

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF KINGS - CRIMINAL - Part IDV2

3 A [REDACTED] R [REDACTED],

4 Petitioner,

5 - against -

6 N [REDACTED] N [REDACTED],

7 Respondent

8 V-00095-23

9 320 Jay Street  
10 Brooklyn, New York  
June 15, 2023

11 B E F O R E:

12 HONORABLE ESTHER M. MORGENSTERN,  
13 Supreme Court Justice

14 A-P-P-E-A-R-A-N-C-E-S:

15 MICHAEL FICCHI, ESQ.  
Attorney for Petitioner

16 LAW OFFICES OF NICOLE DIGIACOMO PLLC  
BY: NICOLE DIGIACOMO, ESQ.

17 - and -

18 SAMUEL MANRIQUE, ESQ., of counsel  
Attorneys for Respondent

19 CHILDRENS LAW CENTER  
26 Court Street  
Brooklyn, New York  
20 BY: BRAD NACHT, ESQ.  
Attorneys for the children

22 Barry Eskenazi - Senior Court Reporter  
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- Proceedings -

1 THE CLERK: From the Family Court calendar  
2 numbers 22 through 27, N [REDACTED] and R [REDACTED].

3 THE REPORTER: Appearances.

4 MR. FICCHI: Michael Ficchi, F-I-C-C-H-I,  
5 for Miss R [REDACTED].

6 MS. DIGIACOMO: Nicole DiGiacomo, Law Offices  
7 of Nicole DiGiacomo, PLLC, attorney for the respondent,  
8 Mr. N [REDACTED], along with Samuel Manrique, of counsel.

9 MR. NACHT: Brad Nacht, N-A-C-H-T, 26 Court  
10 Street, Brooklyn, for the children.

11 Good afternoon.

12 THE COURT: Good afternoon. Swear in the  
13 parties, please.

14 THE CLERK: Parties please raise your right  
15 hands. Do you swear or affirm to tell the truth in all  
16 matters before this Court?

17 MS. R [REDACTED]: I do.

18 MR. N [REDACTED]: I do.

19 THE CLERK: Ma'am, your name for the record,  
20 please.

21 MS. R [REDACTED]: A [REDACTED].

22 THE CLERK: And, sir.

23 MR. N [REDACTED]: N [REDACTED] N [REDACTED].

24 THE REPORTER: I'm sorry, your name again.

25 MR. N [REDACTED]: N [REDACTED] N [REDACTED], [REDACTED]

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THE CLERK: Thank you.

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THE COURT: All right. Counsel, I don't know if you heard, Mr. Nacht, from the audience, but the People dismissed the case against the Petitioner mother, finding that the records, the phone records showed that the father owned the phone and texted himself. All right.

9

Have you spoken to your clients since May 6th?

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MR. NACHT: Yes. So they resumed the virtual visits that were ordered, they're several times a week, and they seem to be going fairly well.

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My clients tell me that -- they're a bit too much in frequency, as far as therapy, however, they're willing to start seeing their father in person, have not seen him in person since --

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MS. DIGIACOMO: Late December.

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MR. NACHT: Right.

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THE COURT: And who is supervising those visits, Counsel?

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MR. NACHT: I don't know. I met counsel the other day, after I met with them, that he will be consenting to in-person visits. I don't know the logistics of how that would be arranged for. I don't know there's consent to that.

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1 THE COURT: Mr. Ficchi, is there anybody  
2 available from the family to supervise?

3 MR. FICCHI: I don't think anybody in my  
4 client's family who has to actually be near him can be  
5 the supervisor, Judge.

6 THE COURT: Is there a friend, anybody that  
7 would do it?

8 MR. FICCHI: (Shaking head negatively.)

9 This is a situation where there is a certain  
10 level of fear involved, so I don't think anybody would  
11 want to participate in that, and certainly my client is  
12 not at this point in time ready to consent to having  
13 Mr. N [REDACTED] see their children in person.

14 There have been some concerns, as the Court  
15 knows, with the allegations that my client may have  
16 gotten some videos to show, at least to highlight to the  
17 Court why my client does not want that to occur as of yet.

18 THE COURT: To provide visits?

19 MR. FICCHI: Any in-person visits, period.

20 THE COURT: Have you spoken to Mr. Nacht about  
21 that?

22 MR. FICCHI: Only very briefly this morning. I  
23 did inform him my client was not consenting to  
24 that and I would object to it.

25 THE COURT: What is the nature of those

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1 videos?

2 MR. FICCHI: So one in particular is a video  
3 from their home security system in Florida, which was  
4 right before the incident occurred, in December I believe,  
5 where my client and Mr. N [REDACTED] were with their son, and  
6 quite clearly on the video Mr. N [REDACTED] was smoking and  
7 sitting on a chair, and he told my client that if they  
8 ever left him he would kill all of them.

9 So that is where my concern stems on the  
10 in-person visits, Judge. I would be happy to provide the  
11 videos I have to counsel, and to Mr. Nacht as well, just  
12 so they have a complete record of it.

13 THE COURT: I am looking at Mr. N [REDACTED]'s cases,  
14 the threats, that if you leave me I'll kill you or myself,  
15 is very high on the list for concern for the kids.

16 MR. FICCHI: So that's the basis for my  
17 objection.

18 MR. MANRIQUE: We also have a text message from  
19 Miss R [REDACTED] to my my client, that she would rather throw  
20 the children off a bridge, if you're talking about  
21 threats of that nature.

22 THE COURT: You're saying that in a  
23 video --

24 MR. MANRIQUE: She sent a text message to my  
25 client saying she would rather throw the children, I'll

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1 get it, in sum and substance that she would rather throw  
2 the children off of a bridge and kill them rather than  
3 let them be with the father.

4 MR. FICCHI: This is from a phone that the  
5 District Attorney's office found was owned by Miss  
6 R [REDACTED]

7 MR. MANRIQUE: My client has his parents and  
8 pretty much all of his family here in New York. They  
9 could be the perfect supervisors.

10 THE COURT: Mr. Ficchi, any  
11 relationship with the paternal family?

12 MR. FICCHI: No.

13 THE COURT: All right. So we would have to do  
14 supervised visits by CFS, father to pay, and set that  
15 up, stay away from the mother. Fact finding on the  
16 the O docket.

17 MS. DIGIACOMO: We had had a discussion with  
18 our client about that.

19 THE COURT: 8-7.

20 MR. FICCHI: I'm not going to be here on the  
21 7th.

22 THE COURT: TOP to the mother continues. On  
23 September 14th, we'll get the report from CFS by then.

24 MS. DIGIACOMO: Judge, again I'm going to ask  
25 that due to Father's Day this weekend, can he have a

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1 visit while he is up here from Florida with his parents  
2 supervising for Father's Day?

3 THE COURT: We can do a virtual visit on  
4 Father's Day. 9-18.

5 MS. DIGIACOMO: Judge, if we can just approach  
6 about a jurisdictional concern.

7 THE COURT: I would like it on the record.  
8 What's your concern. I have spoken to the Judge in  
9 Florida and explained that the mother came to this  
10 jurisdiction, and pursuant to the UCCJEA this Court has  
11 jurisdiction. What do you want to add?

12 MS. DIGIACOMO: I want to add that according to  
13 I believe both Miss R [REDACTED] and Mr. N [REDACTED]'s attorney in  
14 Florida, there is going to be a hearing in Florida on June  
15 the 27th about the children being returned to Florida.

16 THE COURT: She is not going back to Florida  
17 and neither are the children, not on my watch. Thank you.  
18 Next case.

19 (Whereupon, proceedings were concluded.)  
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21  
22 I, Barry Eskenazi, Senior Court Reporter, do  
23 hereby certify that the foregoing is a true and correct  
24 transcript.

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Barry Eskenazi  
Senior Court Reporter

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