the Firm. Manage and litigate a full case load.
Reason for Leaving	n/a

Previous Employer	The Grimes Law Office
Phone	702-347-4357
Address & Website	
Date(s) of Employment	06/2013 – 07/2021
Supervisor's Name and Title	none
Your Title	Owner and Managing Attorney
Describe Your Key Duties	All aspects of running a law firm, litigation, and training of Associate Attorneys.
Reason for Leaving	Merged firms with Roberts Stoffel Family Law Group

Previous Employer	Clark County School District
Phone	702-799-2273
Address & Website	Ccsd.net
Date(s) of Employment	08/2006 – 06/2013
Supervisor's Name and Title	Cheryl Joyce - Principal
Your Title	Teacher
Describe Your Key Duties	Working with at risk students. Teaching Math and Social Studies
Reason for Leaving	Changes Professions/ completed law school

Previous Employer	San Carlos Unified School District
Phone	928-475-2315
Address & Website	https://www.scbraves.net/
Date(s) of Employment	08/2003-06/2006
Supervisor's Name and Title	John Trotter – Principal
Your Title	Asst. Principal, Teacher, Coach
Describe Your Key Duties	Asst. Principal of Middle School Math and Social Studies Teacher – High School Head Football Coach – High School
Reason for Leaving	Relocated to Las Vegas

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.
 - Ontario High School** - 1115 W Idaho Ave, Ontario, OR 97914 – 1980-84 Diploma
 - Western Oregon State College** - 345 Monmouth Ave. N. Monmouth OR 97361 – 1988-1992 – B.S. – Social Science Education
 - Western Oregon University** - 345 Monmouth Ave. N. Monmouth OR 97361 1999-2001 – Masters of Science in Education.
 - Nova Southeastern University** – 3300 S University Dr, Fort Lauderdale, FL 33328 2006-2008. Ed.S. in Education Leadership.
8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.
 - High School – Played Football and Ran track

Undergraduate –

- Outstanding Western Leader – 1991 and 1992
- Student Senate 1991-1992
- Model UN National Delegate to Harvard University 1991.

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

UNLV – Boyd School of Law - 4505 S. Maryland Parkway, Las Vegas, NV 89154
Juris Doctorate – December 2012.

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

I continued to work as a Full Time teacher for Clark County School District while attending law school. 08/2006 – 06/2013

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

I externed for Federal Judge Lloyd George from 06/2012 – 09/2012.

Law Practice

12. State the year you were admitted to the Nevada Bar.
2013

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

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

No

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 15-19 for the five years directly preceding your appointment or election to the bench.

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

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

100% non-jury trials

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

Jury – 0

Non-Jury - 50

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

Clark County District Court

Nye County District Court

Nevada Court of Appeals

Nevada Supreme Court

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

Case 1
Case name and date: Pelkola v. Pelkola filed 05/06/2014, D-13-488682-D and 80763-COA
Court and presiding judge and all counsel: Eighth Judicial District Department L, Hon. David S Gibson Radford Smith Esq – attorney for the Plaintiff Melvin R. Grimes Esq. – Attorney for the Defendant and Appellant
Importance of the case to you and the case’s impact on you: Established guidelines for the subsequent relocation of children
Your role in the case: Defendant’s attorney through trial and appellant counsel.

Case 2
Case name and date: Cox v. Roe D-11-450074-D and 84893. 01/2022 to 12/2023
Court and presiding judge and all counsel: Eighth Judicial District Department U, Hon. Dawn R. Throne Fred Page. Esq. Attorney for Defendant Melvin R. Grimes Esq. – Attorney for the Plaintiff and Appellant
Importance of the case to you and the case’s impact on you: This case defined Sole Physical Custody and what a Court needed to find in order to award Sole Physical Custody. This case also further outlined what is required to award attorney fees in contested custody cases.
Your role in the case: I was Plaintiff’s Counsel for trial, I was lead counsel for the appeal and then served as trial counsel when the case was reversed and remanded.

Case 3
Case name and date: Martinez v. Martinez D-16-526315-F, January 2016 – November 2024
Court and presiding judge and all counsel: Eighth Judicial District Department G, Hon. Rhonda Forsberg Alex Ghibaud, Esq. – Plaintiff’s Trial Counsel Jennifer Abrams, Esq. – Plaintiff’s Appellant Counsel Marshall Willick, Esq. – Plaintiff’s Appellant Counsel Melvin R. Grimes Esq. – Defendant’s attorney and trial counsel. Defendant’s Appellant Counsel
Importance of the case to you and the case’s impact on you: This case is rife with misconduct by the Plaintiff in Nevada and California. The Defendant (Dad) was in a car accident the morning of the Divorce trial and suffered a brain injury. Few thought he would survive. The California Court therefore granted Mom’s relocation and custody request. Dad has recovered and has returned to full function. This case was important to me because I have been defending a non-custodial parent from custodial gate keeping, and parental alienation. It is also rewarding to expose false allegations and misconduct during a case.
Your role in the case: Defendant’s attorney and trial counsel. Defendant’s Appellant Counsel

Case 4
Case name and date: In Re the Guardianship of: C.A.C., A.M.C., AND C.A.C, 86229
Court and presiding judge and all counsel: Nevada Supreme Court – en Banc. Lynn Hughes, Esq. – trial counsel for natural mother and co-counsel on appeal. Samantha B. Feeley, Esq. – trial and appellant counsel for guardians Melvin R. Grimes, Esq. – Lead Appellant Counsel.
Importance of the case to you and the case’s impact on you: The primary argument was that Guardianship was being used as a de facto termination of Parental Rights and was a violation of Constitutionally protected liberties. The Nevada Supreme Court declined to address the Constitutional argument in this case but did hold that a Court could not apply the new statute to guardianships that were created prior to 2017.
Your role in the case: Lead Appellant Counsel.

Case 5
Case name and date: Hunter v. Lopes D-13-483163-C, 2013 - 2016
Court and presiding judge and all counsel: Eighth Judicial District Department J, Hon. Rena Hughes
Importance of the case to you and the case’s impact on you:

This was my first case in family law. I was a new lawyer trying to adjust to the requirements of a new profession. The result was I had to study discovery rules, rules of evidence, and local rules regarding the litigation of family law matters. This case also saw it transfer from Judge Pollock to Judge Hughes in the middle of litigation, yet another learning experience.

This case simply taught me so much about my new profession that this case has remained very important to me.

Your role in the case:

Attorney and Trial Counsel for the Defendant.

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

No

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

From 2016 until 2017 I served as volunteer Defense Counsel for the Veteran's treatment court in Henderson Municipal Court. I worked with Judge Mark Stevens and a team of Prosecutors, other Defense Attorney, VA representatives and others to provide alternative court services for honorably discharged veterans of the US Military.

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

United States Court of Appeals for the Ninth Circuit. 2015-Present

United States Federal Court. 2013- Present

Nevada State Bar Association. 2013-Present

Clark County Bar Association. 2020 - Present

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

11/07/2024	Family Law Bench Bar Meeting-The adoption of ADKT 0619 and Informal Family Law Trials
09/26/2024	2024 Family Law Conference State Bar of Nevada
07/22/2024	Ethics and Best Practices for Family Law Attorneys in Preventing Firearms Violence
05/22/2024	Mental Health Support for Attorneys Through the ADA
05/03/2024	Legal Ethics Fun Facts
01/18/2024	Artificial Intelligence Comes with Real Responsibility: Keeping Safety First
10/24/2023	Representing Professional Athletes in Divorce and Paternity Suits
10/24/2023	Win the Talent Wars: Creating Cultures that Support Well-Being

08/17/2023	2023 Family Law Legislative Updates
03/02/2023	2023 Family Law Conference State Bar of Nevada
01/25/2023	The Weaponization of Technology and Social Media in Family Law Cases
11/30/2022	Office 365 Collaboration for Legal 30673
11/29/2022	Vulnerable or Disabled Veterans: A Primer of the VA Fiduciary Program
11/28/2022	The Future of ADR: Early Dispute Resolution - Making Resolution of Disputes Within the First 60 Days
11/11/2022	The Practice and Process of Law: Preparing for a Deposition
11/11/2022	Taking Tips to Improve Your Mental Health Clark
11/03/2022	Bench Bar -Eighth Judicial District Court, Family Division
10/24/2022	The Benefits of Licensing & Understanding and Mitigating the Risks
10/21/2022	Ethics From the Desk of Bar Counsel
08/18/2022	Bench Bar Eighth Judicial District Court, Family Division
12/28/2021	Navigating the Information Universe
12/28/2021	Lost in Tokenization: Legal Implications of Non-Fungible Tokens Fina
12/09/2021	The Ethics of Charging & Collecting Attorney Fees
12/08/2021	The Inherent Conflict Between Free Speech & Intellectual Property
12/08/2021	Technology, The Internet, & The Law
12/08/2021	Substance Abuse or Substantive Abuse
12/07/2021	FISA Primer: Rules for Foreign Intelligence Electronic Surveillance
12/07/2021	Privacy, Cybersecurity, & Intellectual Property
12/02/2020	Trial Techniques: Using Legal Videos
12/02/2020	Mediation 101: Alternative Dispute Resolution
07/14/2019	NADCP All Rise 19 National Association of Drug Court Professionals

24. Do you have Professional Liability Insurance or do you work for a governmental agency?
Yes, I have Professional Liability Insurance through the Roberts Stoffel Family Law Group.

Business & Occupational Experience

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

Yes – I was a school teacher and coach from 1992 until my retirement from the profession in 2013.

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

a. the nature of the business

Law Practice – The Grimes Law Office PLLC – Owner/Manager

b. the nature of your duties

day-to-day management of my law firm.

c. the extent of your involvement in the administration or management of the business

I did it all

d. the terms of your service

May 2013 through July 2021.

e. the percentage of your ownership

100%

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

I was the executor of the Estate for Melvin R. Grimes Sr. (2016)

Executor for the Estate of Roger W. Rhodes (2014)

Executor for the Estate of Roger J. Rhodes (2022)

Executor for the Estate of Susan A. Rhodes (2023)

Civic Professional & Community Involvement

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

No

29. Have you been a candidate for such an office?

No

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

None

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

None

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

None

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

US Navy – enlisted in 04/1985. Discharged in October 1988. Honorable Discharge due to service-connected disability. At the time of discharge, I held the rank of QM2 (e-5) and held the billet of Assistant Navigator and Leading Petty Officer on the USS Talbot FFG-4.

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

None

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

practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

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

None

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

Yes

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

Yes

37. List avocational interests and hobbies.

Golf

Travel

My Grandchildren

Conduct

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

Yes

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

No

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

Yes

Federal Bankruptcy Judge held that I failed to demonstrate competence in bankruptcy court following a hearing regarding violation of the Automatic Stay. See BK-21-15676-NMC. I filed a Motion for an Order to Show Cause in District Court following Opposing Parties' failure to facilitate the sale of the marital home in violation of the court's orders. This matter was reviewed before filing the motion and the position presented was that *In re Gruntz*, 177 F.3d 729 (9th Cir. 1999), permitted the District Court to enforce the Orders of the Court. On advise of Counsel I chose not to appeal the decision.

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

No

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

No

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

No

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

No

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

No

Other

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

none

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

See Attachment 1

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

I believe my background as an educator for twenty-one years gives me heightened insight into children, the conduct of children and the impact that divorce has on children. This background and insight is not likely held by any other candidate.

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

See Attachment -2 pages 12 – 22 of the Fast Track Statement I wrote for Roe v. Roe 84893-COA with the published decision issued July 27, 2023, 139 Nev. Adv. Op. 21.

Attachment 1

I believe that my experience in Family Law, Criminal Law, and in Abuse and Neglect are key to my qualification in being appointed to fill the seat in Department Y. Family Court is primarily about children and ensuring their best interests are addressed whether in divorce, criminal, or dependency actions. I also bring twenty-one years of experience in public education where I primarily worked with at-risk children.

Because I entered the legal profession later in life, I did not follow what is viewed as the traditional path to where I am today as a lawyer. I began by opening my own practice and learning from my mistakes and from many hours of research. I will note that if I could turn back time, I would have followed a more traditional path and worked for more experienced lawyers for a period of time. My choice and lack of experienced led to taking cases no one else wanted: 1) the divorces where one party lacked funds and as the attorney you took a risk of getting paid by order of the court; 2) abuse and neglect cases; and 3) those referred from the NV Bar on a reduced fee. This work means that I bring experience of every type of case needed in Family Court, so no matter which track the Department is assigned I have the background.

I have also had the opportunity to take on appeals before the Nevada Court of Appeals and the Nevada Supreme Court. While I have been blessed with the opportunity to argue issues of first impression and issues involving Constitutional Liberty, most appellate work is focused on errors committed by the district courts. In Family Court these district court errors create greater problems for families by emboldening one Party while they wait for a decision from the appellate court. My recognition of the importance of knowing and properly applying the statutes and the rules pursuant to proper rules of construction and interpretation is vital for any Judge to possess.

My time in education was not simply as a classroom teacher. I was a football and wrestling coach. I was a building administrator. I was an athletic director. I was department head. I have been in leadership and positions of authority previously. I attended Nova Southeastern University where I obtained an Education Specialist Degree in Education Leadership where my focus was on education development. I bring an insight into children and adolescents, few if any of the other candidates bring to the table. When parents triangulate the child during a divorce or custody action, I have the ability to show and explain to the parents the harm they are inflicting on the children even to the point of referencing the research papers on the issue so parents don't feel attacked, rather they feel empowered to assist the children.

Family Court in Clark County has had many people express outrage and shock at treatment of litigants in Family Court proceedings. Often this is due to a failure to maintain judicial temperament and a judicial presence. It is frustrating when a Judge loses patience and raises their voice or leaves the courtroom. I bring a personality that is not easily frustrated or upset. I also bring a presence to the courtroom that suggests confidence and knowledge while not being afraid to admit mistakes. I also bring the ability to talk to unrepresented litigants about the process and the expectations without simply saying you are going to be held to the same rules as a lawyer; unrepresented litigants do not know what those words mean and are left feeling powerless.

The decision to apply for this position was not an easy decision. Family Court is backlogged. If attorneys with the background and experience needed to be a Judge refuse to take on the responsibility, then we as profession fail the public. I have the support of my family and many members of the Family Section and the Family Court Judiciary. I therefore put my name forward and ask that you consider my application for Department Y.

Attachment 2

- B. Whether the court abused its discretion in finding a change in circumstances since the last custodial order.
- C. Whether the court demonstrated actual bias toward the Appellant and failed to recuse herself.
- D. Whether the court abused its discretion in issuing biases and prejudicial interlocutory orders.
- E. Whether the court's Order after hearing is an abuse of discretion and violates the Appellant's Constitutional Rights.
- F. Whether the court's award of Attorney's Fees was an abuse of discretion.

17. Legal argument, including authorities:

- A. The Court cannot consider child testimony not subject to cross examination.**

[D]ue process of law [is] guaranteed by the Fourteenth Amendment of the United States Constitution and Article 1, Section 8(5)... of the Nevada Constitution." *Rico v. Rodriguez*, 121 Nev. 695, 702–03, 120 P.3d 812, 817 (2005). Due process protects certain substantial and fundamental rights, including the interest parents have in the custody of their children. *Id.* at 704, 120 P.3d at 818. Further, due process demands notice before such a right is affected. *Wiese v. Granata*, 110 Nev. 1410, 1412, 887 P.2d 744, 745 (1994). Accordingly, a "party

threatened with loss of parental rights must be given opportunity to disprove evidence presented." *Wallace v. Wallace*, 112 Nev. 1015, 1020, 922 P.2d 541, 544 (1996) (citing *Wiese*, 110 Nev. at 1413, 887 P.2d at 746).

Nevada adopted the Uniform Child Witness Testimony by Alternative Means Act. *Gordon v. Geiger*, 402 P.3d 671, 675 (Nev. 2017). Child interviews must be recorded and must abide by the Act." *Id.*

The Act also sets forth constitutional safeguards. In conducting the alternative method of obtaining child witness testimony, the district court must afford each party with a full and fair opportunity to examine or cross-examine the child witness. *Gordon* at 676 citing NRS 50.610.

Here the court permitted the Guardian ad Litem (GAL) to interview the child. The court did not mandate the interviews to be recorded. The court further permitted the GAL to testify to the child's wishes and comments without the opportunity to cross-examine or further demonstrate that outside forces influenced the child as to his wishes.

This Court must find that the court abused its discretion in permitting hearsay testimony of the child without compliance with the Act. The Court must there direct the court below to ignore the comments from the GAL and all other sources about the relationship of the child and Appellant and remand this matter back for a new hearing.

B. The District Court Abused its Discretion in Finding a Change of Circumstance that was never pled but was asserted by the district court.

While review for abuse of discretion is ordinarily deferential, deference is not owed to legal error. *AA Primo Builders, LLC v. Washington*, 245 P.3d 1190, 16 (Nev. 2010).

The Court has held that a court may modify a joint or primary physical custody arrangement only when "(1) there has been a substantial change in circumstances affecting the welfare of the child, and (2) the child's best interest is served by the modification. *Romano v. Romano*, 138 Nev. Adv. Op. 1, 6 (Nev. 2022). The moving party in a custody proceeding must show that circumstances . . . have substantially changed since the most recent custodial order...[e]vents that took place before that proceeding [are] inadmissible to establish a change of circumstances. *McMonigle v. McMonigle*, 110 Nev. 1407, 1408 (Nev. 1995).

Respondent's pleadings asserted strange behavior and mental health issues, including an outburst at Green Valley Christian School. (ROA000074-000075 and ROA001791). Respondent's Pre-trial Memorandum also asserts the same conduct and concerns for the basis of a change of custody. (ROA000591-000592). The testimony, as outlined above, asserted Appellants mental health and strange outbursts. Further the testimony regarding specific events all related to events prior

to 2017 or events which occurred after the Countermotion to Modify was filed. (ROA000698-000704).

The change in behavior of the minor child was shown through reports and testimony to be likely due pathogenic parenting undertaken by the Respondent. (ROA001670-001671). Ms. Zelenski testified that parental alienation exists in this case. (ROA001673 and ROA001677-001678). Further, Ms. Zelenski testified that this conduct constituted abuse. *Id.* The district court created its own change in circumstances by deciding the “deteriorating relationship” was a changed circumstance. (ROA001636). This was never pled by the Respondent and only argued after the district court handed that finding from the bench.

The court blamed Appellant for the child being arrested and charged and ultimately convicted of domestic battery. The court blamed Appellant for the second arrest despite the Respondent being the person that called the police. The court blamed the Appellant for the child running away from mom, despite testimony the child was in the bathroom, on the phone with Respondent.

The Respondent was shown by substantial evidence to have lied to the court. Respondent asserted he was swarmed by police, video showed this to be untrue. Respondent testified that Appellant became extremely loud and emotional at the Juvenile Justice Center, the video showed this to be false. The video actually showed the person acting improperly was Respondent.

This Court should be further concerned that the district court held against Appellant the fact she paid for an attorney and had her mother provide money to present a court appointed expert.

The Court, in reviewing the pleadings and the testimony can see, Respondent failed to present substantial evidence of a change in circumstances since the last custodial order.

C. The court was so demonstratively biased, the court should have recused herself.

A motion to disqualify may be brought under *NRS* § 1.235 based on *NRS* § 1.230 and/or pursuant to the Nevada Code of Judicial Conduct. *See Towbin Dodge, LLC v. Eighth Judicial District Court*, 121 Nev. 251, 257, 112 P.3d 1063, 1067 (2005) (citing *PETA v. Bobby Berosini, Ltd.*, 111 Nev. 431, 435, 894 P.2d 337, 340 (1995)).

NRS § 1.230(1) provides that “[a] judge shall not act as such in an action or proceeding when the judge entertains actual bias or prejudice for or against one of the parties to the action” and *NRS* § 1.230(3) states, “[a] judge, upon the judge’s own motion, may disqualify himself or herself from acting in any matter upon the ground of actual or implied bias.”

Here, the district court failed to act in an impartial manner, has shown bias, and has failed to avoid impropriety and/or the appearance of impropriety. The

district court's comments and Orders have shown that she blames Appellant for the Minor Child's violent behavior and for the rift between mother and child. The district court has ignored police reports stating that the minor child was the primary aggressor in the altercations that occurred at Appellant's house and despite the child's therapist, MILLER, stating that the child would benefit from a joint physical custody arrangement and despite ZELENSKY's report stating that Respondent has actively engaged in parental alienation, the district court consistently ruled against Appellant in ways that limit Appellant's time with and access to the minor child. Further, the district court's rulings frequently go against the advice of mental health professionals regarding the best interests of the minor child.

The district court, through her comments and Orders, demonstrated actual bias against Appellant and has showed that she was not capable of being impartial in this matter. This is reinforced by the court's ignoring reports of parental alienation, coaching, and the demonstrated lack of candor by Respondent.

The court's actions of interrogation of the Appellant far beyond court's voir dire but extending to a seventy four minute interrogation and rebuke. (ROA001231-001304). The court's comments that made it clear the outcome was a foregone conclusion. (ROA1306). The court's ability to listen to three days of testimony and immediately reach into a folder and read her decision into the record

illustrate the court had predetermined the outcome of this case. (ROA001791-001816).

The Appellant did not receive an unbiased and fair trial. The court determined the outcome before the calendar call and her comments, as outlined above, make that clear.

The court has a duty to hear all of the evidence and render a decision only on the evidence admitted and testimony heard at the time of trial. Here, the court considered extraneous knowledge not admitted and even spoke to this information during the trial.

This court must find that Appellant did not receive a fair and unbiased trial. The matter should be reversed and remanded for a new evidentiary hearing before a different Judge randomly assigned.

D. The court's Interlocutory Orders were improper and created most of the issues creating the trial

Interlocutory appeals are generally disfavored. *Yonker Constr. v. Hulme*, 126 Nev. Adv. Op. No. 54, 55406 (2010), 248 P.3d 313, 3 (Nev. 2010). This Court is aware that Writs regarding interlocutory orders are generally denied pending an evidentiary hearing. See NRS 34.170; NRS 34.330; *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007).

Nev. Rev. Stat. § 125C.0025(2) provides, “For assistance in determining whether an award of joint physical custody is appropriate, the court may direct that an investigation be conducted.”

This Court reviews child custody decision for an abuse of discretion, but "the district court must have reached its conclusions for the appropriate reasons." *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241-42 (2007).

Here the court temporarily modified custody based on the arrest of the child and the assertion by the Respondent regarding misconduct. The court ordered reunification therapy which goes beyond the court’s authority. The court is limited by the statute, which permits an investigation completed to “assist” in determining the appropriate custody arrangement. The court ignored the brief focused assessment and ordered therapy which goes beyond the statutory authority of the court.

This Court has previously asserted that mental health assessment being ordered pursuant to EDCR 5.305 is appropriate. *Wagner v. Marino*, No. 73611, at *5 (Nev. App. June 28, 2018). However, that is not what was ordered here.

The district court changed custody, which rewarded the parental alienation that was found. This order also entrenched a child dealing with RRD. Further, the Order created greater distance between the child and parent. This order was done

without an evidentiary hearing and in polar contrast the findings of the prior court over an eight year period.

This court must also address that these Orders happen daily in family court. Here, Appellant suddenly lost her child, was ordered to pay for counseling, was ordered to pay child support, was ordered to pay for reunification and was required to pay for an evidentiary hearing. These types of interlocutory orders have financial impact on Parties far beyond this case. These Orders bankrupt parties and place them in a position where they cannot afford to fight for their children or their rights.

Here, the district court made repeated comments throughout the proceedings that indicated she should have not paid for her attorney, she should not have paid a witness, she should not have maintained her employment.

There is no statutory authority for the court to order the reunification therapy in this case. The parties shared joint physical custody until the court cut off all communication, creating the need for reunification. This Court must stop this conduct of the district courts and direct that interlocutory orders remain within the confines of the statutory language.

E. The Court's Order so Limits contact between Parent and Child it Violates the Appellant's Constitutional Rights.

The US Supreme Court held in *Meyer v. Nebraska*, 262 U.S. 390, 399, 401 (1923), that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own." Two years later, in *Pierce v. Society of Sisters*, 268 U.S. 510, 534-535 (1925), The US Supreme Court held that the "liberty of parents and guardians" includes the right "to direct the upbringing and education of children under their control." The US Supreme Court explained in *Pierce* that "[t]he child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." *Id.*, at 535. The US Supreme Court returned to the subject in *Prince v. Massachusetts*, 321 U.S. 158 (1944), and again confirmed that there is a constitutional dimension to the right of parents to direct the upbringing of their children. "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Id.*, at 166.

Here, there is not a single substantiated abuse and neglect claim reported to CPS. The district court made no findings of abuse or neglect. The court merely found that the relationship had deteriorated.

The court's order has removed all parental contact between parent and child. Appellant has no ability to interact with the child.

Meanwhile, the parent who is committing Abuse is permitted unlimited access and to continue to impede and undermine the parent child relationship.

The court's order violates the Constitutional Rights of the parent. This Court must intervene and stop this conduct by district courts. When courts are going to interfere with the parent child relationship and restrict in the manner described here, there should be a referral to Abuse and Neglect pursuant to NRS 432B. The parents are then protected by due process and still have the ability to maintain a relationship and contact with the child.

F. The court's Order for Attorney's fees was an abuse of discretion.

The district court's decision to award attorney fees is within its discretion and "will not be disturbed on appeal absent a manifest abuse of discretion." *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1353-54, 971 P.2d 383, 386 (1998).

Here the court was so manifestly biased against the Appellant that the outcome was predetermined. The Appellant brought her claims and defenses in good faith and in an attempt to protect the child. The court should not have awarded fees to Respondent.