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1 THE COURT: We are on the record in case
2 number 14-G-009. This is In Re the Guardianship of
3 Samantha Brewer. And let me just for the record have
4 everybody in court identify themselves, starting over
5 here.

6 MS. DENTON: Yes, Your Honor. Sandra
7 Denton, attorney appointed to represent Eric Brewer,
8 the father who's present with me in court.

9 MS. SMITH: Jessica Smith, program manager
10 for ICW.

11 MS. ACKER: Sarah Acker, counsel for ICW.

12 MR. SIEWELL: Paul Siewell, I'm the
13 spokesperson for the petitioner, Tony Foster and
14 Narcissus.

15 MS. NEAL: Anita Neal, attorney for the
16 mother.

17 MS. AVELEDO: Asrid Aveledo, guardian ad
18 litem.

19 MS. WILLIAMS: Angel Williams, ICW
20 caseworker.

21 THE COURT: Let the record reflect that this
22 was scheduled for an 11:00 a.m. guardianship hearing.

23 What time is it now? Somebody help me --

24 MS. ACKER: 10:20 -- I mean 11:20.

25 THE COURT: It is now 11:20, and the mother

1 has not appeared.

2 Okay. So everyone ready to proceed?

3 MS. DENTON: Yes, Your Honor, the father has
4 a brief motion that I would like to address the court
5 with.

6 THE COURT: Okay.

7 MS. DENTON: Your Honor, immediately prior
8 to this hearing we held a hearing in the interest of
9 the subject of this guardianship petition in a minor
10 case. And in that case, Your Honor, you ruled that
11 the permanency plan should be guardianship.

12 In light of that ruling, Your Honor, the
13 father respectfully requests that you recuse yourself
14 in this matter and that we get a new judge to hear the
15 guardianship petition.

16 THE COURT: Ms. Acker.

17 MS. ACKER: Your Honor, the Tribe would be
18 opposed to that. The code is clear that, you know,
19 the judge is allowed to consider the dependency matter
20 and the record in the dependency matter determining
21 that there is still a burden that the petitioners and
22 the Tribe would need to show in order for the
23 guardianship to be granted. So we feel that Your
24 Honor can, you know, independently and fairly weigh
25 the evidence that's presented in this hearing today,

1 along with being allowed to consider, per the code,
2 what happened in the dependency case. We don't feel
3 that there would be the need for a new judge in this
4 matter.

5 MR. SIEWELL: Your Honor, petitioners -- in
6 fact I would just to follow up on the Tribe's
7 response.

8 The code actually contemplates -- it more
9 than contemplates. It requires that certain findings
10 of the ICW action, the dependency action, are brought
11 into the guardianship.

12 You know, whether reasonable efforts are
13 made. Whether the child is placed out of the home,
14 elements of the guardianship that carry over.

15 It would seem incongruous to me to say that
16 you -- you have to have a dependency hearing -- or you
17 have a dependency hearing, not have to, but
18 potentially have a dependency hearing, you have to
19 make these findings, and the judge who hears that case
20 can't -- must recuse himself from -- from the
21 guardianship.

22 THE COURT: Okay. Well, today was not the
23 first time that I indicated that guardianship was
24 the -- the -- the court's intended permanency plan
25 with this case. I have said it previously in court

1 orders. And so the time for you to have brought that,
2 you know, you had plenty of time to bring that issue.
3 And so I'm not going to recuse myself today, because I
4 feel like it's going to delay this -- this process.

5 Had you brought it previously, I believe
6 that I can be fair and impartial in this case. But
7 had you brought it previously, I -- I likely would
8 have considered it, more so than I am today. But not
9 because I don't believe I can't be impartial, simply
10 because this case has been going on so long that I
11 really think it needs permanency, this child needs
12 permanency, and, you know, some decisions need to be
13 made. And whether that is entering this guardianship
14 or not entering it, at least we get somewhere.

15 So I am going to -- and it's my
16 understanding that there's some stipulations.

17 MR. SIEWELL: Yes, Your Honor.

18 THE COURT: Go ahead, Mr. Siewell.

19 MR. SIEWELL: Your Honor, one of my
20 witnesses, actually, teacher Lori Morris has submitted
21 a letter and a copy of a report card rather than
22 appearing. She was having difficulty getting her
23 employer to free her to attend court.

24 I'll pass it around and ask if we can agree
25 to let it come in and be admitted as evidence.

1 We enter into the agreement that the father
2 would like to admit some documents as well. I think
3 we're down to just one of those documents, correct,
4 being admitted.

5 And you agreed -- petitioners agreed to
6 strike the reference to sexual misconduct from the
7 petition. It's not our position that we have the
8 information to prove it or it is necessary to prove.
9 And we've agreed to strike it.

10 So I believe the report that's coming in is
11 Michael Ulry's parental assessment.

12 MS. ACKER: That's correct, Your Honor. The
13 June 14th, 2013, assessment of Mr. Brewer, ICW would
14 stipulate to that coming in, along with stipulating to
15 the letter of the teacher coming in.

16 THE COURT: Okay.

17 MR. SIEWELL: What's that?

18 MS. ACKER: Do you have this?

19 MR. SIEWELL: Yes. I think this is the
20 complete --

21 [Multiple speakers talking.]

22 MR. SIEWELL: We need to have it marked as
23 evidence, probably.

24 [Marking of exhibits.]

25 MS. ACKER: Your Honor, the references in

1 the petition that were stipulated to be stricken on
2 page 2, lines 29 through 31.

3 THE COURT: That was in the petition, you
4 said?

5 MS. ACKER: Yes, Your Honor.

6 THE COURT: Okay. So ordered.

7 MS. ACKER: So at some point, just after --
8 will you [indecipherable -- crosstalk].

9 THE COURT: Okay. So, now everyone ready to
10 proceed?

11 MS. ACKER: Yes, Your Honor.

12 THE COURT: So -- Mr. Siewell who's your
13 first --

14 MR. SIEWELL: Your Honor, with your
15 permission, I would like to allow the Tribe --

16
17 [Indecipherable section -
18 microphone disruption.]

19 THE COURT: So anybody who's going to be a
20 witness needs to step out, please.

21 MR. SIEWELL: Your Honor, I believe both of
22 the parties are called as witnesses, or both
23 petitioners. Do you want them to leave as well?

24 THE COURT: No.

25 [Discussion.]

1 THE COURT: Is she going to be testifying as
2 a witness?

3 MS. ACKER: She is going to be testifying as
4 a witness.

5 THE COURT: Okay.

6 MS. ACKER: ICW first will call Jessica
7 Smith.

8 THE COURT: Please raise your right hand.
9 Do you promise to tell the truth, the whole truth and
10 nothing but the truth, under penalties of the laws of
11 the Quileute Tribe?

12 THE WITNESS: Yes.

13 THE COURT: Okay. Please be seated.

14 * * * * *

15 JESSICA SMITH, having been first duly sworn, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. ACKER:

19 Q. Would you please state your name for the record?

20 A. Jessica Smith.

21 Q. And Ms. Smith, where do you work?

22 A. I'm the ICW Program Manager for the Quileute Tribe.

23 Q. And how long have you held that position?

24 A. Since May 20th, 2013.

25 Q. Okay. Are you the caseworker managing the dependency

1 matter as to child, Samantha Brewer, date of birth
2 11/17/08?

3 A. Yes.

4 Q. Okay. And how long have you been the case manager on
5 this case?

6 A. Since about June is when I started working on it, in
7 2013.

8 Q. Okay. And is it fair to say you're familiar with the
9 case and the case history as well as your work on it?

10 A. Yeah.

11 Q. Okay. How -- how long has Samantha Brewer been
12 subject to a dependency action?

13 A. The reports and filings say June of 2009.

14 Q. Okay. And how long has Samantha Brewer been out of --
15 in out-of-home placement?

16 A. She's been in out-of-home placement with the Fosters
17 since June of 2009.

18 Q. Okay. Was she in any other, to your knowledge,
19 out-of-home placement prior to that?

20 A. I have reports that she was with a family relative
21 from, I believe, March, if I remember correctly.

22 Q. Since coming into the care of the Fosters, has she
23 ever been in any other placement?

24 A. No.

25 Q. Okay. And could you repeat quickly, what was the date

1 that she would have been placed with the Fosters?

2 A. June of 2009.

3 Q. Okay. Have you had any -- are you familiar with the
4 children's parents -- with the child's parents in this
5 case?

6 A. Yes.

7 Q. Okay. Who's the child's biological mother?

8 A. Shannon Brewer.

9 Q. Okay. Does she go by any other name? Any other last
10 name?

11 A. McNutt [phonetic] as a last name.

12 Q. Okay. Are you familiar with the child's biological
13 father?

14 A. Yes.

15 Q. And what is his name?

16 A. Eric Brewer.

17 Q. Okay. Do you see Mr. Brewer in the court today?

18 A. Yes.

19 Q. And if you just briefly, for the record, identify
20 Mr. Brewer by where he's seated?

21 A. He's seated over on my right-hand side.

22 MS. ACKER: Just let the record reflect
23 she's identified Mr. Brewer as the child's biological
24 father.

25 BY MS. ACKER:

1 Q. Okay. And is this the individual that you have had
2 contact with in regards to Samantha in regards to any
3 services, any visits, anything like that?

4 A. Yes.

5 Q. Okay. Do you see the child's biological mother in the
6 courtroom today?

7 A. No.

8 Q. When was the last time you had contact with the
9 child's biological mother?

10 A. I had contact with Ms. Brewer in, I believe, October,
11 was the last time I had talked to her.

12 Q. Okay. In regards to this case, what was the status of
13 the parents' service plan when you began working on
14 this case?

15 A. When I began working in the case, mom had quite a bit
16 to do, drug and alcohol assessment, parenting
17 assessment, random UAs, supervised visits, mental
18 health.

19 And as per dad, he just had, I believe, UAs,
20 finish the parenting assessment. And I believe when I
21 got on that was about it that he had to complete.

22 Q. Okay. At the time that you came on to this case, did
23 either parent have visitation with either child?

24 A. No.

25 Q. Okay. Do you know -- how long had it been when you

1 came on to this case when the last time either parent
2 had had visitation with either -- with --

3 A. 2011 that I found a date stamp of August 2011 making
4 it a permanent restraining order. So I didn't -- I
5 couldn't find anything after that with regards to
6 visits.

7 Q. Is that in regards to both parents?

8 A. No, just Mr. Brewer.

9 Q. Okay. So to your knowledge there hasn't been a visit
10 between Mr. Brewer and Samantha since the date of the
11 restraining order?

12 A. None that I can find in the records.

13 Q. Okay. In regards to the mother -- I won't refer to
14 her as Ms. McNutt for purposes of this -- in regards
15 to the mother, Ms. "McNutt," at the time you came onto
16 the case, did you -- were you able to determine
17 approximately when her last visitation with the minor
18 child would have been?

19 A. No, I -- I -- to -- I couldn't in my records. Her
20 visitations were sporadic and very short. I just
21 couldn't find -- seem to find anything that concrete
22 enough for her.

23 Q. Do you have anything to suggest that she had any
24 visits in between the time the protection order was
25 issued for Mr. Brewer and the time you began working

1 on the case?

2 A. No.

3 Q. So neither child had -- Ms. Brewer did not have
4 visitation with either parent when you came on working
5 with this case?

6 A. No.

7 Q. Did visitation with either parent become established
8 subsequent to your beginning to work on this case?

9 A. Yes.

10 Q. Okay. Who was visitation established with first
11 between Samantha and which parent?

12 A. Eric.

13 Q. Okay. And do you recall the date that that visitation
14 was reestablished?

15 A. I believe the first initial supervised visit was in
16 August 30th of 2013.

17 Q. Okay. As to the mother, was visitation ever
18 reestablished with Samantha, subsequent to your coming
19 onto the case?

20 A. We've tried. She had a physical supervised visit in
21 December of 2013.

22 Q. Okay. Have there been any visits subsequent with the
23 mother since December of 2013?

24 A. She's had one other. And I believe it might have been
25 early part of 2014.

1 Q. Anything subsequent to that?

2 A. No.

3 Q. Okay. As to the father, since the first visit on
4 August 30th of 2014, has there been visitation since
5 that day?

6 A. Yes.

7 Q. Is visitation continuing at this point?

8 A. Yes.

9 Q. Okay. What has been the frequency of visitation?

10 A. Visitations are usually every other week at some point
11 or another, of either supervised visits or therapeutic
12 visits.

13 Q. Okay. Getting back to Ms. McNutt, and you stated the
14 case plans that were in place when you came onto the
15 case, were those adjusted at any point in time per
16 court order?

17 A. No. She was allowed to have supervised visits as long
18 as her UAs came back with only -- marijuana only. And
19 then she would have six -- six weeks to get rid of
20 that as well. And then she could have -- continue to
21 have her visits.

22 Q. But the service plan, in terms of services she was to
23 engage in, was that -- did that remain relatively the
24 same?

25 A. Yes.

1 Q. Did you try to connect the mother with the services
2 that were being court ordered?

3 A. Yes. I sent her to two different drug and alcohol
4 assessments. The first one she fell through on, so I
5 sent her again to another agency. She seemed to work
6 with them a little bit better, up until about October
7 is when neither one of us were hearing anything from
8 her.

9 Q. Okay. Is she currently in compliance with her
10 court-ordered services?

11 A. No.

12 Q. Okay. As to the father, Mr. Brewer, what court-
13 ordered services were in place when you began working
14 on this case?

15 A. When I began working on this case, he was court
16 ordered to do random UAs. I believe he had a color
17 that he would have to call into Sterling Labs and go
18 when he -- his color came up.

19 Q. Okay. In regards to the UAs, were there any issues
20 with that requirement?

21 A. No.

22 Q. Okay. Is that still a requirement he's under?

23 A. No. He's completed that, as of I believe -- I think
24 in December, early January of 2014 he completed those.

25 Q. Okay. So what is the father's current service plan?

1 A. Current service plan is visitations. Now it's been
2 updated to two times -- two times for supervised
3 visits a month and two times a month for therapeutic
4 visits.

5 Q. Okay. Was therapeutic visitation ordered at any point
6 in time since you've been on the case?

7 A. Not that I'm aware of, no. I could not find it in the
8 records since I've been here.

9 Q. Therapeutic visitation between Samantha and Eric, has
10 that been part of the service plan since you've been
11 on the case?

12 A. Oh, yes. Sorry.

13 Q. And who has been the service provider for that?

14 A. Rachel Hardies at New Growth Behavioral Health.

15 Q. Okay. And do you do the scheduling for those
16 sessions?

17 A. I call and let them know what days we could possibly
18 do, and then they let me know if that works or not.
19 And then I give the dates and times to the parties.

20 Q. Okay. And have either the child or Mr. Brewer missed
21 either therapeutic sessions or visitation sessions for
22 any prolonged period of time?

23 A. Yes.

24 Q. Okay. And what would that -- [indecipherable]?

25 A. Some of the no-shows or cancellations were due to

1 sickness or weather, and some of them were due to
2 Mr. Brewer's mother was ill, and he had to go back to
3 Oklahoma to take care of her. And then make
4 arrangements when she passed away.

5 Q. Okay. Is Mr. Brewer currently in compliance with
6 attending visits and therapeutic sessions?

7 A. Yes.

8 Q. Okay. Are there any other services that are yet to be
9 offered to Mr. Brewer that the department feels need
10 to be offered to him?

11 A. Not that I'm aware of, no.

12 Q. Okay. Does the department take a position as to the
13 permanency plans for this minor child?

14 A. The department is supporting guardianship.

15 Q. Okay. And what is the basis for that support?

16 A. That she's been in the same home since 2009, and we
17 are now in 2015.

18 Q. In terms of changing a permanency plan from
19 reunification to guardianship, do you feel that the
20 department has done what it could in terms of working
21 towards reunification?

22 A. Yes.

23 Q. Do you feel that you have confidently provided
24 services to both parents in this matter?

25 A. Yes.

1 MS. ACKER: Nothing further from the
2 department.

3 MS. DENTON: Mr. Siewell, and then I'll
4 cross.

5 THE COURT: Okay.

6 CROSS-EXAMINATION

7 BY MR. SIEWELL:

8 Q. Good morning, for a few more minutes, Ms. Smith. I
9 have just a couple of questions.

10 You indicated that there are two visits a month,
11 two therapeutic visits. How is it determined how many
12 visits there should be in a month?

13 A. We had -- in our review hearing is when we -- that's
14 established, is what the judges like to see happen.

15 We were currently doing, I believe, every other
16 week some sort of -- either a visit -- visitation or
17 therapeutic therapy. So we did it that way. Where
18 one week it was a visitation, and then the -- then
19 [indecipherable], and then the next week is the family
20 therapy.

21 Q. So you were saying, is the court ordered that amount
22 of visitation. But what -- what went into making that
23 decision? Do you know? I mean, can you --

24 A. The reports that are getting written involving the
25 visitations between Eric and Samantha. The reports

1 from concerned citizens who would do the supervised
2 visits, and then --

3 Q. So these reports indicated this is the amount of
4 visitation that Samantha -- is appropriate for
5 Samantha, as much as they think they would like to
6 see -- what is it that they are -- that's creating a
7 limitation in the number of visits?

8 A. The reports are coming back as there aren't any
9 problems, they seem to for the most part, go smoothly.
10 So when we have reviews, it's determined at that time
11 by the judge by how much visits.

12 Q. It's set for two times a month now, two therapeutic
13 times a month; is that correct?

14 A. Yes.

15 Q. But up until recently, I don't know if that was today
16 or sometime, it was one therapeutic, and then 2 weeks
17 later it was a regular supervised visit?

18 A. Yes.

19 Q. And now it is going to be two therapeutic a month?

20 A. Yes.

21 Q. You indicated that the department supported the
22 guardianship permanency plan, or in this case our
23 petition for guardianship.

24 You stated that the reason -- I believe what you
25 said is that the reason for supporting it, is she's

1 been there -- she's been in this home since August
2 of -- or June of 2009, and now we're in 2015. Can you
3 expand a little on that in answering and explain why
4 that is significant to your decision to support the
5 guardianship?

6 A. The Fosters are the only really solid home that she
7 has known for quite a lot -- I mean for -- forever,
8 really. Her lifetime. So she's connected. She
9 considers them her family. And when you ask -- ask
10 her who her family is --

11 MS. DENTON: Objection. Hearsay, as to the
12 statements of the child.

13 THE COURT: Sustained. Do you want to
14 rephrase your question?

15 BY MR. SIEWELL:

16 Q. Have you observed Samantha interacting with the
17 father?

18 A. Yes.

19 Q. And can you -- can you discuss with us what you
20 observe when you see her interacting with that family?

21 A. She's -- she's very well integrated in that family.
22 She is integrated in the community.

23 Q. You say she's integrated in the community, have you
24 observed her in school or --

25 A. Yes.

1 Q. -- or any cultural event?

2 A. Yes.

3 Q. And what kinds of things have you observed her
4 involved?

5 A. She -- I've observed her in her classrooms. I
6 observed her when she was in Head Start. And I
7 observed her at the school in Forks Elementary.

8 Q. And -- okay. You filed a report, home study report,
9 in this case; is that correct?

10 A. Yes.

11 Q. I think it's -- it looks like October of 2014.

12 And has anything changed since October of '13
13 that you would like to amend in your report, add to
14 or --

15 A. Not that I'm aware of.

16 MR. SIEWELL: I have no further questions.

17 THE COURT: Ms. Denton.

18 CROSS-EXAMINATION

19 BY MS. DENTON:

20 Q. With regard to the home study that you did of the
21 Fosters' home, Ms. Smith, how many home studies have
22 you done of Mr. Brewer's home?

23 A. Mr. Brewer's home?

24 Q. Yes.

25 A. None.

1 Q. You have never been to his house, have you?

2 A. No.

3 Q. In fact, you have never even seen him interact with
4 Samantha, have you?

5 A. No.

6 Q. No. But you've been to the Fosters' home, correct?

7 A. Yes.

8 Q. And you've seen the child interact with them, correct?

9 A. Yes.

10 Q. So you are unable to give an opinion to this court as
11 to the bonding between Mr. Brewer and his son,
12 Samantha; isn't that right?

13 A. No.

14 Q. No? Are you basing that on the reports of others?

15 A. Yes.

16 Q. Okay. Those reports being -- the reports from
17 concerned citizens in the visitation notes, right?

18 A. Yes.

19 Q. And they say that the interactions between Mr. Brewer
20 and his child, they are all positive, aren't they?

21 A. Yes.

22 Q. That they love each other.

23 A. Yes.

24 Q. And that they have fun together.

25 A. Yes.

1 Q. And she hugs him?

2 A. Yes.

3 Q. And runs to him?

4 A. Uh-huh.

5 Q. And she knows who he is, right?

6 A. Yes.

7 Q. In fact, Ms. Hardies, the therapist that you
8 mentioned, she recommended to you back in November
9 that they have more visits, Samantha and Eric, right?

10 A. Yes.

11 Q. What have you done about that?

12 A. I've not been able to schedule them due to the other
13 scheduling of the concerned citizen visits.

14 Q. They haven't had any, right?

15 A. Extra visits?

16 Q. Right.

17 A. No.

18 Q. That the therapist recommended?

19 A. No.

20 Q. In fact, your testimony was, Ms. Smith, that you
21 supported this guardianship, correct?

22 A. Yes.

23 Q. And the reason that you gave was because of Samantha's
24 relationship with the Fosters, correct?

25 A. Yes.

1 Q. It's not because Eric is an unfit parent, is it?

2 A. No.

3 Q. It's not, in fact, that he has done anything wrong or
4 would be harmful to his daughter in any way; isn't
5 that right?

6 A. Right.

7 Q. In fact, everything that you know about my client is
8 that he has done everything that your agency has asked
9 him do; isn't that right?

10 A. Yes.

11 Q. In fact, there's nothing even that your agency would
12 request Mr. Brewer to do at this time to improve his
13 parental duties, correct?

14 A. Correct.

15 Q. With regard to the visitations with Samantha, you
16 testified that there have been missed visits on the
17 part of Mr. Brewer based upon his mother passing away
18 or illness, correct?

19 A. Correct.

20 Q. There have been occasions, however, haven't there,
21 when the Fosters have not brought Samantha for visits?

22 A. Yes.

23 Q. And Eric has driven four-plus hours to get to the
24 visits and the child has not come, correct?

25 A. Correct.

1 Q. And that's happened on more than one occasion; isn't
2 that right?

3 A. I believe two that I can recall.

4 Q. With regard to -- when you first came on this case,
5 Ms. Smith, I recognize that wasn't until 2013,
6 correct?

7 A. Correct.

8 Q. And at that time you had learned that Mr. Brewer had
9 not seen Samantha for nearly two years, right?

10 A. Correct.

11 Q. And that wasn't based upon his own fault was it?

12 A. The reports didn't say either/or in my -- in the
13 findings that I have in my files.

14 Q. Isn't it true that he was court ordered not to see his
15 children?

16 A. Yes.

17 Q. Okay. By a protection order?

18 A. Yes.

19 Q. How many years have you been in social work?

20 A. I accepted the position in 2013 as a social worker.

21 Q. Okay. So this is your first job?

22 A. As a social worker.

23 Q. As a social worker.

24 Since 2013, have you ever had a circumstance
25 where a court filed a protection order -- entered a

1 protection order so a parent couldn't see their child?

2 A. I can't pertain -- as social working stuff? No. I
3 mean, I don't -- I can't say yes or no to that.

4 Q. Isn't it true that the goal of your agency is
5 hopefully first and foremost is to reunify?

6 A. Yes.

7 Q. And in this case you testified that you had worked
8 towards reunification of Mr. Brewer with Samantha; is
9 that right?

10 A. Yes.

11 Q. What prevented you from reunifying Eric with Samantha
12 two years ago?

13 A. I wasn't here two years ago.

14 Q. Okay. Well, in 2013, when you started?

15 A. There was no visitations. There was no reestablished
16 relationship between the two of them.

17 Q. Okay. So now there is a relationship; Mr. Brewer is
18 in complete compliance with everything you've
19 requested him to do. What has prevented you from
20 beginning reunification efforts?

21 A. The fact that it's -- the fact that it's not -- there
22 isn't -- other than the year and a half that I've been
23 here, the relationship has just started establishing.

24 Q. But it's nothing that Mr. Brewer has done to keep from
25 reunifying with his child --

1 A. No.

2 Q. -- right?

3 A. Correct.

4 Q. Correct?

5 Okay. So Mr. Brewer hasn't done anything to
6 prevent you from reunifying him with his child, what
7 efforts have you made for that reunification to occur?

8 A. We have -- we've set up visits so that they can
9 establish a relationship. Then we set up therapeutic
10 visits so that the relationship could build.

11 Q. And so your only reason for recommending this
12 guardianship, because of all the time that's passed?

13 A. Yes.

14 Q. Okay. And isn't it your testimony that to remove
15 Samantha from the only home she's ever known would be
16 detrimental to her?

17 A. I'm sorry, say that again.

18 Q. Isn't it your position that to remove Samantha from
19 the only home she's ever known would be detrimental to
20 her?

21 A. Correct.

22 Q. But isn't that what ICW does all the time in
23 situations that are dangerous to children or
24 neglectful to children?

25 A. If it's a dangerous situation, correct.

1 Q. And in that type of situation, the child is removed
2 from the only home they have ever known and been
3 placed elsewhere, correct?

4 A. [No audible response.]

5 Q. And your goal in those situations is to reunify
6 hopefully back with the parents, correct?

7 A. Yes.

8 Q. And that's a gradual process, correct?

9 A. Yes.

10 Q. Have you ever begun that gradual process of trying to
11 get Samantha out of the Fosters' home back in with my
12 client?

13 A. Not in a home setting.

14 Q. Why not?

15 A. Because it hasn't really established a relationship to
16 that point where it was comfortable for either party
17 to be in a home dependency.

18 Q. Well, it wasn't comfortable for either party
19 because -- either party because of the lack of
20 consistent visitation between Mr. Brewer and his
21 child?

22 A. Yes.

23 Q. Okay. Basically based upon an old court order?

24 A. Yes.

25 Q. With regard to the home study that you completed in

1 October 2014, were you trained to conduct home studies
2 as part of the job that you hold now?

3 A. Yes.

4 Q. Okay. What type of training did you receive?

5 A. I went through the social workers' academy through the
6 State of Washington.

7 Q. And at the time that you did your home study report,
8 did Samantha have her own bedroom?

9 A. Yes.

10 Q. Was she still sharing a bed with the Fosters at that
11 time?

12 A. No.

13 Q. Hadn't she been doing that for most of her life?

14 A. I believe off and on.

15 Q. Did it change because you were coming into the home
16 study, do you know?

17 A. No.

18 Q. How do you know that?

19 A. I don't. I -- she has her own room. She has a bed.
20 She has her own space.

21 Q. Why have we never gone to look at Eric's home to do a
22 home study?

23 A. That has not been something we've approached.

24 Q. Why?

25 A. Out of the service area, for one. And two, it's just

1 not something that we were going to conduct yet.

2 Q. Yet. What were you waiting on?

3 A. The -- the relationship to establish. A point to
4 where we could do something like that.

5 Q. And how do you anticipate re-establishing a
6 relationship when you are recommending a guardianship?

7 A. I -- I was waiting for the therapist to -- to
8 communicate with the -- with Samantha being able to
9 handle visits at his home. Waiting to establish a
10 relationship. A stronger relationship where she's
11 comfortable being able to travel to his home and stay
12 there and be a part of his family. Waiting for the
13 therapist to mention that she's comfortable doing
14 something like that.

15 Q. If you were waiting for all those things, wouldn't you
16 agree, then, Ms. Smith, that this guardianship is a
17 little premature?

18 A. No.

19 Q. Okay. Then how can both things happen simultaneously?

20 A. I -- I kind of feel that in -- in the things they've
21 read through the file and my being on this case for
22 the year and a half that giving her some sort of
23 permanency would probably establish a better
24 relationship, would help her feel that she can -- it's
25 okay for her to establish a relationship.

1 Q. With the Fosters?

2 A. With -- if we put her in a guardianship with the
3 Fosters, I feel that Samantha would probably feel
4 stronger -- have stronger knowledge of knowing that
5 she's not going to go any where any time soon and
6 would be more comfortable for her to establish a
7 relationship with Mr. Brewer.

8 Q. Why aren't you putting the same effort in establishing
9 that relationship with Mr. Brewer?

10 A. I'm sorry.

11 Q. If your main concern is strengthening the relationship
12 between Samantha and the Fosters, why haven't you put
13 in that same amount of effort in strengthening the
14 relationship between Mr. Brewer and Samantha?

15 A. Mr. Brewer and Samantha have their therapeutic visits.
16 They have their individual sessions as concerned
17 citizens that are -- now they are I believe at 2 hours
18 long.

19 Q. Once a month, up until today; isn't that right?

20 A. Correct.

21 Q. And it's been that way for how long?

22 A. For -- since I've been on this case.

23 Q. And it's never been increased, has it?

24 A. It gradually has increased.

25 Q. From what to what?

1 A. He was having one hour, and then it was an hour and a
2 half, and now he's got two hours. And he has the
3 therapeutic visits now.

4 Q. With regard to the court-ordered services that you
5 testified about, you said when you entered the case,
6 the only services that were provided to the father
7 were random urinalysis, correct?

8 A. Random UAs, and finish his parental assessment.

9 Q. And that's all been completed, correct?

10 A. Correct.

11 Q. And there are no issues as you testified, right?

12 A. No.

13 Q. And that was about a year ago, that that was all
14 completed, correct?

15 A. Yes.

16 MS. DENTON: I don't have any further
17 questions, Your Honor.

18 THE COURT: Follow-up, Ms. Acker.

19 MS. ACKER: Sure.

20 REDIRECT EXAMINATION

21 BY MS. ACKER:

22 Q. Ms. Smith, who directed you to complete the home study
23 on the Fosters?

24 A. It is -- once a filing of guardianship is established,
25 it is the department's policy to -- to go in and do a

1 home study.

2 Q. Is it also part of the Quileute Family Code that a
3 home study is required upon a filing of petition?

4 A. Yes.

5 Q. Would it be fair to say that, pursuant to the law you
6 need to perform a home study at that time?

7 A. Yes.

8 MS. DENTON: Objection. Leading, Your
9 Honor.

10 THE COURT: Sustained.

11 BY MS. ACKER:

12 Q. In terms of permanency planning for a child, do you
13 dictate what the permanency plan is going to be for a
14 child?

15 A. No.

16 Q. Do you -- is it common practice for you to solely
17 focus on one permanency plan at a time?

18 A. No.

19 Q. How many options for permanency do you evaluate on a
20 typical, on typical --

21 A. On a typical case, reunification is always the number
22 one. And then we've got in-home dependencies, and
23 then we have established foster homes, and then
24 guardianship.

25 Q. Okay. And reunification was the permanency plan in

1 this case up until the fall?

2 A. Yes.

3 Q. Okay. Is concurrent planning a normal part of your
4 case work, in any case?

5 A. Concurrent planning.

6 Q. Having a primary permanency plan, but also having a
7 backup plan --

8 A. Yes.

9 Q. -- is that normal? Okay.

10 And as Ms. Denton asked you, it is normal to
11 remove a child from the only home they have ever known
12 if they are subject to abuse, neglect, anything of
13 that nature?

14 A. Yes.

15 Q. Is Samantha being abused or neglected, is there any
16 evidence to that effect in the Fosters' care?

17 A. No.

18 Q. In regards to visitation, do you determine the
19 frequency of visitation?

20 A. No.

21 Q. When visitation changes or the schedule is adjusted,
22 whose recommendations are those based on?

23 A. Typically, they are based on when we go to reviews of
24 a case. They are based on all of the reports that
25 come in, and then from there it's either recommended

1 by the department or it -- if it's not recommended
2 then -- or if it is even recommended, the judge is the
3 one that usually determines how long or okays the
4 recommendations.

5 Q. And you obey the court orders as ordered by the judge?

6 A. Yes.

7 Q. In regards to this case, was there any point at which
8 visitation was either increased or decreased after it
9 started?

10 A. I don't -- I don't remember.

11 Q. Okay. Is there anything that would refresh your
12 recollection as to that?

13 A. As in to times and stuff? Going back and looking at
14 the court orders.

15 Q. Okay.

16 MS. ACKER: I'm showing opposing counsel...

17 BY MS. ACKER:

18 Q. Okay. I'm showing the witness review hearing orders
19 entered in this case from the time --

20 [indecipherable -- off mic].

21 When you're done reviewing those, if you could
22 just let me know and we'll take them back.

23 Has your recollection been refreshed looking at
24 those review hearing reports?

25 A. So visits seemed to have increased by hours and times

1 once a month to two times a month for an hour of those
2 visits and then two times a month to two hours for
3 visits.

4 Q. Okay.

5 MS. ACKER: Nothing further from the
6 department.

7 THE COURT: Mr. Siewell?

8 MR. SIEWELL: Thank you, Your Honor.

9 RE-CROSS-EXAMINATION

10 BY MR. SIEWELL:

11 Q. Under what circumstances would you normally do a home
12 study?

13 A. I'm sorry?

14 Q. Under what circumstances would you normally do a home
15 study in a case?

16 A. If a case has been in MINOC status with no movement or
17 just standstill, basically for over a year.

18 Q. You go to a home study. And what home do you do the
19 home study of?

20 A. Wherever the child is at, or if a family member is
21 establishing -- wanting to establish guardianship of
22 the child, then we -- whoever is doing the
23 guardianship -- requesting the guardianship or files
24 the guardianship paperwork is when we do the home
25 study or the department files on behalf of the foster

1 family, then we would do a guardian.

2 Q. All right. So what you are saying is, you do a home
3 study where the child is currently placed or in the
4 event of a guardianship because --

5 A. Yes.

6 Q. -- it's part policy, you are required --

7 A. Yes.

8 Q. -- or whatever --

9 A. Yes.

10 Q. -- you do it then, right?

11 A. Yes.

12 Q. Would you also do it if you were contemplating
13 recommending unsupervised visitations in somebody's
14 relatives' home, or --

15 A. No.

16 Q. Huh?

17 A. Do a home study?

18 Q. Yeah. If you were going to recommend that a child
19 who's in a home, have unsupervised visitation in
20 another person's home, would you then recommend a home
21 study or do one?

22 A. Yes.

23 Q. Do you think that's -- that unsupervised visitation in
24 Eric's home is appropriate in this case now?

25 A. Currently, as the status as it's at now, no.

1 Q. Do you see it in the near future?

2 A. I don't think I'm the best person to answer that.

3 Q. But you --

4 A. I don't --

5 Q. You haven't contemplated recommending that?

6 A. No.

7 Q. And isn't that true that that's why you haven't got a
8 home study there?

9 A. Correct.

10 Q. Ms. Denton pointed out -- I think she asked you about
11 reunification. And you said -- I think what you said
12 was in a typical case, reunification was the -- was
13 the goal.

14 Would you consider this a typical case?

15 A. No.

16 Q. Why is it not typical?

17 A. For starters, it's been ongoing for a very long time.

18 Q. How long, usually, would you expect if you had to
19 remove a child, would a case be open and the child
20 placed out of home before you went to permanency or
21 recommended permanency plan?

22 A. Each -- our code has specific times that we are
23 supposed to meet. Our Family Code suggests when we
24 are supposed to meet those times. Traditionally we
25 try to -- ICW is to try to make reunification happen

1 within the year of a MINOC status.

2 Q. Within a year of MINOC status.

3 So in a typical case, I think -- I think that
4 you find out that you have a child whose abused -- has
5 lived their life in this whole life in this house, he
6 or she is subject to abuse or neglect, you would seek
7 removal, and within a year you are supposed to try to
8 get that child back in the house?

9 A. Upon removal, we're supposed to be working with the
10 parents to reunify, yes.

11 Q. Within a year.

12 And I think based on the dates that you gave --
13 [indecipherable] -- she's now just a little bit short
14 of six years in current placement?

15 A. Yes.

16 Q. And she has -- she was, what, approximately
17 three months old when she was placed there?

18 A. Yes.

19 Q. So from the time she was three months old and for
20 nearly six years, this is the only home she's known?

21 A. Correct.

22 MR. SIEWELL: I have no further questions.

23 MS. DENTON: May I recross, Your Honor?

24 THE COURT: Any objection? To her
25 recrossing?

1 MS. ACKER: No objection to recross.

2 RE CROSS-EXAMINATION

3 BY MS. DENTON:

4 Q. Mr. Siewell just asked you about reunification with
5 parents. Reunification will not occur unless and
6 until the parents complete all the services you
7 requested them, correct?

8 A. Yes.

9 Q. And then at that time you start to reunify, right?

10 A. Yes.

11 Q. And in the direct exam -- or redirect by Mr. Siewell,
12 he said that you -- asked you about whether or not you
13 would recommend for Eric to have visits in his home
14 with Samantha, do you recall those questions?

15 A. I'm sorry, say that again?

16 Q. Mr. Siewell asked you whether or not you would
17 recommend Samantha having visits in Eric's home,
18 correct?

19 A. Yes.

20 Q. And you said you would not recommend it, correct?

21 A. Yes.

22 Q. And one of the reasons would be because you have never
23 been to his house, right?

24 A. Right.

25 MS. DENTON: I don't have anything further,

1 Your Honor.

2 THE COURT: Okay. All right. So you're
3 excused. Your next witness.

4 Is she permitted to remain in the courtroom
5 now that she's testified?

6 MS. DENTON: I don't have any objection to
7 that, Your Honor.

8 MS. ACKER: Your Honor, we would be seeking
9 to be calling Rachel Hardies.

10 [Recess.]

11 THE COURT: Ms. Hardies, please raise your
12 right hand.

13 Do you promise to tell the truth, the whole
14 truth, and nothing but the truth under penalties of
15 the laws of the Quileute Tribe?

16 THE WITNESS: I do.

17 * * * * *

18 RACHEL HARDIES, having been first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. ACKER:

22 Q. Could you please state your name for the record?

23 A. Yes. Rachel Hardies.

24 Q. And Ms. Hardies, where do you work?

25 A. New Growth Behavioral Health Services.

1 Q. Okay. And what is your -- what is your position
2 there?

3 A. Child and family therapist.

4 Q. Okay. And if you could just briefly state for the
5 court, what is your background, education, and
6 licensing for that position?

7 A. I have a master's degree in counseling psychology.
8 And that was a three-year education. I have
9 certification as a child mental health specialist,
10 which requires a hundred-clock hours of child and
11 family training as well as one year experience on top
12 of 2 years to be a mental health professional. I'm
13 fully licensed as a mental health counselor in the
14 State of Washington.

15 Q. And how long have you been a therapist?

16 A. Five and a half years.

17 Q. Okay. How long have you worked at New Growth?

18 A. It will be two years in April.

19 Q. Okay. Do you know an individual by the name of Eric
20 Brewer?

21 A. Yes.

22 Q. Okay. And do you see him in the courtroom here today?

23 A. Yes.

24 MS. DENTON: We stipulate to his --

25 MS. ACKER: -- okay.

1 MS. DENTON: -- [indecipherable], Your
2 Honor.

3 BY MS. ACKER:

4 Q. Have you worked at all with Mr. Brewer as a client?

5 A. Yes.

6 Q. And in the context of working with Mr. Brewer do you
7 work with any other individual, in the context of --
8 with Mr. Brewer?

9 A. Yes, I work with his daughter, Samantha.

10 Q. Okay. When did you begin working with Eric and
11 Samantha?

12 A. It was October and November of 2013.

13 Q. Okay. So you worked with them for a little bit over a
14 year then at this point?

15 A. Uh-huh.

16 Q. Do you recall about how many sessions you've had with
17 them?

18 A. Total contacts with the family have been 17.

19 Q. Okay.

20 A. Contacts with Eric and Samantha together have been 11.

21 Q. Okay. And in terms of the individual contacts, what
22 do those entail?

23 A. It was -- at the -- at the beginning of starting work,
24 it was one with Samantha, two with Justin, and one
25 with Eric. And then I've had two individual with Eric

1 over the past year.

2 Q. Okay. Prior to taking on this case, were you ever
3 informed of the length of time between -- visitation
4 between Mr. Brewer and Sammi starting and stopping,
5 were you informed as to that length of time?

6 A. Only when the referral came in.

7 Q. Okay. All right. So you were aware that there had
8 been a significant period of time where they had not
9 had visitation?

10 A. [No audible response.]

11 Q. Okay. What type of therapy do you use with Eric and
12 Samantha in their joint sessions?

13 A. We do child directed play therapy.

14 Q. Okay. Could you describe that a little bit for us --

15 A. Sure. It's a special or unique way of paying
16 attention to the way a child plays and interacts with
17 the toys in the room.

18 And so I coach -- when I'm working with parent
19 and their children together, I coach the parents to
20 pay attention to their children.

21 Q. Okay. And what's the goal of engaging in that type of
22 therapy?

23 A. To build a relationship.

24 Q. Okay. Is that the goal --

25 A. I'm sorry. I should say, in this case that's been the

1 goal. When I'm working with children, children don't
2 have words like we do. They don't -- they don't have
3 the insight, they don't sit there and go, oh, my gosh,
4 I'm feeling this because something happened. They
5 just know something happened. And so toys are their
6 words. And play is their language. It is very
7 symbolic.

8 Q. Okay. Okay. And so you stated the goal is building a
9 relationship, that is the goal in this case.

10 Can you describe a little bit where you started
11 on this case when you started working with them? How
12 did you go about beginning that type of therapy or go
13 about working on the goal in building a relationship?

14 A. Sure. Well, I met with everybody individually so that
15 they could meet me and there weren't any other
16 distractions I guess from anybody else present. And
17 then had Eric and Samantha come in together and had
18 talked to Eric a little bit about what this process
19 was, or what the play therapy was. And came into the
20 room and followed Samantha's lead with what she was
21 interested in the room.

22 Q. Are there different stages in this therapy, either
23 official or unofficial, or steps that you would
24 outline in terms of a progression? Are there ways to
25 monitor progress?

1 A. Sure. The -- there's -- when kids come in, it is kind
2 of exploratory and they are getting a feel for the
3 room, and they are looking at the toys, and they are
4 getting to know me. I would say just more one on one.
5 And then as they start to feel safe, they'll move up
6 to kind of pushing some limits. What is she going to
7 do if I do this? What happens if I do that? And then
8 once they feel that that's safe and they know what
9 those are, then they process through whatever they
10 need to process through and their play returns back to
11 more free or normal -- normal-style play.

12 Q. And that you would be referring to kind of at least
13 initially how a child progresses through this?

14 A. Uh-huh.

15 Q. In regards to the relationship between the
16 parent-child, that's the goal of this, are there any
17 benchmarks that you use at all or is there any
18 particular steps that you follow?

19 A. I guess honestly I would probably say not. I watch
20 the relationship. I watch how they interact. I work
21 with Eric on ways to say, things to say. I'm just
22 kind of watching their -- their demeanor and behavior
23 with each other.

24 Q. Okay. And you reference pushing limits?

25 A. Uh-huh.

1 Q. Do you have any examples that you can think of, of
2 working with Samantha and Eric where Samantha has
3 pushed limits?

4 A. Uh-huh.

5 Q. Okay.

6 A. Most often it's at the end of a session when she wants
7 to keep playing and we need to end the session.
8 That's usually pretty much it. She follows -- kids
9 will test -- I have sand trays, and so they can get
10 very messy. And kids like to kind of flip the sand
11 around, which isn't something that I allow. And so if
12 she's done that a couple times, then either Eric or I
13 have set the limit that, nope, it needs to stay in
14 there.

15 Q. Okay. Have you noticed anything in terms of her
16 testing limits specifically to -- not just in the
17 therapy and the rules of therapy, but in terms of her
18 interactions with Mr. Brewer, have there ever been
19 anything that you think is therapeutically significant
20 in terms of her testing the waters or working through
21 something as this is going -- as this therapy is
22 progressing?

23 A. Uh-huh. The -- the one thing that comes to mind is an
24 incident where we were playing in the sand tray, and
25 we were talking about pets. And Eric had mentioned

1 how he had pets. And she said she hadn't seen them.
2 And then somewhere in there stated that she wasn't
3 going to live with him. I can't remember the exact
4 progress, because her mommy said she wouldn't. And
5 she was really -- what I concluded, she was really
6 watching Eric to see his reaction. And he did a great
7 job.

8 Q. Have there been any other interactions like that where
9 she's kind of testing that relationship dynamic at all
10 in any way similar to that?

11 A. No.

12 Q. Okay. In terms of the overall progressions or
13 benchmarks with the relationship, you said you don't
14 really get benchmarks with that, with the relationship
15 itself.

16 For the sake of this, I don't know if there's
17 any sort of analogy you can give me as to where you
18 feel their relationship is right now from when they
19 started to right now.

20 A. Sure. Yeah, I guess in terms of benchmark, there
21 aren't specific things, it's like oh, she said this or
22 he did that and so that means this. It's -- it's --
23 relationships take time. You know, any relationship
24 takes time and takes a level of back and forth and
25 feeling safety.

1 What -- what comes to mind -- so I'm certified
2 to teach the incredible years parenting class. And in
3 that parenting class they use a pyramid. And so
4 obviously the base of a pyramid is wider than the top.

5 And they use it in terms of developing
6 relationship as well as discipline and behavioral
7 modification with kids.

8 But the bottom of that relationship is play and
9 listening and talking and attention. And those are
10 the things that -- I think that's where we are, and I
11 think that's where the focus has been is letting them
12 get used to each other again. Letting them learn who
13 each other is again. And through that building the
14 attachment and the security.

15 Q. Okay. Okay.

16 So would it be accurate to say that you still
17 see it at the base of that pyramid, if you are using
18 it as an analogy to the bottom being the beginning of
19 a relationship working towards the top being a
20 normal -- what you would think of is a healthy
21 attached parent-child relationship?

22 A. Uh-huh.

23 Q. Okay.

24 MS. ACKER: Nothing further from the Tribe.

25 THE COURT: Mr. Siewell?

1 MR. SIEWELL: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. SIEWELL:

4 Q. Ms. Hardies, you indicated that -- that Eric is base
5 level, their play is --

6 A. Uh-huh.

7 Q. Do you have any experience actually in a case where a
8 child has spent their entire life, not having a
9 relationship with the parent.

10 Have you had any experience actually counseling
11 a relationship in a situation like this where we have
12 a child whose had no relationship and is building a
13 relationship?

14 A. Not with such an extended period of time.

15 Q. Not with such an extended period of time?

16 A. I was a family preservation services therapist for a
17 year and a half.

18 Q. Does the fact it has been such a long time create some
19 additional difficulty in building a relationship?

20 A. It might add additional time in terms of the people
21 building relationship, getting to know each other.

22 You know, in the sense, almost strangers coming in.

23 Uh-huh.

24 Q. And I think you said you've been counseling them for a
25 little over a year, October/November 2013?

1 A. Uh-huh.

2 Q. And we're still at this very base level of playing
3 together.

4 Is there any way to sort of judge based on where
5 their -- how long it's been 13, 14 months at a base
6 level before the relationship could progress to
7 something that was more meaningful?

8 A. Having more time together. And so -- I've had 11
9 sessions with the two of them together in a year and a
10 half. And I don't know how many exactly other
11 visitation times there have been. So 11 times
12 together isn't a lot of opportunity to develop the
13 depth of relationship.

14 Q. Have you observed Samantha having some sort of anxiety
15 about these visits --

16 A. Not --

17 Q. Difficult -- what's that?

18 A. No, I have not.

19 Q. All right.

20 MR. SIEWELL: I have nothing further.

21 CROSS-EXAMINATION

22 BY MS. DENTON:

23 Q. Ms. Hardies, I believe the last thing you said -- I'm
24 sorry I was distracted for a minute. You've had zero
25 observations of Samantha having anxiety during these

1 visits?

2 A. Yeah, not during the visits.

3 Q. Does she seem happy to see Mr. Brewer?

4 A. Yes.

5 Q. Recognizes who he is?

6 A. Yes.

7 Q. Comfortable in his presence?

8 A. Seems to be, yes.

9 Q. And in all your observations of Mr. Brewer with your
10 daughter, you don't see any reason that he would be a
11 harm to his daughter, right?

12 A. Correct. I have not seen that.

13 Q. He's appropriate in all of his interactions with her;
14 isn't that right?

15 A. Yes.

16 Q. And with regard to the pyramid that Ms. Acker asked
17 you about, the way to get higher in the pyramid, if I
18 understand you correctly, is for there to be more
19 interactions, right?

20 A. Yes.

21 Q. In fact you've been recommending more interactions
22 with Mr. Brewer and his daughter for how long now?

23 A. At least the past two letters, which I think covers
24 three or four months.

25 Q. Three or four months?

1 A. Uh-huh.

2 Q. And had there been more interactions, that's the way a
3 person gets higher up on this pyramid, right?

4 A. Yes.

5 Q. Okay. And you have no concerns with regard to what
6 you've observed of Eric in his interactions with
7 Samantha and his ability to parent her, do you?

8 A. Correct.

9 MS. DENTON: That's all I have, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. ACKER:

12 Q. Just briefly, Ms. Hardies.

13 And you stated -- when we're talking about the
14 pyramid and more interactions and working with that,
15 do you feel that you are able to opine as to their
16 relationship and then building a relationship? Would
17 you feel comfortable making any sort of recommendation
18 at this time in terms of reunifying with the parent,
19 the child or not?

20 A. I guess I would say I don't feel comfortable making
21 that recommendation.

22 Q. Okay. Thank you.

23 MS. ACKER: Nothing further.

24 THE COURT: Mr. Siewell.

25 MR. SIEWELL: Nothing further, Your Honor.

1 THE COURT: You're excused. Thank you so
2 much.

3 [Transcriptionist note:
4 Recordings do not link up. No
5 recording of the witness being
sworn.]

6 BY MS. ACKER:

7 Q. What was the nature of the therapy session?

8 A. It was an initial session. I updated her treatment
9 plan and some paperwork stuff. Establishing a
10 rapport. She drew a picture of her family and her
11 home. We talked about -- I have an emotion ball and
12 we toss it back and forth and what your finger lands
13 on you give an example of a time, you know, that you
14 felt sad or happy or frustrated. So we kind of toss
15 that back and forth a little bit to see where she was
16 at in being able to identify and exploring her likes
17 and dislikes. She said that she liked her bedroom.

18 MS. DENTON: Objection, Your Honor.
19 Hearsay. Statements of the child.

20 THE COURT: Sustained.

21 BY MS. ACKER:

22 Q. In terms of the drawing of the family, what did that
23 depict?

24 MS. DENTON: Objection, Your Honor.
25 Hearsay. It's out-of-court written statement, not

1 offered for the truth of the matter asserted.

2 THE COURT: Sustained.

3 MS. ACKER: Your Honor, it's not offered for
4 the truth, it's just off of what she saw.

5 MS. DENTON: That's the context of the
6 picture.

7 THE COURT: Sustained.

8 BY MS. ACKER:

9 Q. In regards to -- you stated you updated her treatment
10 plan?

11 A. Correct, just to review it.

12 Q. And just to review it. Okay. What update was made?
13 What were your recommendations?

14 A. She hadn't been seen for a while, so I just needed to
15 make sure that those were still the goals. The
16 current goal was worry as evidenced by
17 [indecipherable] preceding visits with her biological
18 father.

19 Q. Okay. Okay. And in the course of that session, did
20 you provide any sort of evaluation as to that issue at
21 all?

22 A. I did ask her about things that she likes and that she
23 doesn't like. I asked her what she liked with her
24 visits with Daddy Eric, which is what she called him,
25 and she stated --

1 MS. DENTON: Objection, Your Honor.

2 Hearsay.

3 THE COURT: Sustained.

4 BY MS. ACKER:

5 Q. In terms of your recommendations from that initial
6 session, what were your recommendations?

7 A. I could not formulate any recommendations based on one
8 initial session.

9 MS. ACKER: Okay. Nothing further from the
10 Tribe, Your Honor.

11 THE COURT: Mr. Siewell?

12 MR. SIEWELL: Thank you.

13 CROSS-EXAMINATION

14 BY MR. SIEWELL:

15 Q. Ms. Homellog [phonetic], you said that the purpose of
16 this was to evaluate -- I think what you said was
17 nausea related to visits with father.

18 A. Uh-huh.

19 Q. Were you able to confirm that that was an issue?

20 MS. DENTON: Objection, Your Honor. Calls
21 for hearsay.

22 MR. SIEWELL: Calls for a conclusion that
23 she makes based on her analysis of a patient.

24 MS. DENTON: Based upon statements made by
25 the child.

1 THE COURT: I'm going to overrule that
2 objection. But be very careful about how you respond.
3 All I want is your conclusion related to the issue. I
4 don't want any statements from the child.

5 THE WITNESS: Well, I had to go off
6 information provided from the two people that were
7 present, which was the foster parent and the child.

8 THE COURT: Okay. So all I want is a
9 conclusion, not anything -- I don't want you to
10 reiterate what was said.

11 THE WITNESS: Oftentimes when children get
12 headaches or nausea, it's related to anxiety.

13 MR. SIEWELL: No further questions, Your
14 Honor.

15 THE COURT: Ms. Denton.

16 CROSS-EXAMINATION

17 BY MS. DENTON:

18 Q. Which foster parent was present with the child?

19 A. The foster father was.

20 Q. And did the foster father give you information?

21 A. Very limited information.

22 Q. Okay. And was the child present when he gave you that
23 information?

24 A. We were downstairs in the lobby.

25 Q. Okay. So the child would have been within ear shot of

1 whatever the foster father told you?

2 A. Correct.

3 Q. Okay. And you said headaches and nausea are often
4 related to anxiety, correct?

5 A. Correct. In children.

6 Q. And you don't know the source of that anxiety, do you?

7 A. I could not make a conclusion from that based on one
8 session.

9 MS. DENTON: Thank you. That's all I have
10 of this witness, Your Honor.

11 THE COURT: Anything else?

12 MS. ACKER: Nothing further.

13 MR. SIEWELL: No.

14 THE COURT: You're excused. Thank you so
15 much.

16 MS. ACKER: Next we'll be calling Asrid
17 Aveledo.

18 THE COURT: Ms. Aveledo, do you promise to
19 tell the truth, the whole truth, and nothing but the
20 truth under penalties of the laws of the Quileute
21 Tribe?

22 THE WITNESS: I do.

23 THE COURT: Okay. Please have a seat. Go
24 ahead.

25 * * * * *

1 ASRID AVELEDO, having been first duly sworn, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. ACKER:

5 Q. Could you state your name for the record?

6 A. Asrid Aveledo.

7 Q. And Ms. Aveledo, what is your occupation?

8 A. I am a guardian ad litem.

9 Q. Okay. And how long have you served in a guardian ad
10 litem capacity, just overall in general in all the
11 cases you've been assigned to?

12 A. Approximately, two and a half years.

13 Q. Okay. And were you assigned as a guardian ad litem to
14 minor child, Samantha Brewer?

15 A. Yes.

16 Q. Do you recall the date of that assignment?

17 A. July 2013.

18 Q. Okay. In regards to your position as a guardian ad
19 litem, what is your background in education?

20 A. I have a Bachelor's in political and administrative
21 sciences, a Master's in public administration. I am
22 also -- as I mentioned, I'm a guardian ad litem but
23 also a CASA for the past two and a half years. And in
24 that capacity I've received 32 hours pre-service
25 training, as well as yearly I have to complete

1 somewhere between 12 to 20 hours, approximately, of
2 continuing education.

3 Q. And you say the date that you were appointed to this
4 case, how long have you known the child, Samantha
5 Brewer?

6 A. I believe my first meeting with the child was in the
7 month of August 2013.

8 Q. Okay. Okay. And do you recall anything significant
9 happening in the case around that time period?

10 A. It was right before the -- the children had -- the
11 sibling visits had resumed shortly before that. I
12 believe either in June or July. And then in the month
13 of August, I believe it was August 30th, visits
14 between the children and Mr. Brewer resumed.

15 Q. Okay. Were you present at the resumption visit with
16 Mr. Brewer and Samantha?

17 A. Yes.

18 Q. Okay. And if you could just state briefly, do you
19 recall the date of that visit?

20 A. I believe it was August 30th.

21 Q. Okay. And where did this visit take place?

22 A. At Concerned Citizens in Port Angeles.

23 Q. And who was present at that visitation once it's --
24 well, sorry, who brought the child to the visitation?

25 A. I do not remember if it was either the foster mother

1 or the foster father or -- that part I don't remember
2 right now.

3 Q. Okay. Who was present in the visitation itself?

4 A. Mr. Brewer, Samantha, the visitation supervisor for
5 Concerned Citizens and myself.

6 Q. And if you could briefly describe your observations of
7 that initial visit?

8 A. Well, the child was aware -- so the child did have
9 some awareness on who Mr. Brewer was. She -- she --
10 at that time there weren't a lot of signs of a bond.
11 It was --

12 MS. DENTON: Objection. Foundation, Your
13 Honor. As to her opinion on a bond.

14 MS. ACKER: Your Honor, she's the guardian
15 ad litem. I think she's allowed to comment to her
16 observation.

17 THE COURT: Overruled.

18 THE WITNESS: So she -- she had a general
19 awareness of Mr. Brewer, she didn't refer to him as
20 dad or daddy or any of those names. Eye contact,
21 physical contact was not very strong. I believe he
22 said at least, you know, one I love you that wasn't
23 returned.

24 But they played well together.

25 BY MS. ACKER:

1 Q. Okay. Did you make any observations after the visit
2 ended at all?

3 A. The child did seem in -- the child did seem eager
4 to -- to leave once she was downstairs and there's an
5 area where the children are dropped off. And so once
6 we got to that area, the child really didn't want --
7 didn't speak to either I or Mr. Brewer.

8 And she -- she -- she went to her -- I believe
9 it was her foster father and held on to him tightly
10 and was carried out.

11 Q. Okay. Have you had individual contacts with Samantha
12 over the course of this case?

13 A. Yes.

14 Q. About how frequent are the contacts?

15 A. In person, either every month or every other month.
16 There's -- every month there's either telephonic
17 contact or in-person contact.

18 Q. Okay. And during the in-person contacts, do you speak
19 with -- do you speak with the child individually at
20 all?

21 A. Yes. Yes.

22 Q. Okay. Okay. In regards to initially meeting
23 Samantha, how did she introduce herself to you?

24 MS. DENTON: Objection, Your Honor. Calls
25 for hearsay.

1 THE COURT: Sustained.

2 MS. ACKER: Your Honor, I would offer --
3 it's not offered for the truth. It's just a statement
4 whether or not it's correct and the child's statement
5 is what the child stated to her.

6 MS. DENTON: Which is being offered for the
7 truth of the matter asserted, not for any other
8 purpose.

9 THE COURT: Sustained.

10 BY MS. ACKER:

11 Q. Have there been any instances when you've been
12 contacted outside of these contacts by either the
13 foster parent or by the minor child?

14 A. Yes.

15 Q. And what was usually the reason for those contacts?

16 A. Usually it had to do with the child not wanting to go
17 to a visit, or --

18 MS. DENTON: Objection. Your Honor. Move
19 to strike. It's a hearsay answer.

20 MS. ACKER: It's the basis for the
21 communication.

22 MS. DENTON: It's -- communication is what
23 she's trying to get out of this witness and it's
24 hearsay.

25 THE COURT: Sustained.

1 BY MS. ACKER:

2 Q. For your involvement in this case, involving meeting
3 up with the child and going -- going through the
4 process of the review hearings, is there anything that
5 you prepare for the court?

6 A. Guardian ad litem reports.

7 Q. And what's contained in those reports?

8 A. Information on where they are living, their family
9 life, or the relationships with biological, foster
10 parents, siblings. The emotional -- their emotional
11 state, whether -- you know, relating to their contact
12 or what a therapist may have relayed. Medical,
13 educational.

14 Q. Okay. And who do you speak with in terms of complying
15 with reports on a normal basis, who do you --

16 A. Caseworker, the family therapist, if there's -- if the
17 child has a therapist -- a therapist, there have been
18 some [indecipherable] -- but the therapist. The
19 child's teacher. The foster parents.

20 Q. Okay.

21 A. The child. Of course, most importantly.

22 Q. Okay. And do these reports just supply the court with
23 information, do you make any sort of
24 recommendations -- [indecipherable]?

25 A. I supply information and I make recommendations.

1 Q. Okay. What has been your -- what is -- what's the
2 subject on which you made recommendations to, what are
3 the subjects?

4 A. Placement accommodations, visitation, services.

5 Q. Okay. In regards to placement recommendations, has
6 your recommendation in this case -- have they changed
7 at all over time?

8 A. No.

9 Q. Okay. What was -- what were you initially
10 recommending the first time you made your report and
11 did your investigation?

12 A. Guardianship or open adoption.

13 Q. Okay. Did that have any sort of caveat to it or was
14 it just straight up --

15 A. It did -- it was early in my involvement, but I was
16 asked to make recommendations, so at that time my
17 recommendation was to evaluate a few months after that
18 once they -- Samantha and Mr. Brewer had a chance to
19 be around each other and also maybe not in my very
20 first report, but probably my -- my second one seen
21 how therapy progressed as well.

22 Q. Okay. And I guess, what was the basis for that caveat
23 to your recommendation?

24 A. The child was just getting to know Mr. Brewer and
25 there was a chance that the relationship could

1 progress to the point where other options could be
2 considered.

3 Q. Okay. Did it ever get to a point where you, in your
4 report -- that those other options be looked at?

5 A. No.

6 Q. What were those other options that you are speaking
7 of?

8 A. Return to the father, for instance, or to one of the
9 parents, if it's a relationship "emerge" with the
10 biological mother, the biological father.

11 Q. Why did those recommendations not change?

12 A. Their -- well, the reports that we were getting from
13 the family therapist and from the child's therapist
14 were that -- mainly the relationship was progressing,
15 but it wasn't -- it was still -- it was -- it was not
16 to the point where you the -- the child could be
17 re-unified with the father. It wasn't -- the child
18 wasn't as -- emotionally the child wasn't prepared for
19 that.

20 Q. Okay. Have you observed Samantha within her foster
21 family?

22 A. Yes.

23 Q. About how often have you made observations as to
24 Samantha and her foster family?

25 A. A lot of the visits happen at the foster home. I have

1 had visits outside of that, for instance, in the
2 visitation side or sibling visitation side or school.
3 But when I do have the visitations at the foster home,
4 then I'm able to also observe their interactions.

5 Q. Okay. And how would you describe -- based on your
6 observations of those interactions, how would you
7 describe the relationship between Samantha and her
8 foster home?

9 A. Harmonious. She refers to them as mom, dad --

10 MS. DENTON: Objection, Your Honor.

11 Hearsay. Move to strike.

12 THE COURT: Sustained.

13 THE WITNESS: She refers --

14 BY MS. ACKER:

15 Q. In terms of your observations what the relationship,
16 without going into what the child may have stated to
17 you, or says?

18 A. Okay. They seem harmonious.

19 Q. Okay. Could you elaborate a little more on the term
20 harmonious?

21 A. They seem to enjoy each other's company. There's good
22 eye contact. There's -- terms -- they use terms of
23 endearment. I can observe the child listening to what
24 the parents have to say.

25 Q. How would you describe Samantha's personality and

1 demeanor when you first met her?

2 A. Very outgoing, very bright. She had strong -- she
3 still has strong leadership qualities. Outspoken.
4 Strong-willed.

5 Q. Have you seen any change at all in her demeanor or
6 personality traits that she's exhibited over your
7 observations of her during the pendency of this case?

8 A. Yes. Towards November 2013, I started seeing changes
9 in the child's demeanor. She seemed -- a little bit
10 more -- not as outspoken. I also did see a lot more
11 defined behaviors and she used a lot of baby talk
12 whenever I would go to a visit, for instance, I would
13 usually -- there's a number of subjects we would talk
14 about. But she would also stay very close to her
15 foster parents.

16 If I, for instance, asked her how she felt about
17 visits, then she would -- after that she would --

18 MS. DENTON: Objection. Your Honor, as any
19 statements of the child.

20 BY MS. ACKER:

21 Q. You can continue, as long as you are not going into
22 anything that she had stated.

23 A. She would snuggle up to her foster parents.

24 BY MS. ACKER:

25 Q. And it would be fair to say that she's been pretty

1 involved in what's been going on in her life in the
2 past year and a half since you began the relationship
3 with her?

4 A. Yes.

5 Q. And you've been aware of any sort of big events or big
6 changes that have occurred?

7 A. Yes.

8 Q. Okay. What have been the major [indecipherable] or
9 big events or changes in her -- [indecipherable]?

10 A. Around March 2014 she was prescribed anti-nausea
11 medication, that she's given prior to visits.

12 Q. Okay.

13 A. We already went through -- I mentioned a little bit of
14 the behavioral changes that I did observe. And then
15 she started kindergarten. That's all.

16 Q. Does anything stick out in your mind as being relevant
17 to the change in demeanor and any other big life
18 changes that would also explain a change in her
19 demeanor?

20 A. Well, she did meet Mr. Brewer and she also met Shannon
21 McNutt which is her biological mother. Those seem to
22 be the major events.

23 Q. And do you recall when the first visit with Ms. McNutt
24 was?

25 A. December 2013.

1 Q. But you had stated you already seen changes in
2 demeanors in November prior to this?

3 A. Yes.

4 Q. Okay. Okay. And these have -- have these behavior
5 changes been consistent since that time?

6 A. Yes. However, I have noticed a slight improvement
7 around, I would say August to September 2014. Around
8 August she -- both -- yes, around that time.

9 Q. Okay. Do your recommendations as to placement for
10 this child, are they the same and consistent with your
11 report that you filed in other hearings in this
12 matter?

13 A. Yes.

14 Q. And what is that recommendation?

15 A. That a guardianship or an open adoption is considered
16 with her current placement.

17 Q. And why is that your recommendation?

18 A. Well, the first reason is that the age the child was
19 when she was placed in the Fosters' home, she was
20 about 6 months.

21 And the second have been the length of the
22 placement. She's been there for five and a half
23 years.

24 Q. And in terms of length of placement, is it just length
25 of time, or does that bleed over into any other

1 factor?

2 A. The reports by the therapists, the observed -- the
3 observed behavior that the child has, together with
4 the child's expressed wishes.

5 Q. Okay. Do you have any opinion as to whether
6 reunification with Samantha at this point with her
7 father, do you feel that would be positive or
8 detrimental to her emotional health, based on your
9 interactions over the last year?

10 MS. DENTON: Objection. Foundation. Calls
11 for speculation.

12 MS. ACKER: She's the guardian ad litem. I
13 mean she's allowed to opine. It does go to why her
14 recommendation is guardianship and not reunification.

15 THE COURT: Ask the question one more time?

16 MS. ACKER: I don't remember.

17 BY MS. ACKER:

18 Q. Based on your interactions over the last year, do you
19 have any opinion as to the effect that reunification
20 between Samantha and her father would be as regards to
21 her emotional well-being?

22 MS. DENTON: She does have the
23 qualifications to answer that, Your Honor.

24 THE COURT: I'm going to sustain that.

25 MS. ACKER: Nothing further from ICW.

CROSS-EXAMINATION

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BY MR. SIEWELL:

Q. I'm probably going to butcher your name. Could you communicate with the child every month or telephone contact, one or the other?

A. Yes, for the most part.

Q. Every month?

A. For the most part, yeah.

Q. So is Samantha able to communicate with you on the phone? Is she an articulate child?

A. Yes.

Q. You feel like she can express her ideas?

A. Yes.

Q. And were there other phone conversations with you and Samantha, during the course of the month, or was the contact just that one time when you initiated it?

A. She has called me, too.

Q. She's called you?

A. Or I received calls and she was the person on the other side of the phone. I don't know if she dialed.

Q. Okay. So you answered the phone and she was on the other side?

A. Yes.

Q. And she can -- and she's articulate enough that she could communicate who she was and why she was calling

1 and that sort of thing?

2 A. Yes.

3 Q. And you also -- I think you testified that you
4 observed the initial visit at citizens -- Concerned
5 Citizens?

6 A. Yes.

7 Q. Have you observed other visits since that time?

8 A. I observed one more visit between the child and
9 Mr. Brewer, I believe. I'm not quite sure about that.
10 I observed the initial visit. I observed the visit
11 with the child and her biological mother.

12 Q. So in having observed visits and observed Samantha at
13 her foster home, have you also observed her at other
14 functions of the community?

15 A. Not at the community. I've seen her during sibling
16 visit, and I've also seen her at school.

17 Q. So with the contact that you've had with her, and the
18 observations you've made, are you able to form an
19 opinion as to how she's tolerating the visitations?

20 A. Well, um -- I'm sorry. Can you repeat your question
21 again?

22 Q. Have you been able to form an opinion about how she's
23 tolerating the visits?

24 A. Yes.

25 Q. And what is that opinion?

1 MS. DENTON: Objection. Foundation.

2 MR. SIEWELL: Your Honor, she just testified
3 that she's spent a year and a half on this case
4 observing this child and the family at visitation, at
5 other times. She's clearly capable of forming an
6 opinion as to whether this child is tolerating the
7 visits well and what that opinion is.

8 THE COURT: Okay. I'm going to overrule
9 that. Go ahead Ms. Aveledo.

10 THE WITNESS: My -- my opinion is that
11 she -- she -- for -- she she's still getting -- it
12 doesn't seem like she's able to fully digest the
13 experience of the visits based on the amount of
14 anxiety and the physical symptoms that she is
15 experiencing prior to visits.

16 BY MR. SIEWELL:

17 Q. So I think you stated that it is still your --
18 actually, I'm going to back up a little bit. Sorry.

19 So you talked about -- I'm going to explore this
20 word harmonious a little bit more, because I'm not
21 quite sure I understand what it means in this context.

22 I think you testified that you observed Samantha
23 in her foster placement?

24 A. Yes.

25 Q. And how often has that been?

1 A. How many months in a year and a half? So I would say
2 no less than nine -- between -- between nine and 18.

3 Q. Nine and 18 times you observed Samantha either at her
4 foster home with her foster parents or in some
5 capacity with them?

6 A. Yes. With the foster parents -- I'm sorry, I'm going
7 to back up. With the foster parents, it is probably
8 closer to nine to 12 times.

9 Q. Nine to 12 times.

10 And have you formed an opinion about whether or
11 not there is a bond between the foster parents and
12 Samantha?

13 A. Yes.

14 Q. Do you believe that there is a bond between them?

15 MS. DENTON: Objection. Foundation.

16 BY MR. SIEWELL:

17 Q. What kinds of things have you observed that -- that
18 led you to conclude that there was a bond between
19 Samantha and her foster parents?

20 MS. DENTON: Objection. To the form of the
21 question. She did not testify there was a bond.

22 BY MR. SIEWELL:

23 Q. Could you go into greater length about your
24 observations and how they assisted you in forming a
25 conclusion about whether a bond exists or not?

1 A. Well, the -- if the child -- if we're speaking about
2 something that is upsetting the child, will come to
3 the foster parents for comfort, either snuggle up to
4 them or hug them.

5 The -- the child -- there's a lot of independent
6 shows of affection. Back and forth from the foster
7 parents to the child, and from the child to the foster
8 parents.

9 Q. You said independent --

10 A. Independent shows of affection. So, anything from --
11 from a smile to a hug. A lot of eye contact for sure.
12 As I said, she goes to them if -- if we're speaking
13 about -- about visits or -- or something like that,
14 she will -- she will come to them and she will snuggle
15 up to them afterwards.

16 She -- if -- if -- if the foster parents direct
17 her to do something, she will follow through with
18 that.

19 Q. Is it still your -- I'm going to ask you -- is it
20 still your recommendation to proceed a guardianship or
21 open adoption?

22 A. Yes.

23 Q. And is that recommendation a part because of your
24 observations of the relationship between the child and
25 the foster parent?

1 MS. DENTON: Objection. Leading.

2 BY MR. SIEWELL:

3 Q. Why did you even make that recommendation?

4 A. I made that recommendation because of the child's age
5 when she was placed, because of the length of the
6 placement. How long she's been at that placement.
7 And also because of the observed interactions between
8 the child and the foster parent, and the child's
9 expressed wishes. As well as the various therapeutic
10 opinions that have been submitted.

11 Q. In your observations you've been able to form a
12 conclusion about whether or not Samantha believes that
13 she belongs where she's at?

14 MS. DENTON: Objection, Your Honor. Calls
15 for speculation for what's in the child's mind.

16 BY MR. SIEWELL:

17 Q. I think you can observe whether somebody is
18 comfortable. You know, comfortable in their
19 surrounding where they feel -- whether they jump on
20 the couch. Whether they feel like they belong
21 someplace is more than just in her -- it's an
22 observation of somebody's comfort?

23 THE COURT: I'm going to sustain it.

24 MR. SIEWELL: I have no further questions.

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CROSS-EXAMINATION

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BY MS. DENTON:

Q. Ms. Aveledo, you've been the guardian ad litem on this case since 2013, correct?

A. Yes.

Q. And in that time you've written three reports?

A. I think it might be closer to four with this last one, that was submitted last week. But I really -- I would have to look at my file.

Q. And every single one of those reports that you've recommended, either guardianship or an open adoption as the recommendation, correct?

A. Yes.

Q. And the one and only time that you observed my client with his daughter was after he hadn't seen her in a year and a half; isn't that right?

A. I'm not sure the length of time they hadn't seen each other, but yes.

Q. So the visitation that you observed was the initial reunification with Mr. Brewer after a long absence of not seeing his daughter, right?

A. Yes.

Q. And that was in August of 2013?

A. Yes.

Q. And never once since have you witnessed a visit

1 between my client and his daughter, have you?

2 A. Uh-huh. You're correct.

3 Q. And you have seen the Fosters interact with Samantha
4 nine to up to 12 times, correct?

5 A. Yes.

6 Q. And you are aware, are you not, that Mr. Brewer has
7 had several visits with Samantha since August of 2013?

8 A. Yes, I get the visitation reports.

9 Q. And they have all been positive, right?

10 A. For the most part, yes.

11 Q. They express a positive interaction between Samantha
12 and her father, correct?

13 A. Yes.

14 Q. Affection, loves, I love you's, hugs, things of that
15 nature, correct?

16 A. There's -- yes, there's been progress.

17 Q. And yet in this year and a half that you've been on
18 this case, you have never chosen to go to any further
19 visits between Mr. Brewer and Samantha, have you?

20 A. I wouldn't say chosen.

21 Q. You have not attended, right?

22 A. Well, I have to be told that I can attend and I have
23 to be given the date and then again show up.

24 Q. Have you asked to attend?

25 A. No.

1 Q. If you asked to attend, nobody would deny you, would
2 they?

3 A. I don't know, because there's so many different
4 factors.

5 Q. Well, you got to go --

6 A. I mean there's a lot of -- [indecipherable] --

7 Q. You got to go to the very first visit that my client
8 got to see his daughter, right?

9 A. Well, at the very beginning of my appointment, I was
10 also asked to offer visitation support. And in my
11 subsequent appointments that visitation support
12 portion of services was taken off. So I -- I'm not
13 sure that that's -- that would be the case.

14 Q. But you would agree with me, wouldn't you,
15 Ms. Aveledo, that a part of being a guardian ad litem
16 is recommending what's in the child's best interest,
17 right?

18 A. Yes.

19 Q. So that's evaluating not only her current placement
20 but her biological parents as well, right?

21 A. Yes.

22 Q. And wouldn't you agree with me that you have not given
23 the same amount of effort into viewing visitations
24 with my client and his daughter as you have the
25 Fosters and Samantha?

1 A. No.

2 Q. Well, first of all, Ms. Aveledo, you testified already
3 that you have witnessed up to 12 times interactions
4 with Samantha and her foster parents, correct?

5 A. Yes.

6 Q. And in fact you have never once been to the home of my
7 client have you?

8 A. No.

9 Q. And the recommendation for guardianship, and open
10 adoption have nothing to do with Mr. Brewer's
11 suitability as a parent, do they?

12 A. No.

13 MS. DENTON: Okay. That's all I have, Your
14 Honor.

15 THE COURT: Any redirect?

16 REDIRECT EXAMINATION

17 BY MS. ACKER:

18 Q. In regards to observing -- have you been in contact
19 with Ms. Hardies in the [indecipherable] therapy
20 sessions?

21 A. Yes.

22 Q. Does review of that material go into consideration
23 when writing your reports?

24 A. Yes.

25 Q. And you had direct interactions with the child on

1 frequent basis between the first time you observed a
2 visit and --

3 A. Yes.

4 Q. And do those considerations -- and does -- do those
5 contacts with child go into the basis for making your
6 opinions in these reports?

7 A. Yes.

8 MS. ACKER: Nothing further.

9 RE-CROSS-EXAMINATION

10 BY MR. SIEWELL:

11 Q. You testified -- I think it's a fair assessment as
12 well, your job is to make a recommendation as to what
13 the best interest of the child is?

14 A. Yes.

15 Q. And you're recommending in this case guardianship or
16 open adoption. And I think you testified also that
17 the reasons that went into that were the length of
18 the -- the early age of which Samantha was placed with
19 the Fosters and the length of time she had been
20 there --

21 A. Yes.

22 Q. -- is that correct?

23 So in your view of best interest, is there a
24 point at which stability, security, permanency becomes
25 the best interest regardless of other parents?

1 MS. DENTON: Objection. Leading. And
2 counsel is testifying.

3 THE COURT: Sustained.

4 BY MR. SIEWELL:

5 Q. You testified that you had not gone to any of the
6 therapeutic visitations after the initial one; is that
7 correct? Or visitations at all?

8 A. No. So that was set up at Concerned Citizens.

9 Q. Okay. So that wasn't therapeutic --

10 A. No.

11 Q. And how many of the visits have occurred outside of
12 the therapeutic, do you know?

13 A. They typically occur once a month. There have been
14 some breaks in that.

15 Q. Do you in your cases typically show up to visitation
16 with the parents?

17 A. I'm sorry?

18 Q. Do you typically, in your cases -- where you are
19 guardian ad litem show up to visitations with the
20 parents?

21 A. No. Not -- no.

22 MR. SIEWELL: I have no further questions.

23 MS. ACKER: I don't have anything further.

24 THE COURT: You're excused, Ms. Aveledo.

25 MS. ACKER: Narcissus Foster.

1 THE COURT: Do you promise to tell the
2 truth, the whole truth and nothing but the truth under
3 penalties of the laws of the Quileute Tribe?

4 THE WITNESS: Yes.

5 THE COURT: Okay. Please have a seat.

6 * * * * *

7 NARCISSUS FOSTER, having been first duly sworn, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. ACKER:

11 Q. Can you state your name for the record?

12 A. Narcissus Foster.

13 Q. Okay. And where do you reside, Ms. Foster?

14 A. 280 Main Street, La Push.

15 Q. Are you married, Ms. Foster?

16 A. Yes.

17 Q. And who are you married to?

18 A. Tony Foster.

19 Q. And do you have any biological children between the
20 two of you?

21 A. Yes.

22 Q. And what are their names and ages?

23 A. Michael is my oldest, and then Skyler, Chad, and then
24 Paige. My youngest is 18 and my oldest is -- no he's
25 not, he's like 28. 28, Michael is 28. And she's --

1 my youngest is 18.

2 Q. Okay. And how long have you resided in La Push?

3 A. Since I was seven years old. So like over 40 years.

4 Q. Okay. Are you a member of the Quileute Tribe?

5 A. No.

6 Q. Are you a member of any tribe?

7 A. Yes.

8 Q. Which tribe would that be?

9 A. The Ponca Tribe in Oklahoma.

10 Q. Is that where you are originally from?

11 A. Yes.

12 Q. But you've resided here since you were seven?

13 A. Uh-huh.

14 Q. Okay. Do you work at all outside the home?

15 A. Yes, now I do.

16 Q. What do you do?

17 A. I'm a janitor at the Head Start and day care.

18 Q. Okay. Is that a full-time job or part-time?

19 A. Yes, it is now.

20 Q. Okay. Do you have any other sort of -- I guess if you

21 could just briefly state -- do you have any

22 involvement with any other organization or group

23 within the Tribe?

24 A. I am assistant minister of the 1910 La Push Shaker

25 Church.

- 1 Q. Okay. And that's located in La Push?
- 2 A. Yes.
- 3 Q. And --
- 4 A. Yeah.
- 5 Q. How long have you been --
- 6 A. Yeah, it's here in La Push.
- 7 Q. Okay.
- 8 A. Since '99 I was ordained.
- 9 Q. And are you familiar with the minor child Samantha
10 Brewer?
- 11 A. Yes.
- 12 Q. And what is your relation to her?
- 13 A. I'm her mother.
- 14 Q. Are you her biological mother?
- 15 A. No.
- 16 Q. When you say mother, is that in the context of?
- 17 A. It's in the way that I would treat all the kids I take
18 care of. I wouldn't treat them any different than my
19 own children.
- 20 Q. How long -- does Samantha currently live with you?
- 21 A. Yes.
- 22 Q. And how long has she lived with you?
- 23 A. About six years.
- 24 Q. Okay. How old is she now?
- 25 A. She's a little over six.

1 Q. Do you involve Samantha in activities and events
2 within the community?

3 A. She does a lot of going to church with me and stuff.
4 I travel on weekends. And she traveled to different
5 reservations with me on weekends, different churches
6 and different functions like that.

7 Q. Okay. Does she attend cultural -- [indecipherable]?

8 A. We do like parties when they do community parties and
9 stuff. We go to those. That's when I mostly see,
10 like if I can see her -- I only say this because it's
11 the only time I actually see her other side of the
12 family where I tried to get her involved and take her
13 up to meet them or something. Because that's just the
14 only time I ever see them around.

15 Q. Okay. When you say other side of the family --

16 A. Like her --

17 Q. -- maternal or paternal side?

18 A. Yeah, her mother's side.

19 Q. Okay. Do you attend Quileute cultural events with
20 Samantha?

21 A. Oh, like -- I don't know -- like I don't go to drum
22 group. But I do other things, like drumming is
23 concerned, where they do parties or whatever yeah.

24 Q. Do you have any intention of moving from La Push?

25 A. No.

1 Q. Okay. Would you -- you state -- you treat Samantha as
2 one of your own. Have you had other foster children?

3 A. Yes, I have.

4 Q. Okay. About how many, would you estimate?

5 A. Well, from the court, I've had probably had -- I can't
6 even think. One, two, three, four -- I just want to
7 say four right now, because right now I can't think.
8 But I've also had children that didn't have nowhere to
9 go that came to my house, that I took care of. That
10 had nothing to do with the court.

11 Q. Okay.

12 A. That they felt comfortable coming to our home.

13 Q. When you say you treat all these children, including
14 Samantha, as one of your own, what does that mean?

15 A. I would never treat her any different, even though
16 when we first started -- when I first got her, it was
17 always -- I always told her about her real parents.
18 She was just a little baby, but, you know, as she
19 grew, because they did have like some visits. They
20 didn't have that many.

21 And then after it went like two or 3 years down
22 a line, you know, it was just like, kind of like --
23 wasn't around any more and stuff. And so we never
24 really thought about it then.

25 And she didn't always call me mom. She -- I

1 would tell her, you know, I'm not your mom. I never
2 ever once told her that I was her real mom or
3 anything. That was always put to where, you have your
4 own mom, you have your own dad. We're your mom and
5 dad now, but we're not your real mom and dad. It was
6 never like we tried to make her -- let her know that
7 we were her only dad and mom.

8 Q. And during these years, were you apprised or aware of
9 the status of the court case or what was going on in
10 it?

11 A. No.

12 Q. Okay. And so when she would ask you questions, how
13 would you -- how would you deal with that?

14 A. About her parents? I would tell her who they were.
15 And I told her their names and where they lived and --
16 you know, we've gone to church a lot of times in mud
17 bay, which is over in Olympia and I don't know where
18 he lives. I just know it's over that way. And I
19 mentioned that he lives there. You know. So, yeah,
20 she's -- she's well aware of them.

21 Q. Okay. And getting back to the idea of treating your
22 children as your own, does that mean that you provide
23 for her financially?

24 A. Oh, she gets a check from the Tribe for 399. But
25 there's been -- like at the beginning she didn't get

1 anything. And we were okay with that. Because I
2 think that's the part where -- where they don't
3 actually know the date when we got her when she was
4 three and a half months old because of the -- they
5 didn't actually put it into the date until she started
6 getting those checks.

7 Q. Would it be fair to say her expenses are probably more
8 than her check that you --

9 A. Oh, yeah.

10 Q. And do you and your husband absorb those expenses?

11 A. Yes.

12 Q. And are you comfortable absorbing those expenses?

13 A. Oh, yeah.

14 Q. And when you say you consider -- you would not treat
15 her any differently than one of your own, do you
16 provide for medical care?

17 A. I think she gets the State one. But if we could we
18 would.

19 Q. And in regards to treating her as one of your own,
20 what does that mean in terms of the type of
21 relationship you have with her?

22 A. Well, if Sammi went back to her original parents, I
23 would still claim her as my daughter. If she ever
24 came to me for anything. I would still help her out
25 in any way.

1 Q. Okay. And in terms of within your house, can she come
2 to you for anything that she would like?

3 A. Yes.

4 Q. Okay. Can she come to you emotionally as well as
5 just --

6 MS. DENTON: Objection, Your Honor.
7 Leading.

8 THE COURT: Sustained.

9 BY MS. ACKER:

10 Q. So you state that you see her as one of your own. Are
11 you -- do you feel that you are very familiar with
12 Sammi's personality and --

13 A. Yes.

14 Q. Okay. How would you describe Sammi?

15 A. She's outgoing and she's really fun. She gets along
16 with all my children and adults. She's -- like all my
17 children, they are very outgoing. And she's pretty
18 much just like them, because we raise her the same
19 way. She -- they're outgoing, they can make friends
20 really easy and she's always willing to help other
21 kids.

22 Q. Is she at grade level in school where she's supposed
23 to be?

24 A. Uh-huh.

25 Q. Do you recall the period of time in August of 2013

1 that we've been referring to as to when visitation
2 started with her father?

3 A. Yes.

4 Q. Have you noticed any behavioral or demeanor changes
5 since those visits have started?

6 A. I've just witnessed her getting sick and feeling
7 nervous. Sometimes she had nightmares. She'd wet the
8 bed. She'd come in our room to sleep with us, and she
9 still does. Every now and then she'll come in there
10 and she'll crawl in bed with me in the middle of the
11 night.

12 Q. Is that typical?

13 A. Not -- it's not all the time. It's just like when the
14 visits are. When she's having the visits. And a lot
15 of times -- like if the visits aren't happening, she's
16 fine. I mean it's just -- she's just normal, fine.
17 And then as soon as the visits starts, then that's
18 when she gets like that.

19 But I'm not -- and when she comes from the
20 visits, she's fine again. So I don't know if it's
21 just building up to the visit, and then getting sick
22 and --

23 Q. In regards to the getting sick, did you seek any sort
24 of medical?

25 A. Yes, I did.

1 Q. And where did -- where did you seek the medical?

2 A. I went to the one in -- the clinic up here. And I
3 don't remember which doctor it was. But I had told
4 her that Sammi had started visits again and she
5 started to feel nauseous and sick. And just wasn't
6 feeling good. And telling me she doesn't want to go.

7 MS. DENTON: Objection, Your Honor. Move to
8 strike. Hearsay.

9 THE COURT: Sustained. That's stricken.
10 Please don't say things that the child says. I know
11 it is difficult.

12 BY MS. ACKER:

13 Q. In regards to the -- was Sammi prescribed anything?

14 A. Yes, she was. I don't know the name -- it's a nausea
15 medicine.

16 Q. Do you administer this medication to her?

17 A. Yes.

18 Q. In order to be administered, do you -- does she ask
19 for it, or do you ask her if she wants it?

20 A. No, she asks for it --

21 MS. DENTON: Objection, Your Honor. Calls
22 for hearsay.

23 THE COURT: Sustained.

24 BY MS. ACKER:

25 Q. Do you provide it to her before visits?

1 A. If she asks.

2 Q. Have you administered it to her regularly prior to the
3 visits --

4 A. She only takes it once before we go. It's only
5 like -- you can have it like every six to eight hours.
6 But I only give it to her once a day if she has to
7 have it.

8 Q. Okay. Have you noticed any other, I would say, out of
9 character instances with her in the past year that
10 seemed oddly out of character for her?

11 A. Just when she gets upset and be's mean to other
12 children at school.

13 Q. Is she characteristically mean to other children?

14 A. No.

15 Q. Do you recall speaking with the guardian ad litem on
16 or about May 26th of 2014 regarding a trip with
17 Samantha to Port Angeles?

18 A. You mean calling her.

19 Q. Yeah, speaking with the guardian ad litem?

20 A. Yes. Yes.

21 Q. And without going into -- what was your trip to Port
22 Angeles about that day?

23 A. It was the visit.

24 Q. Okay?

25 A. The guardian ad litem has always told Sammi and us

1 that she's -- she works for Sammi, so she always told
2 Sammi. She can tell "Sammi" how she felt.

3 So that's -- that's why Sammi would call her.

4 Q. Okay. So the guardian ad litem was contacted prior to
5 visitation?

6 A. Yes.

7 Q. Do you -- if -- if hypothetically you were to be
8 granted guardianship of this child, would you be open
9 to her having a relationship with either of her
10 biological parents?

11 A. Yes.

12 Q. Okay. Would you stop them from contacting her --
13 [indecipherable]?

14 A. No.

15 MS. ACKER: Nothing further for Ms. Foster
16 at this point.

17 THE COURT: Just hold on -- are the parties
18 here for the --

19 THE CLERK: Housing authority and Darrel
20 Pent, yes.

21 THE COURT: So we're going to have to take a
22 break --

23 [Recess]

24 THE COURT: So I believe, Mr. Siewell, it
25 was your turn to question Ms. Narcissus.

CROSS-EXAMINATION

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BY MR. SIEWELL:

Q. The Tribe's attorney asked you if --
[indecipherable] -- if you've taken on the financial
responsibility for Sammi, you responded that you get
\$399 a month.

Have you ever gotten any other funds for her
case, besides \$399 a month?

A. No.

Q. Has anybody provided clothing or any other assistance
for her?

A. No, just Tony and I.

Q. You said in -- Sarah asked you -- Ms. Acker asked you
several questions about your statement that Sammi
is -- you know, she's like all your other children?

A. Uh-huh.

Q. Can you explain to me what that means in your
perception of -- of family and -- and, you know, as a
tribal person, tribal family, can you give us a little
more explanation of what that looks like?

A. Well, just like any of my other children, I love her
just as much as they do. I mean, as much as I love my
other children, I love her just like my own. She gets
the same treatment. She gets the same kind of
discipline they were raised in. And loved just as

1 much as them.

2 MR. SIEWELL: I don't have any further
3 questions.

4 THE COURT: Okay.

5 MS. DENTON: I don't have any cross-examine.

6 MS. ACKER: No questions.

7 THE COURT: All right. Thank you.

8 MS. ACKER: That was the last witness for
9 ICW.

10 THE COURT: Mr. Siewell.

11 MR. SIEWELL: Thank you. I will call first
12 Tony Foster.

13 THE COURT: Okay. Mr. Foster, please raise
14 your right hand. Do you promise to tell the truth,
15 the whole truth and nothing but the truth, under the
16 penalties of the laws of the Quileute Tribe?

17 THE WITNESS: I do.

18 THE COURT: Okay.

19 * * * * *

20 TONY A. FOSTER, having been first duly sworn, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. SIEWELL:

24 Q. Mr. Foster, could you please state your full name for
25 the record?

1 A. Tony Angelo Foster.

2 Q. And are you a member of the Quileute Tribe?

3 A. I am.

4 Q. And where do you reside?

5 A. At 280 Main Street here in La Push.

6 Q. In La Push, Washington.

7 How long has that piece of property been in your
8 family?

9 A. Oh, geez, I'm pretty much a lifer down here. I'm
10 52 years old, so we've been there for a number of
11 years. This is our second home there.

12 Q. Your second home on the same piece of property?

13 A. Yes.

14 Q. And could you tell us a little bit about how you were
15 raised as an Indian child in [indecipherable]
16 community?

17 A. I was raised -- yes. It goes back into time a little
18 bit. You know, let's go back to when my
19 grandmother -- she lived two houses down from me. And
20 the way we were taught is to bring people into our
21 home. When I see her at her place, you know, we live
22 two places down. My mom and stepfather, at that time
23 would go visit her. And sometimes we lived with her,
24 because, you know sometimes we didn't have the means
25 for ourself back then. And so she would invite, you

1 know, a lot of people in her home, trying to make sure
2 they were taken care of in an orderly fashion. And I
3 think that's just the way that she has taught us to do
4 that. I mean, when somebody was hungry, you know,
5 somebody was sick, she was there to support them as a
6 tribal elder in the community. And she's does this
7 time from time of "memorial" from what I remember of
8 her. So we try to instill that in our own home and
9 teach our kids the same thing.

10 Q. How does that look in your home? I mean, can you tell
11 us a little bit about what life is like there in your
12 home where Sammi is growing up?

13 A. You know, I can actually go back in the time and work
14 my way forward, if you don't mind.

15 Q. Go ahead.

16 A. We actually had -- you know, when my kids were growing
17 up, even -- you know, when Narcissus and I got
18 married, we would invite kids into our home to make
19 sure that they were okay.

20 As my kids got older, you know we had friends
21 spending the night, we actually have -- people that
22 have thanked us for graduating because they got to
23 stay in our home and we treated them just the same as
24 our kids. If you are going to be staying here, let's
25 make sure you get your homework done and make sure

1 things are done in a timely fashion so you guys can,
2 you know, excel, you know later on in life. You know
3 they have kind of -- we got to the point where they
4 don't even need to knock. They come in and they're
5 family.

6 Some of these kids -- some of them are police
7 officer -- a police officer today. One of them is
8 working in the community. You know, they have called
9 us mom and dad. We have people that have homes down
10 here that will still come and stay with us, because
11 what our grandma had instilled into us is to help our
12 community, to make sure that we are there for anybody.
13 So the way of life we have learned from her is going
14 to continue on.

15 And we try to teach that to our kids, too, to
16 make sure that they're fine. And they can protect
17 other people. You know, they can help other people.
18 They can make sure things are fine for them.

19 I mean, when we have people coming in there
20 and -- you know, whether it's in law enforcement
21 capacity, where it's a friend capacity, they are
22 there. This is something our Grandma Lillian has
23 instilled into us. We tried to help people in that
24 nature. And we still continue on.

25 And my kids are doing the same thing. You know,

1 I think it's -- it's a lesson that they have learned
2 that has been passed down from, you know, generation
3 to generation.

4 Q. Uh-huh. So it sounds like that can be difficult to
5 manage. People who have issues of, you know -- I
6 guess what I want to ask you is how do you maintain a
7 certain level of safety for Sammi at home where you on
8 the one hand you have this sort of open-door policy,
9 or open-arms policy. How do you maintain safety for
10 the young girl?

11 A. Okay. That's actually pretty easy. A lot of people
12 that we know down here, we've known them, you know,
13 forever, since they were younger. And some people
14 have taken some bad steps in their life, you know, and
15 they cite off what they're doing. And we want to make
16 sure that, you know, we get them the appropriate help.
17 You know, maybe in an atmosphere down here, or maybe
18 in a law enforcement capacity, maybe going to certain
19 areas. But at our house, we have allowed people to
20 come in and eat. But we know these guys. We've known
21 them mostly all our lives. They don't impose no risk
22 to us, they know the family completely. I mean, we
23 have -- you know, a lot of people that come down
24 and -- and you know visit with us. But they know when
25 it's time to leave, too. You know if we're ready for

1 bed, they're -- they're really good about it. They
2 really are.

3 Q. So, it's sort of -- it's not just something that is
4 your family culture, is that what you are saying,
5 people know them?

6 A. It is an extended family in a way. You know it's a
7 way of life. They know how my grandma is. And you
8 know, their parents maybe went and visited my gram.
9 Went and visited my house. Because they taught my mom
10 the same thing before she passed away in '82, you
11 know. And she would do that, too. We've had people
12 from -- not only this community but the Forks
13 community. We've never had no issues. You know, we
14 make sure that we're a pretty good judge of character.
15 If they look a little "hinky" on us, then we
16 definitely say there's some issues that she's got to
17 deal with. Because, you know, like I said, my oldest
18 boy, he's in law enforcement. My second oldest boy
19 was in law enforcement as well. And myself, I'm in
20 law enforcement. I'm also a local EMT so we make sure
21 that we try to establish a good rapport with the
22 people that come, but we know them all. That's the
23 other side of it too.

24 If friends come down with them, you know, we're
25 not just going to leave them there and say go ahead,

1 you have the run of the house. You know, we still
2 provide safety measures that we need to provide for
3 the home.

4 Q. Can you tell us a little bit about how Samantha got
5 placed in your care?

6 A. Yes. That's -- the previous ICW caseworker had asked
7 us to, you know, take children, these two children in.
8 And we said, you know, kind of apprehensive about it
9 at that time, because my wife, she wasn't working at
10 that time. And you know, she was already watching our
11 grandkids. You know. And so the wife and I talk, and
12 about a week later, you know, we're approached again,
13 are we giving an answer. We said, you know, it's kind
14 of difficult for us. And the lady at that time said
15 well, if you don't take her, we're going to take her
16 out to [indecipherable] out there. And we couldn't do
17 that. Because, like I said before, my gram, you know,
18 you always hear the saying it takes a village to raise
19 a child. Well, we want to be a part of that. And so
20 that's kind of what we've done. We've taken them in
21 our home. And that's kind of how we got it. We were
22 very apprehensive about it at first, because you know
23 it was kind of difficult for the wife and I. But we
24 talked and we decided to do it. And we brought them
25 both in. And they weren't the first children we had.

1 Q. You had other foster children --

2 A. Yes, sir.

3 Q. -- or provided care for other children?

4 A. Yes.

5 Q. Do you have any idea how many?

6 A. I believe my wife said four earlier. I'm not a
7 hundred percent sure. Like I said, we have extended
8 family. We have people that have come into our home.
9 And whether they are having trouble at home or they
10 just want to come down and visit. They know my kids.
11 They know us. You know, like I said, some of them
12 call us mom and dad. And it's what they do. It's
13 just the way of life. I'd say -- I'd have to stick
14 with her answer around four, because I'm not a hundred
15 percent sure.

16 Q. But those -- I think she -- well, okay.

17 So Sammi came -- how old was she when she came
18 to live with you?

19 A. Let's see, I would say she was about three and a half
20 months old. And like --

21 Q. Did she have a bed of her own when she was three and a
22 half months old?

23 A. Not at first, because we wasn't sure how long she was
24 going to stay with us, but what we did do is to
25 provide a crib for her. And she stayed in our

1 bedroom, you know, with us. And we've done it with
2 our other kids. That's the way it's supposed to be.
3 I'm not going to put her off in some other room --
4 we're not going to put her off in some other room and
5 say, okay, let's get a monitor in case we hear -- no,
6 we were there to make sure we provide the care of this
7 child.

8 Q. So --

9 A. But she does have a bedroom now. And she's had it
10 for, geez, quite a long time.

11 Q. Uh-huh.

12 A. You know. But no, not at first, because we didn't
13 know if the court was going to take them from us or
14 not.

15 Q. And so -- in 2013, the visits started again -- before
16 they started, can you tell us what you observed about
17 Sammi and her personality, her nature?

18 A. Oh, yes. I mean, once they started and happy -- she
19 started -- I would refer to it as a Klingon, you know,
20 looking at star wars or something like that because
21 she got really clingy. She started talking like baby
22 talk and stuff like this.

23 Q. She wasn't that way before when this started?

24 A. No.

25 Q. What was she like before this started?

1 A. It's tough for me to say. Sammi -- Sammi is a very
2 smart girl, she can articulate some great words. You
3 know she knows a lot of big words. You know she's
4 very smart. She's happy-go-lucky, you know, we'd go
5 for a walk with her on the beach or go to the store,
6 and she's -- she's a free spirit. You know just
7 happier than can be. I mean, she's a beautiful child.

8 Once the visits started, I see it progressively,
9 you know -- her neediness coming in a little bit more,
10 where she did get clingy. And that made it tough on a
11 lot of us. You know, it's like she reverted back to
12 her baby-talk. She wanted to make sure that, you
13 know, we're there for her, because she's put into a
14 very unique situation.

15 Q. Did you -- aside from the baby-talk and the
16 clingyness, did you observe any other indications that
17 she was having a difficult time?

18 A. Oh, yes. I should have alluded to that earlier. When
19 I heard -- I don't know the lady that was sitting here
20 before us, that was from Port Angeles at the -- by the
21 courthouse. I don't know the name of that place.

22 But, you know we --

23 Q. Are you talking about the counselor?

24 A. The counselor.

25 Q. That's where the counselor is by the courthouse?

1 A. Where Mr. Brewer and her would meet. I don't know the
2 name of it. I apologize. I go blank every once in a
3 while. Like, you know, we said she was put on some
4 medication. Well, I don't know if I skipped this day
5 or what happened. But you know, when we get close to
6 Port Angeles, she said, where are we at?

7 MS. DENTON: Objection, Your Honor.
8 Hearsay.

9 THE COURT: Sustained. Mr. Siewell --

10 THE WITNESS: I apologize.

11 THE COURT: -- I don't want to cut you
12 short, but I want -- I really want you to be kind of
13 condensed and more selective about what you are going
14 to be asking, just because we are already pushing the
15 three o'clock hour. And I just wanted to make sure
16 that Mr. Brewer has an opportunity to put his
17 witnesses on as well.

18 MR. SIEWELL: I will go as quickly as I can.

19 BY MR. SIEWELL:

20 Q. Did you observe any other indications that she was
21 having a difficult time at the visits?

22 A. She would start puking. I would --
23 [indecipherable] -- went to a place and I had a lady
24 that was there. And she's puking. And I said okay.
25 And that's when that lady was there. She goes, that's

1 never happened before. So it kind of threw me off
2 that she said she's never seen anything like that.
3 And I'm going, okay, well --

4 Q. Was that at the counseling office? Be?

5 A. Yes. We walked into the building and Sammi puked on
6 the floor. Well, we had to clean it up, of course.
7 But I brought Sammi into the bathroom to make sure
8 that she was fine, and brought her back out, and she
9 continued on with the visit.

10 I apologize for saying that about Sammi that she
11 told me. I will try to be frank when I'm doing that.

12 Q. If the court grants guardianship, are you able and
13 willing to provide care for her until she's 18?

14 A. Absolutely.

15 Q. Provide for [indecipherable] and education?

16 A. As far as I'm concerned, she's one of our kids and I
17 would do that, absolutely.

18 MR. SIEWELL: I don't have any further
19 questions, Your Honor.

20 THE COURT: Ms. Denton?

21 MS. DENTON: May I have a moment, Your
22 Honor?

23 THE COURT: Sure.

24 CROSS-EXAMINATION

25 BY MS. DENTON:

1 Q. Sir, is -- is -- you're familiar, correct, with the
2 location of this reservation being threatened by tidal
3 waves, right?

4 A. Yes, ma'am.

5 Q. Okay. And is your home within that zone, that's
6 threatened by tidal waves?

7 A. Yes, ma'am.

8 MS. DENTON: I don't have anything further,
9 Your Honor.

10 THE COURT: Any redirect?

11 MS. ACKER: I think we skipped over me.

12 THE COURT: Did we?

13 MS. ACKER: It's okay.

14 THE COURT: I'm sorry. I'm used to going
15 you and him. I apologize.

16 THE WITNESS: Actually, I have a question
17 about the tsunami.

18 THE COURT: No, sir. We have no questions
19 pending.

20 MS. ACKER: I don't believe I have any
21 questions for him.

22 THE COURT: So see, I knew that, and I
23 skipped over you. It was like you threw me there.

24 MR. SIEWELL: Could I ask a question on
25 redirect really quick Your Honor?

1 THE COURT: Okay.

2 REDIRECT EXAMINATION

3 BY MR. SIEWELL:

4 Q. Does the Tribe have an emergency management plan?

5 A. They do.

6 Q. And is there an evacuation plan in the event of a
7 tsunami?

8 A. There is. And I'm actually part of that team.

9 Q. What is your role on that team?

10 A. I am the second in command to make sure that, you know
11 the village is evacuated, you know right away. We've
12 done many different scenarios down here. We actually
13 have a warning system down here. We've actually put
14 our other law enforcement, other community members --

15 Q. Is this warning system attached to the NOAA tsunami
16 area warning system that --

17 A. It is. It's pretty global down here. And we've got a
18 scanner. And what our role is, is to make sure that
19 everybody is involved to get everybody out expediently
20 to make sure that we have we have them to be aware --
21 we have sirens going off on their own. They have the
22 two -- actually, AHAB systems that are going off so
23 that this community is aware. I mean if it happened
24 we would be getting out in a timely fashion.

25 Q. Do you have any idea how many coastal communities

1 along Washington, Oregon, and California are also in a
2 tsunami zone attached to that NOAA early warning
3 system?

4 A. I believe all of them should be. Can I speak on their
5 behalf? No, but now we have buoys on the outside of
6 here that's going to, you know, alert everybody here.
7 We have a Coast Guard station right next to us too,
8 that's actually going to be able to let us know that
9 things are going to happen.

10 And you know, we are very in tune with our
11 communication down here. We've got our cell phone.
12 We have got the CB radio. We've got the UHF radio,
13 we've got the VHF radio. We've got -- I'm actually a
14 certified ham operator. So we have a lot of things in
15 place that will be able to notify everybody down here
16 to get off -- and we have our system set up top there
17 where we have kitchen units. We have everything that
18 will allow people to stay in case extended period of
19 time.

20 MR. SIEWELL: I don't have any further
21 questions.

22 THE COURT: Okay. Ms. Denton?

23 MS. DENTON: I don't have anything further,
24 Your Honor.

25 THE COURT: Okay. Thank you so much.

1 Who's your next witness, Mr. Siewell?

2 MR. SIEWELL: I'll call.

3 [Indecipherable].

4 THE COURT: Okay. So I'm going to give you
5 until 3:15 with this witness.

6 MR. SIEWELL: Okay. Fair enough.

7 THE COURT: Talk fast.

8 MR. SIEWELL: I'll do my best.

9 THE COURT: Do you promise to tell the
10 truth, the whole truth and nothing but the truth under
11 penalties of the laws of the Quileute Tribe?

12 THE WITNESS: Yes.

13 THE COURT: Okay. Please have a seat.
14 Go ahead, Mr. Siewell.

15 MR. SIEWELL: Thank you.

16 * * * * *

17 SHEVAUGHN RONDEAU, having been first duly sworn, was
18 examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SIEWELL:

21 Q. Ms. Rondeau, would you please state your full name for
22 the record?

23 A. My name is Shevaughn Rondeau.

24 Q. How are you currently employed?

25 A. I work up at the Quileute Head Start as a teacher

1 assistant.

2 Q. And what did you do before that?

3 A. I worked at the child care on the other side of the
4 building.

5 Q. Are you familiar with Samantha Brewer?

6 A. Yes, I am.

7 Q. How are you familiar with her?

8 A. When I started working at the child care in 2008, '10,
9 somewhere around there. She went there. I went -- I
10 was her teacher in the infant room, toddler room, and
11 preschool room.

12 Q. So you followed her through?

13 A. Uh-huh.

14 Q. And so then when she went on to Head Start, did you
15 also go to Head Start?

16 A. I was at Head Start before she got to Head Start.

17 Q. Before she got there.

18 Were you her teacher there?

19 A. Yes, I was.

20 Q. Okay. Can you tell us what you observed about
21 Samantha's behavior prior to August of 2013?

22 A. She is a little girl that is very loving and caring.
23 For as young as she is, she's a very bright little
24 girl. She's very -- has very good manners. Very
25 courteous. She speaks well to other kids. Is very

1 nice to other children and giving and very, very
2 helpful.

3 She's one of those children that sticks in your
4 mind that is very -- she's just very caring. She's
5 very bright. Very smart. And she knows a lot.

6 Q. Have you had an opportunity to observe Samantha with
7 Tony and Narcissus Foster and their family?

8 A. Yes.

9 Q. And can you tell us about that? When did you observe
10 her?

11 A. I -- I've been down in La Push for a while now. And
12 to see her when they walk into a room, it's -- her
13 eyes light up. It's a caring, loving relationship.
14 She speaks highly of them. That's her mom and dad.
15 And if you tell her otherwise, it's oh, goodness,
16 yeah.

17 Q. So and in your observations would you say that
18 Samantha's bonded with Tony and Narcissus?

19 A. Yes.

20 MS. DENTON: Objection. Foundation.

21 THE COURT: Sustained.

22 BY MR. SIEWELL:

23 Q. So you were her head start teacher in August of 2013?

24 A. Yes.

25 Q. And did you see a change in her behavior from around

1 that time?

2 A. Yes.

3 Q. Can you tell us about that?

4 A. The change that she had, um, was not like her. It was
5 not a change that was for better. It was a change
6 that was a little bit concerning because of how she
7 would be. She was never a mean child. So when
8 talking to other kids, she would get very defensive.
9 A little more behavioral aggressive.

10 Q. Were you able to detect any pattern of when these
11 behaviors would arise?

12 A. Yes. Soon realized that she was going to visits. And
13 she would -- her stomach hurt. She would sometimes
14 not even eat. She would be distance -- distant from
15 the other kids. She'd be very clingy to the teachers.
16 Um, she just -- she just -- sometimes we would just
17 have to sit there and be with her, the teachers.

18 Q. How do you know they were related to the visits?

19 A. Because she would say.

20 Q. Did you ever observe time when she was behaving this
21 way because -- visit was coming up. She was behaving
22 this way and something changed?

23 A. Yes. There was a time when she was -- because the way
24 our tables are set, they are kind of circular. And
25 she was sitting right here, and she wasn't really

1 talking to anybody. Not even really acknowledging
2 anybody else. She'd already come in and said teacher,
3 my stomach hurts.

4 MS. DENTON: Objection. Hearsay.

5 THE COURT: Sustained. You can't -- please
6 don't say things the child said.

7 THE WITNESS: Oh, okay. Sorry. I didn't
8 realize that. Sorry.

9 We were already -- okay.

10 THE COURT: If this is helpful. You can
11 testify to your observations.

12 THE WITNESS: She was not feeling good when
13 she came in.

14 BY MR. SIEWELL:

15 Q. And you observed -- okay.

16 A. I observed her not feeling well when she came in. And
17 she was not engaging in conversation with anybody.
18 And somebody had come in and said -- pulled her aside
19 and said --

20 MS. DENTON: Objection. As to what
21 somebody -- whoever that is --

22 THE COURT: You can only testify to things
23 you have said.

24 THE WITNESS: Oh. I can't testify to what
25 I've seen.

1 MR. SIEWELL: Let me ask a question.

2 THE WITNESS: Okay.

3 BY MR. SIEWELL:

4 Q. Did that visit happen?

5 A. No.

6 Q. Okay. And how did Sammi respond when she learned that
7 the visit wasn't going to happen?

8 MS. DENTON: Objection, Your Honor. This
9 calls -- hearsay, foundation.

10 THE COURT: Already. Sustained.

11 MR. SIEWELL: All right. I have no further
12 questions.

13 CROSS-EXAMINATION

14 BY MS. ACKER:

15 Q. You referenced in -- when asked how she responds to
16 Tony and Narcissus Foster, you made the statement her
17 eyes light up. That's her mom and dad if you tell her
18 otherwise, whoa --

19 A. Uh-huh.

20 Q. -- what do you mean by that? Without going into
21 anything she said. What do you mean by that? What's
22 the reaction if you tell her otherwise?

23 A. She has gotten in arguments with other children.

24 And -- I mean -- they're young. The other children
25 don't realize what the circumstance is.

1 A. Catherine Ann Salazar.

2 Q. And are you a member of the Quileute Tribe?

3 A. Yes, I am.

4 Q. And where do you currently live?

5 A. 20 Taxi Lits.

6 Q. Is that on the Quileute Indian Reservation?

7 A. Yes.

8 Q. And how are you currently employed?

9 A. Tribal Council secretary.

10 Q. How long have you known Tony and Narcissus?

11 A. A long time. I would say over 20 years, but as good
12 friends, probably about 15.

13 Q. Can you tell the court a little bit about your
14 observations of how Tony and Narcissus run their
15 household? What their household is like.

16 A. The first word that pops into my mind is love. Any
17 time you go in there, you are always going to feel
18 loved. It doesn't matter who you are. If it's the
19 first time that you've been in there, or if -- like
20 me, I go there all the time, you are always going to
21 be loved, you are always going to be welcomed.

22 You don't knock on the door. You just go in. I
23 mean, it's just that kind of level of comfort that you
24 can just feel free to feel comfortable. You can kick
25 back. Nobody is home. Still kick back. I've done

1 that before. Helped myself to what was in the fridge.

2 Q. Would you say you're unique in that?

3 A. No. I wouldn't say that. I remember -- the first
4 part where I really understood how that they -- how
5 they operated. I was over at their house one time,
6 and Gary Jackson was our neighbor across the street,
7 and he came over knocking on the door late. I would
8 say after 9 o'clock at night. His parents had come
9 from Canada and he needed a place to stay. And
10 Narcissus got a bedroom ready for them. Gary went and
11 got his little old short grandma, or short mom, who
12 came in shorter than me, very elderly and they brought
13 her into the room. And I -- I remember thinking,
14 like, this is going on -- I'm looking around. It's
15 not unusual at all for the kids. None of them were
16 like crying around hey that's my room. Or like where
17 am I going to sleep? None of that even came up.

18 And you know, I get commented on it. But that's
19 stuff that they do all the time on a daily basis. You
20 know, you see kids there, you see adults there. You
21 see their brothers, sisters, nieces, nephews.

22 Anybody's there. Their kids' friends. It would be
23 very unusual to go there and not see any of their kids
24 or their families there.

25 Q. And how does Sam -- have you observed Sam -- Samantha

1 in that environment?

2 A. Uh-huh.

3 Q. And how does she respond to that?

4 A. There's no way to say she responds because she
5 belongs.

6 Q. Does she --

7 A. She fits in. She's a part of it. She knows she's a
8 part of it.

9 Q. Does she exhibit the same characteristics?

10 A. Oh, yes, she does. And she wants to make sure other
11 people who are coming in are feeling that kind of --
12 I've seen her like at barbecues. You know like the
13 way she is. Like if she sees like other kids, she'll
14 bring them in with her. She doesn't want anybody to
15 be off by themselves or anything. She's very
16 inclusive and she's very -- she's very protective of
17 those that she loves for being such a young age.

18 Q. And have you noticed any changes in her personality
19 since August of 2013?

20 A. Yes.

21 Q. Can you talk about what changes you observed?

22 A. Can I get some water?

23 Sammi's my girl. She's my little girl. I mean
24 she's not -- I think you know what I mean when I say
25 that. I love and I care for her a lot.

1 We hang out a lot. You know, not just over
2 there. But she'll come over and she'll -- we'll have
3 fun times together. We'll watch movies. She's helped
4 me pick berries. Just watch TV, color, walk.
5 Whatever she wants to do, I'll do with her. And yeah,
6 us -- um, it's just really disturbing to see her when
7 she's hurt. When she's trying to work things -- what
8 I see in her when she's not how she normally is. I
9 mean, I can see how she is when I see her. And I know
10 what's usual for her. And when I see her and she's
11 quiet or she's shut down. After one visit I was in
12 Port Angeles and I knew Tony had brought her for a
13 visit, and I had heard that she was throwing up --

14 MS. DENTON: Objection. Your Honor.
15 Hearsay.

16 THE WITNESS: I had never seen her get sick.
17 But I called -- she was done with the visit. I wanted
18 to speak to her. She didn't want to speak with me. I
19 asked Tony to bring her back into town, because I
20 think he was heading out and we met at Swain's
21 [phonetic]. And she wouldn't get out of her car seat
22 to see me. And this is the girl who comes running --
23 flying and jumping in my arms. And she didn't want to
24 look at me. She kept looking away from me. I had to
25 take her out and -- and once I got her out, she just

1 clung to me. And I brought her to the back of the
2 car, and she wasn't talking. And that -- that hurt a
3 lot, because that's not how she is with me. That's
4 not what we have been together. It -- I've seen a
5 different side of her. I've seen things that she
6 tries to recreate or things that she wants to do that
7 seem to want to reinforce family. Like calling me her
8 God mother. Just one day she decided I'm her God
9 mother. My kids are her bros and her sister. My
10 husband is her godfather. She's -- these are things
11 that she hadn't done before. And it takes awhile for
12 her to kind of bounce back from those days.

13 And that day on that car, I was trying to
14 talk to her about other stuff. And she wouldn't talk.
15 Just like little things. Sammi loves to eat.

16 I bought her ice cream and fries. And she
17 didn't want to eat. And I thought this is weird,
18 because this girl can eat. You know.

19 But when I had her in the back of the car, I
20 said, Sammi, I don't know what happens. And I said
21 you don't have to tell me anything. And she doesn't
22 talk to me about any of her visits or anything. I
23 said all I want you to know is that I just love you
24 and I just want you to be happy. And I want to do
25 whatever I can to make you happy.

1 A. Charlotte Ann Penn.

2 Q. How are you currently employed?

3 A. I am employed under the Quileute Valley School
4 District in Forks.

5 Q. What is your job title?

6 A. Title VII Native American paraeducator.

7 Q. Paraeducator?

8 A. Uh-huh.

9 Q. And how long have you had that job?

10 A. Three years.

11 Q. Three years.

12 Could you tell us a little bit about what
13 that -- what that means of Tribal liaison?

14 A. It's basically, I'm the Native American advocate for
15 all of the title students, and title students are all
16 the native students enrolled in the whole school
17 district.

18 Q. And as their advocate, do you check to see if they are
19 doing their homework, doing -- getting good grades.
20 What kind of things do you --

21 A. I make sure they come to school. And if they are not
22 at school I need to go and check to see why they are
23 not in school. So basically I help to get them to
24 school or figure out what's going on. And then in the
25 classroom, if the teacher is having issues with

1 students, I go and help the student to see what's
2 wrong with the student. Basically I do everything at
3 the school.

4 Q. Okay. And in the course of your employment as the
5 Tribal advocate, have you provided advocacy services
6 for Samantha Brewer?

7 A. Yes.

8 Q. And how often would you say you see Samantha Brewer?

9 A. At least three or four times a week.

10 Q. Three or four times a week.

11 And can you tell the court generally what your
12 observations are about her when she's at school, her
13 dress, her appearance, her behavior?

14 A. Well, some days she's a normal student like all the
15 other kindergarten, or the other students. She has
16 good days and she has bad days.

17 Q. Would you say that she -- what would you say her
18 appearance is like when she shows up to school?

19 A. Um, just really depends. You know, the good days
20 she's just a normal little kid, goes to breakfast,
21 goes to play, does her own thing, like all the other
22 students do. But on bad days, you know when there's
23 bad days. And that's where I come in.

24 Q. At any -- do you have any idea what kind of student
25 she is? How she's doing in her class?

1 A. Through my observations, she does pretty well.

2 Q. Uh-huh. Have you been asked to help her with any of
3 her educational -- any educational issues, learn?

4 A. Not at this point, no.

5 Q. You said that she has bad days. Have you detected any
6 pattern in when bad days occur and when the good days
7 occur?

8 A. Yeah, I do. Because I know a lot of the schedules
9 with the students within the school and through other
10 things.

11 Q. So can you tell us what that pattern that you observe
12 is?

13 A. Yeah. I usually know when her good days and her bad
14 days are. And that's why I see most of the students.
15 I try to make my appearance every day. And especially
16 the elementary school, because some students that I
17 know need extra help with being able to focus in
18 school.

19 Q. And --

20 MR. SIEWELL: I don't have any further
21 questions. Your Honor.

22 THE COURT: Ms. Acker.

23 CROSS-EXAMINATION

24 BY MS. ACKER:

25 Q. When you say bad days, what's her behavior like on bad

1 days?

2 A. Very clingy. And you can tell she's distraught. The
3 cling -- being clingy is really difficult because you
4 know as -- as a work employee, you are not supposed to
5 allow children to hold you and all that other stuff.
6 But in elementary school, there's really -- you can't
7 tell a student, don't touch me, or don't come to me,
8 or stuff like -- you can't be like that. So she gets
9 clingy when, you know, she has a really bad day and
10 she'll just be really out of it, like not there.

11 Q. Okay. And is that a significant departure from how
12 she is on what you would qualify as a good day?

13 A. Yeah.

14 Q. Okay. What's she normally like on a good day?

15 A. Happy-go-lucky on her own, being able to play with the
16 friends that is in her class or in the grade, because
17 they are all -- during lunches they are all separated
18 in their own grade, but in the morning time, what,
19 it's everybody from K through 3rd grade.

20 MS. ACKER: I have nothing further --

21 MS. DENTON: No cross.

22 THE COURT: Okay. Thank you very much.

23 Ms. Penn.

24 MR. SIEWELL: That's the last of my
25 witnesses, Your Honor.

1 THE COURT: Does anybody need a restroom
2 break before we move to Mr. Brewer's side? We're
3 good.

4 MS. DENTON: Did the petitioner rest?

5 THE COURT: He did.

6 MS. DENTON: Okay.

7 THE COURT: You missed it.

8 MS. DENTON: I did. Your Honor, at this
9 time father would make a motion to dismiss the
10 petitioner's case, as that he did not prove a prima
11 facie case under what's required in the Quileute code.
12 And under the code, Your Honor, he needs to prove by a
13 preponderance of the evidence that -- and it's all
14 listed under section 7.8. Primarily Your Honor what
15 he did not prove was that there were services that
16 were offered and provided to the parents and that they
17 have had reasonable time to complete those services
18 and comply with court requirements.

19 In fact all of the witnesses for the
20 petitioner said that -- not all of them, those that
21 worked within the court system have said that
22 Mr. Brewer has completed services and he has complied
23 with court requirements.

24 Your Honor, under United States Supreme
25 Court law it is required that a parental fitness must

1 be established on the basis of individualized proof.
2 Parental unfitness must be established on the basis of
3 individualized proof.

4 Stanley versus Illinois, 405 United States
5 645. It is a 1972 case. Your Honor, in this case
6 there has been absolutely zero evidence of
7 Mr. Brewer's unfitness. And in fact Your Honor, quite
8 the contrary. Jessica Smith testified that Mr. Brewer
9 was in complete compliance with everything that they
10 have asked him to do. And nothing about his unfitness
11 is why they are requesting a guardianship.

12 Rachel Hardies has zero concerns about
13 Eric's ability to parent his children. He is not a
14 danger. She is in fact requesting increased visits.
15 Your Honor, this is not the time for the guardianship.
16 He is just starting to establish a relationship with
17 his daughter, not based upon his fault, but because
18 he's been given 60 minutes of increased visitation
19 over the past year. Mr. Brewer completed all
20 requirements of ICW over a year ago, and all he's
21 gotten is an increase of 60 minutes per month as far
22 as visitation is concerned.

23 Your Honor, the burden of proof is on the
24 petitioners to show Eric's unfitness, and they have
25 not shown that. They have not shown that under the

1 Quileute code. They have not shown that under the
2 United States Supreme Court law, and we ask that you
3 dismiss this guardianship petition.

4 MR. SIEWELL: Your Honor, the Quileute
5 Tribe, Quileute Nation is a sovereign Indian nation
6 with it's own set of laws and a holding in the Supreme
7 Court does not provide precedent to this court.

8 This court must look to Quileute law. And
9 nowhere in this guardianship statute, nowhere in
10 chapter 7 does it say that the father must be unfit in
11 order for this court to do it in this child's best
12 interest and enter an order of guardianship.

13 Quite frankly, whatever the federal law on
14 this -- on fitness question is completely irrelevant
15 to this court. It has no bearing at all and the court
16 should disregard it.

17 This court is the court of the Quileute
18 Tribe. Sovereign Indian nation, passes its own laws
19 and enforces its laws through law enforcement and
20 courts and this is the law that should guide this
21 court. Nowhere here does it say that unfitness is an
22 element of guardianship.

23 And to say -- the second part of this is
24 that he met his -- his requirements.

25 What actually witnesses testified to was

1 they actually increased the visitation as much as
2 Samantha could handle. The fact that -- that
3 Mr. Brewer is -- is participating in that doesn't
4 change the fact that there's no way that -- the
5 services are being offered and he's partaking them,
6 but they will not end in reunification in a reasonable
7 amount of time for this kid. In fact a reasonable
8 amount of time for reunification has already gone by.
9 The whole point of dependency is to step into a family
10 with the problem, correct it quickly and reunify.
11 That's not anything like what we have here. What we
12 have here is a situation where 6 years have gone by,
13 the only family this kid has ever known is the one
14 that she lives with. And to rip her out of that home
15 would create emotional harm to this child. It's --
16 it's inconceivable in that -- particularly in light of
17 this court having to reduce visitations at times, that
18 reunification is a reasonable option in this case.
19 And if reunification is not a reasonable option and it
20 is not, then the appropriate thing is to create some
21 security, permanency and a foundation for this kid to
22 grow and have a healthy emotional life.

23 This idea of leaving this child in complete
24 limbo, keeping this dependency open, causing her to
25 wonder whether or not -- somebody -- some other ICW

1 caseworker or some judge is going to snatch her out of
2 the only home she's lived in her whole life. The only
3 community she's lived in her whole life. The only
4 extended family she's had her whole life is absolutely
5 impossible.

6 But this code doesn't require us to prove
7 that he's unfit. It requires us to prove it's in her
8 best interest. And we've proved it's in her best
9 interest.

10 MS. DENTON: Your Honor, the code does
11 require unfitness to be proven. Under section 7.7, it
12 says, (d) in determining whether the proposed
13 guardianship would be in the best interest of the
14 child, the court shall consider placement preferences
15 established in section .5 a. And in 2.5 (a) it's a --
16 member of the child's immediate family. And -- didn't
17 under 2.5 (b) the placement preferences shall be
18 observed unless the person having priority, the blood
19 relative cannot adequately care for and protect the
20 child or placing the child with that person having
21 priority may pose a danger to the child.

22 That has not been proven in this case, Your
23 Honor. And it's required. In order to remove and
24 sever this blood relationship with Mr. Brewer and his
25 daughter by putting -- by putting her in a

1 guardianship with parents -- with people who have no
2 obligation to continue any visitation with him. None
3 whatsoever if they are guardians.

4 So Your Honor, it requires you to consider
5 placement preferences. Mr. Brewer is a preference,
6 because he is the biological father of this child.
7 And yet they have to show that that preference is not
8 a -- the preferred placement because he would place
9 her in some kind of danger. And their own expert
10 witnesses have testified that he is not a danger.
11 That there's nothing unfit about Mr. Brewer as a
12 parent. And we would ask that you dismiss this
13 petition.

14 THE COURT: Ms. Acker.

15 MS. ACKER: ICW would just point out that
16 guardianship provision -- the procedure for filing a
17 guardianship, it's not always just in a dependency
18 case. There are grounds for any person who's at least
19 18 years of age who has an interest in a child may
20 file a petition with the court requesting that he or
21 she be appointed guardianship.

22 Now, I understand that there are
23 requirements for the guardianship order Chris
24 crossover in a dependency case, too. But again, the
25 Tribe would look to the second requirement. All

1 necessary services reasonable, available, and capable
2 of addressing the issues brought forth in the case.

3 Now the issues brought forth in the case
4 could mean the dependency case or the petition case.
5 The issues brought forth in the case and we're arguing
6 that the issue brought forth in this guardianship
7 proceeding is the bonding issue. It's the
8 relationship issue. It's the emotional harm issue to
9 the child that's what it is. Services have been
10 provided to try to remedy that issue. By providing
11 visitation. By providing family therapy.

12 And is that issue going to be resolved
13 within the period that is not so long as the child's
14 emotional well-being will not be placed at risk. And
15 the Tribe would argue that, you know, it has provided
16 sufficient evidence to show that the child's emotional
17 well-being -- you know, it's not something that's
18 going to be solved in a time period that wouldn't be
19 detrimental to her emotional well-being.

20 And so this isn't -- this isn't a typical
21 dependency case by any stretch. And I don't think
22 anyone is denying that. But the issue addressed here,
23 that we're really addressing, is the lack of a
24 relationship between parent and child.

25 You could have a case where you have a

1 parent who hasn't been present voluntarily, has not
2 been present in a child's life and when a third party
3 goes to seek guardianship of this, comes back and
4 fights it the same way. Well, what's the issue there?
5 It's the same thing. And it maybe wasn't a dependency
6 case, but guardianship would permit a third party to
7 file for guardianship of the child. And if the parent
8 decides to come in after being served notice and fight
9 it, well, what's the issue? The issue is the bond.
10 The consideration is still the best interest of the
11 child. The standard is the preponderance of the
12 evidence.

13 So that's what the Tribe is stating in this.
14 You know, in terms of whether you define services
15 simply as -- you know -- services just as those
16 regarding -- you know, solving their delinquencies as
17 a parent, or whether a service is provided that's
18 capable of addressing the issues brought forth in the
19 case. And the issues brought forth in this case that
20 have been a part of this dependency case for the last
21 year is the lack-of-relationship issue.

22 THE COURT: Ms. Denton?

23 MS. DENTON: Your Honor, the lack of
24 relationship is not the issue in this case. The issue
25 in this case is whether or not reunification efforts

1 have been -- [indecipherable - coughing] -- well, no,
2 I'm sorry, let me take that back.

3 The issue in this case is whether or not
4 Eric is a suitable parent, that's the issue. And he
5 has not been proven to be unfit.

6 Now, the relationship that ICW refers to in
7 their argument is one that was thwarted by this court,
8 not you, but by this court, a previous judge, who
9 basically entered an illegal order keeping my client
10 from his children for almost 2 years.

11 And so that relationship is being rebuilt.
12 It is not at the fault of my client that it hasn't
13 been rebuilt more quickly, as the therapist noted, she
14 asked for more time months ago with my client and his
15 children. And Your Honor, in this case, the issue is
16 whether or not they have proven that Mr. Brewer is
17 unfit, because he has priority under the law as being
18 her blood relative. And they have to show that he is
19 not fit. And they have not done that. In fact they
20 have given you evidence to the contrary.

21 THE COURT: Well, clearly the guardianship
22 ordinance does indicate that the standard is
23 preponderance and it is the burden of the petitioner.

24 And it also indicates that these preferences
25 shall be followed unless there are certain

1 circumstances that exist. And the one that I'm
2 looking at is that the placement references shall be
3 observed unless the person having priority cannot
4 adequately care for a protected child, the one that
5 Ms. Denton has recited for me today, or if there is a
6 child with the person having priority may pose a
7 danger to that child.

8 And nowhere in the ordinance, unless I'm
9 missing it, do we have a -- a list of definitions that
10 defines what danger -- what the code means or meant to
11 say by "danger"?

12 So really... I think that's a question for
13 the court to term. And so I'm going to deny the
14 motion to dismiss. But I am -- I am taking very
15 seriously what Ms. Denton was saying. You know, I
16 think if petitioners didn't know it before, they
17 certainly know now that there are some problems with
18 this case. And they weren't problems created by
19 anybody sitting in this room.

20 And we're just all having to figure out what
21 to do with them at this point. So I'm going to allow
22 the case to proceed, and deny Ms. Denton's motion.

23 So who's your first witness, Ms. Denton?

24 MS. DENTON: Mr. Brewer.

25 THE COURT: Do you promise to tell the

1 truth, the whole truth, and nothing but truth under
2 the penalties of the laws of the Quileute Tribe.

3 THE WITNESS: I do.

4 THE COURT: Okay. Please have a seat.

5 * * * * *

6 ERIC BREWER, having been first duly sworn, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. DENTON:

10 Q. Please state your name for the record?

11 A. Eric Jason McCloud Brewer.

12 Q. How old are you sir?

13 A. I am 43.

14 Q. And what is your educational background?

15 A. I'm a high school graduate. I joined the Army with a
16 GED. Got my high school diploma while in the Army.
17 Lots of other schooling while I was in the service,
18 but I don't think any of that applies to the civilian
19 sector.

20 I got out of the military in '93 the first time.
21 I became a law police officer for the Nisqually Tribe
22 at that time. I then became the head of security for
23 the Red Wing casino after that. And then I came out
24 here and started commercial fishing, and then became
25 the chief of police for the Ho Tribe. And I'm also a

1 wild land, tier 3.5 wild -- fire fighter. And I'm a
2 combat life saver, which is equivalent to an EMT.

3 And my culture, we wouldn't have to go through
4 all that to tell you about me. The people that would
5 know me would have been able to tell you that. And
6 it's actually less -- makes me feel smaller for having
7 to tell you that, because that's not the way I was
8 raised. I'm not here to blow my own horn.

9 Q. What branch of the military did you serve in?

10 A. Army.

11 Q. And did you see combat?

12 A. When.

13 Q. In the first gulf war, 1989/91.

14 A. [No audible response.]

15 Q. Are you a Native American, sir?

16 A. I am.

17 Q. And with what Tribe?

18 A. I'm Mohawk and Nisqually. I'm trying to enroll in the
19 Nisqually Tribe. I don't know if you seen that. But
20 right now it's -- with my Aunt Frankie.

21 Q. And are you a father, sir?

22 A. I am.

23 Q. How many children do you have?

24 A. I've got six children. One stepdaughter, so seven.

25 Q. And what are their names and ages, please?

1 A. Brittany Brewer McCloud and she's 28. Aerial would be
2 26, because she's two years younger. And then there's
3 my son Isaac, he just turned 18. Then I got Samantha
4 and Justin, and we all know their ages. And then I
5 got my most recent youngest two, which is Corvan and
6 Laura. And Laura just turned 3 months. And Corvan
7 turns two on the first of February.

8 Q. And are those children, Corvan and Laura, do they live
9 with you?

10 A. Yes, ma'am.

11 Q. With their mother as well?

12 A. Yes, ma'am.

13 Q. With regard to Samantha and Justin, you would agree,
14 Mr. Brewer that those children were removed from your
15 care in 2009, correct?

16 A. That is correct.

17 Q. And they have not been placed back with you since?

18 A. No, ma'am.

19 Q. Okay. Was there a time during the pendency of the
20 case involving Justin and Samantha where the children
21 were going to be re-unified with you?

22 A. Yes, there was.

23 Q. When did that occur?

24 A. It was -- I had Justin at that time, he was in my
25 care. And my daughter at that time was in their care,

1 with the Fosters. And just previous to that she was
2 in Joann and Gene Harrison's home. And that's how my
3 daughter ended up going to Tony and Narcissus's home.

4 Q. Okay. But let's talk about when the children were
5 going to be reunified?

6 A. They were due to be -- it was 3 months was set for the
7 reunification. And they were already starting
8 overnight visits. And I had Samantha for a whole
9 week. And Tony and Narcissus were off to Washington,
10 D.C., and it happened to be Father's Day, Sunday. And
11 they returned -- and this is in '09. And they
12 returned from their trip to Washington, D.C., and I
13 had Samantha for the full week. And everything was
14 just fine. We were about to have breakfast. And then
15 they showed up early to pick Samantha up and was
16 pretty adamant and upset that I was like adamant and
17 upset that they were early. And so we agreed that I
18 still got to keep her a little longer and I would
19 return her to them later. Then -- and I went to
20 report that to ICW that next Monday. And I was
21 brought in the office by Margo Gilmore, and that's
22 when I was instructed that Tony and Narcissus sought
23 to adopt my daughter. And that was the first time
24 that I think I showed any -- if at all, if you want to
25 say a negative emotion. But I was really upset

1 because I was caught off guard. I never seen this
2 coming.

3 And so it was made real clear to me right then
4 and then what was transpiring and kind of followed
5 that suit since.

6 Q. And as -- has been discussed in this particular time
7 there was a time, sir, is that true that you were
8 court ordered not to see both Samantha and Justin?

9 A. That is correct.

10 Q. And visits have resumed with Samantha in 2-013-,
11 correct?

12 A. That is correct.

13 Q. And, sir, have you done everything that social
14 services has requested for you to do?

15 A. On some occasions, many times over.

16 Q. Is there anything, sir, that you are aware of that you
17 are still required of social services to do?

18 A. Nothing that I -- nothing.

19 Q. And right now, sir, are you gainfully employed?

20 A. I -- I am to a degree. I raise medical cannabis. I'm
21 a medical cannabis provider. I currently get my
22 disability from the VA. Seeking to increase upon my
23 disability from the VA. But that's a time process.
24 And then I also filed for my social security, because
25 coming and going from my visits here, three years ago

1 I was involved in an auto accident and I broke my
2 back, broke my neck and ended up with traumatic brain
3 injury coming home from a visit with my son and
4 daughter.

5 Q. How far do you have to travel for a visit with her --
6 with Samantha?

7 A. Actual miles is, I want to say it's like 230 --

8 Q. One way?

9 A. 230 one way.

10 Q. Do you have a home, sir?

11 A. I do.

12 Q. And tell me about that, please.

13 A. Right now, we're in a home. Jesse's job is as a care
14 provider for Nancy. Nancy Buchanan. And she's an
15 in-home care provider. So we share a home currently.
16 We didn't up until about a month ago. I -- my son was
17 diagnosed with lead in his blood and we detected black
18 mold around the fireplace. And so we reported it to
19 the landlord. And retrospect of that, we moved out of
20 that home and we're now room-mating currently with Joe
21 and Nancy Buchanan, which is also part of Jesse's and
22 our income. And I am now -- just got approved by the
23 VA to seek and they are going to aid us with a home
24 and reeducation because of my disabilities to try to
25 aid me better to find a job that would better suit me.

1 Even though it will be very difficult with all the
2 times and stuff I have to keep for -- for employment
3 purposes, it's been very difficult to try to get a job
4 and then tell them, well, I've got to take this day
5 off, because I've got -- nobody has ever checked with
6 me on my calendar to ever ask what my schedule looks
7 like, whether or not I have other prior engagements
8 with my other kids, myself. I just get told this is
9 the day you are going to see your daughter, and if I
10 don't show up, it's a negative against me. So I have
11 to put everybody else's stuff they have going on in
12 their lives and adjust all their lives to meet my
13 calendar that you guys establish.

14 Q. So it's been difficult for you to maintain full-time
15 employment --

16 A. Very --

17 Q. -- while you are still trying to see your daughter?

18 A. Yes. Yes.

19 Q. Okay.

20 A. As a matter of fact I was told in a CPT meeting in
21 this very room that I needed to quit my job as a
22 commercial fisherman.

23 MS. ACKER: Objection. Hearsay rule.

24 THE COURT: Sustained.

25 THE WITNESS: Okay.

1 BY MS. DENTON:

2 Q. Sir, are your visits with Samantha during the weekday?

3 A. Yes, they are.

4 Q. And during normal business hours?

5 A. Yes, they are.

6 Q. So the VA program that you were talking about, sir,
7 they are going to be assisting you in finding
8 employment?

9 A. Employment.

10 Q. And housing?

11 A. And housing.

12 Q. Okay. And the housing is to commence when?

13 A. As soon as I walk into their office with a house of
14 choice.

15 Q. And were you planning to find a house closer to this
16 area --

17 A. I am.

18 Q. -- to help facilitate you with travel --

19 A. Correct.

20 Q. -- for visits with Samantha? Is that yes?

21 A. Yes.

22 Q. How many visits are you getting now a month?

23 A. Prior to the hearing we had earlier, I was getting one
24 visit a month and then one family therapy a month.

25 Q. And how long have you had that visitation planned?

1 A. Seems like for about the last -- better than a year.
2 I couldn't say exactly.

3 Q. Sir, can you describe for the court what type of
4 impact this has had for you in not being able to raise
5 your children, Samantha specifically?

6 A. I don't believe this court has enough time, and I
7 don't have the words. There's nobody in this room
8 that could ever even begin to put themselves in my
9 shoes. I sit here and listen to everybody's
10 testimony -- and I even witnessed some tears, if you
11 will, from people testifying. I'm the only person in
12 this room that truly has tears. That truly earned and
13 has tears that involves my daughter. I appreciate the
14 fact that -- that's why I went along with ICW's
15 selection of choosing you guys after I begged them to
16 get out of Joann Harrison's home, my daughter. And
17 she called -- anyways, I was okay with that in the
18 initial beginning. It was only later when it was
19 brought to my attention that ICW thought that it was
20 too hard on me to try to raise my son that already had
21 conditions and issues. And my infant daughter that
22 was premature with all the circumstances -- these are
23 their opinions of unqualified people that put -- made
24 this all to where it got. And then you guys ended up
25 with my daughter first. You testified earlier about

1 how they came together. My son came later. And then
2 you testified over and over about how you have people
3 coming in and out of your home and how much you open
4 your door, and you are loving. I appreciate that.
5 And I knew that about you is why I agreed to let me
6 daughter go there initially. It was only later when
7 it was brought to my attention that you guys intended
8 on adopting my daughter. And then it was told to me
9 that every chance ICW could, that I made the mistake
10 by signing the agreed -- the agreed thing that I
11 signed in the very beginning. Whatever the word was,
12 the paper.

13 Q. Do you even know what it was you signed?

14 A. I have no idea.

15 Q. Okay.

16 A. I was told that if I didn't --

17 Q. Mr. Brewer, tell me -- tell the court, the impact this
18 has had on you, on you?

19 A. It's destroyed me on every level. I am -- there's no
20 way I could begin -- I worked my whole life in civil
21 service or in service, and now I sit back here and I'm
22 puzzled and I'm baffled on what I thought was what I
23 stood for and what I was about that I tried to instill
24 in my children and anyone that was around me.

25 Whether they liked it or not. It's the way I

1 was. And I sit back now and I wonder where the
2 integrity is. I wonder where the law actually is in
3 this. I am so complex to what's really going on. And
4 the people that involved themselves. Even after the
5 initial devastation, where the problem really lied --
6 and that's because I ruffled people's feathers. I
7 said this before in this courtroom, that I'm not the
8 most easiest person for people to like, but I'm the
9 most honest person you'll ever meet. And because of
10 that, I paid dearly. I paid six years of my life, on
11 my kids' life hanging on to integrity, because I
12 wouldn't come in here and fabricate. I wouldn't come
13 in here and -- and try to influence on any level. All
14 I wanted to do was put the facts in front of
15 everybody, so that everybody could have the facts to
16 make an educated -- and if you lack education some
17 sort of decision or opinion. Based on true fact, not
18 hearsay and accusations and -- I mean --

19 Q. Do you want your daughter placed back with you, sir?

20 A. I do.

21 Q. Do you understand, sir, that that would not be an
22 overnight situation --

23 A. I do know that.

24 Q. -- that it would -- that it would be a slow
25 transition?

1 A. I do.

2 Q. Do you support that?

3 A. I do. Because I love my daughter.

4 Q. So, sir, you currently have -- you are currently
5 living in a home that's five bedrooms, correct?

6 A. Correct.

7 Q. And Samantha would have her own room?

8 A. She would have her own room.

9 Q. But yet you are going to be transitioning into a home
10 from the VA?

11 A. Correct.

12 Q. Where Samantha will also have her own room?

13 A. Correct.

14 Q. And you have income now, but you are going to be
15 getting an additional job through the VA, correct?

16 A. Correct.

17 Q. And your wife as well as or will she be staying home
18 to raise the children?

19 A. She's offered the same thing I'm offered for
20 furthering our education. And we -- we're undecided
21 right now on how that will work. Because they offer
22 the service at the same time -- the program lasts for
23 two years. And you have to get it done and stay on
24 track for two years. And I don't believe they do --
25 like, I get two years and then two years later, she

1 gets 2 years. We would have to do it, either at the
2 same time -- so one of us would be a stay-at-home
3 parent. And to be honest with you, it would probably
4 be me. Not because I'm afraid of education or
5 furthering of my education, but just because I know my
6 limitations. And I'm better at home with my children
7 than to try -- to go and learn how to use a computer
8 today. Do you see what I mean?

9 And Jesse on the other hand already is skilled
10 in these areas, and it would benefit for her to
11 further hers from here and I'll be the at home -- you
12 know, like the movie.

13 Q. And Jesse is the mother of your two youngest children?

14 A. Correct.

15 Q. And your two youngest children, sir, are you involved
16 with social services with regard to them?

17 A. No.

18 Q. Have you ever been involved with social services with
19 any of your --

20 A. No.

21 Q. -- older children?

22 A. No.

23 Q. Has your parenting ever been called into question --

24 A. No.

25 Q. -- by anyone?

1 A. No.

2 MS. DENTON: Thank you, Brewer. Your Honor,
3 that's all I have for this witness.

4 CROSS-EXAMINATION

5 BY MR. SIEWELL:

6 Q. Mr. Brewer, you said you have six kids; is that
7 correct?

8 A. Six --

9 Q. Seven --

10 A. Could be --

11 Q. [Indecipherable - crosstalk].

12 A. I would have to count on my fingers, like I normally
13 do. And that's no offense to me or anything, it's
14 just I got a handful of children, yes.

15 Q. So Brittany is the one that's 28; is that right?

16 A. Correct. My oldest.

17 Q. And how many of her years from zero to 18 did she
18 reside in your home?

19 MS. DENTON: Objection. Irrelevance.

20 MR. SIEWELL: She offered him and said --
21 has anybody questioned his parenting. He's raised
22 these kids. His whole testimony is about this father
23 that he is. And -- you know, he's a great father.

24 THE COURT: I would agree. Overruled.

25 THE WITNESS: Out of all the years that she

1 lived under my roof, I got a divorce from her mother
2 in '93, and she lived with me from 1988 until '93 and
3 then she moved to Florida and she lived with her
4 mother since.

5 BY MR. SIEWELL:

6 Q. Okay. And Isaac?

7 A. Isaac.

8 Q. How many of his years -- he's the one you said is now
9 21, correct?

10 A. No, 18.

11 Q. Eighteen. How many of the last 18 years --

12 A. Nobody is 21.

13 Sorry?

14 Q. How many of the last 18 years did he reside with you?

15 A. He lived -- initially he came to La Push with me, and
16 he lived with me up until he was, I want to say it was
17 six. And then I was -- with the commercial fishing,
18 Isaac went back home and he was back and forth for a
19 duration between me and his mother.

20 Q. So you testified that the court said you couldn't see
21 your kid, correct?

22 A. That's correct.

23 Q. And at any time, either when you were having
24 visitation or during the period where you weren't
25 allowed to see him or the fact even currently, have

1 you provided any financial support for Samantha or
2 Justin?

3 A. I have tried to drop off clothing, gifts and many
4 other things --

5 Q. Tried?

6 A. Tried, yes. A lot of the stuff was thrown in the
7 dumpster by these guys in the very beginning. Oh,
8 yeah.

9 MS. DENTON: Just answer the question.

10 THE WITNESS: Okay. To answer your
11 question, I would have to say I have not -- I haven't
12 been told to, but I look at this -- my kids were
13 kidnapped. I'm going to pay the kidnappers money to
14 keep my kids. I was paying all my money to legal
15 fees --

16 BY MR. SIEWELL:

17 Q. So the answer is no, you've not provided any financial
18 support?

19 A. No. I guess it would be no.

20 Q. You testified that -- that you are entering into VA
21 program for reeducation, is it a two year program?

22 A. Correct.

23 Q. And I think you said --

24 A. VS or VF or something.

25 Q. You said it was very intensive, right?

1 A. No, you wrote intensive. I never used the word
2 intensive.

3 Q. Maybe I did write -- could you refresh my memory, what
4 did you say about this two-year program?

5 A. What do you mean, that's pretty -- I don't understand
6 the question.

7 Q. So --

8 A. They are offering me housing and for me to go back to
9 school. Me and my spouse.

10 Q. And for two years you have to go back and get
11 reeducated; is that correct?

12 A. If I choose to, right.

13 Q. And didn't you indicate you were going to engage in
14 that program?

15 A. I am engaged in that program. I didn't say that I was
16 going to be the one going to college or to secondary
17 school. This is a decision that has to be made
18 between me and my spouse. It hasn't been made yet.

19 MR. SIEWELL: I have no further questions.

20 THE COURT: Ms. Acker?

21 MS. ACKER: I have no questions for
22 Mr. Brewer.

23 THE COURT: Any redirect?

24 REDIRECT EXAMINATION

25 BY MS. DENTON:

1 Q. With regard to the question of financial assistance
2 for your children, your children have been wards --

3 A. Of the court.

4 Q. -- of this court, correct?

5 A. Correct.

6 MS. DENTON: That's all I have, Your Honor.

7 THE COURT: You're excused. Thank you.

8 THE WITNESS: Thank you.

9 THE COURT: Next witness, Ms. Denton.

10 MS. DENTON: Our next witness is Carla Buff.

11 THE COURT: Five minutes.

12 [Recess.]

13 THE COURT: So we are back on the record in
14 the Brewer guardianship.

15 MS. DENTON: Yes, Your Honor. We call Carla
16 Buff to the stand.

17 THE COURT: Buff, is it?

18 MS. DENTON: Yes.

19 THE COURT: Okay. Please raise your right
20 hand. Do you promise to tell the truth, the whole
21 truth, and nothing but the truth under penalties of
22 the laws of the Quileute Tribe?

23 THE WITNESS: Yes, I do.

24 THE COURT: Please have a seat.

25 * * * * *

1 CARLA M. BUFF, having been first duly sworn, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. DENTON:

5 Q. Please state your name for the record.

6 A. Carla May Buff.

7 Q. And how old are you, ma'am?

8 A. 46.

9 Q. And are you related to Eric Brewer?

10 A. Yes.

11 Q. How so?

12 A. I'm his sister.

13 Q. And are you a mother?

14 A. I am.

15 Q. Okay. And how many children do you have?

16 A. Five.

17 Q. How old are they?

18 A. 29, 27, 23, 19, and 15.

19 Q. Are you currently employed?

20 A. I am.

21 Q. What is your occupation?

22 A. I am a supervisor for the Salvation Army. I work in
23 the department for emergency foster care.

24 Q. And how long have you had that employment?

25 A. Two years there.

1 Q. And how about before that?

2 A. I have been -- I worked with the school for 20 years.
3 And this school was the highest diverse, economical,
4 deprived school in our region.

5 Q. What's your educational background?

6 A. Some college.

7 Q. Ms. Buff, have you ever had an opportunity to observe
8 your brother Eric parent any of his children?

9 A. Yes.

10 Q. All of his children?

11 A. No.

12 Q. Okay. Which ones have you not observed?

13 A. Well, I guess I witnessed all of them except for the
14 new baby, Laura.

15 Q. And how would you describe your brother as a father?

16 A. He is caring, loyal, understanding, patient, and he's
17 just a good dad.

18 Q. Has your brother been exposed to your children?

19 A. Yes.

20 Q. And how do your children interact with your brother?

21 A. My children love their uncle so much. He's been
22 nothing but positive. I -- if something happened to
23 me today, would have no problems letting "you" take
24 over and raise my kids.

25 Q. As a supervisor in an emergency foster care program,

1 I'm sure you've had at least some familiarity with
2 what your brother has been going through over the last
3 six years?

4 A. Yes.

5 Q. Okay. Have you been able to see either Samantha or
6 Justin over the last six years?

7 A. No.

8 Q. You have never seen your niece and nephew since they
9 have been taken by ICW?

10 A. No.

11 Q. What type of impact have you witnessed their removal
12 having on your brother?

13 A. I have witnessed him being very sad. Completely
14 focused on trying to get them back. Just sad is the
15 main thing.

16 Q. Okay. Thank you, Ms. Buff.

17 MS. DENTON: Your Honor, that's all I have
18 of this witness.

19 THE COURT: Mr. Siewell?

20 MR. SIEWELL: I have no questions, Your
21 Honor.

22 THE COURT: Ms. Acker?

23 MS. ACKER: No questions.

24 THE COURT: Okay. Thank you, ma'am.

25 THE WITNESS: Thank you.

1 THE COURT: Who's going to be your next
2 witness?

3 MS. DENTON: Jack McCloud.

4 THE COURT: Come on up here Mr. McCloud.
5 Please raise your right hand. Do you promise to tell
6 the truth, the whole truth, and nothing but the truth
7 under the penalties of the laws of the Quileute Tribe?

8 THE WITNESS: Yes.

9 THE COURT: Okay. Please have a seat.

10 * * * * *

11 JACK McCLOUD, JR., having been first duly sworn, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. DENTON:

15 Q. Please state your name for the record, sir.

16 A. Jack McCloud, Junior.

17 Q. And how old are you, sir?

18 A. 64.

19 Q. And are you a father?

20 A. Yes.

21 Q. And how many children do you have?

22 A. Four.

23 Q. Okay. And is Eric Brewer one of them?

24 A. Yes.

25 Q. And Carla Buff, who just left the courtroom is she

1 also a daughter?

2 A. Yes.

3 Q. Sir, you're aware, I take it that your son had two
4 children, Samantha and Justin Brewer, correct?

5 A. Yes.

6 Q. When is the last time you've seen Samantha Brewer?

7 A. A couple years.

8 Q. Are you --

9 A. Three years now.

10 Q. Have you been allowed to have visits with her since
11 her removal?

12 A. Nope.

13 Q. So that would be six years, sir?

14 A. Yeah. It would be a long time. Yeah.

15 Q. Okay. Are you -- are you, sir, currently employed?

16 A. Yes.

17 Q. What do you do for a living?

18 A. I'm a consultant. I work with our NA, SNA groups and
19 I work with the suicidal intervention program. And I
20 do sweats for the jail, people in recovery, three
21 different sweats, three different groups.

22 Q. And are you a Tribal member, sir?

23 A. Yes.

24 Q. With what Tribe?

25 A. Nisqually. I'm also Puyallup and Cowlitz, just one.

1 My bloodline.

2 Q. Okay. Sir, have you had the opportunity to observe
3 your son parent his children?

4 A. Yes.

5 Q. Okay. How would you describe him as a father?

6 A. Deep.

7 Q. What do you mean by that?

8 A. Not just a father by say so. It's what he does with
9 them. He talks to them. Shares with them. Teaches
10 them. And it's what he does like a correcting. It's
11 a teaching. And he doesn't just say okay, you hurt
12 me, you made me mad type. But he will take them and
13 show them another way to keep them out of trouble.

14 Q. Have you observed your son observe any type of native
15 cultural traditions in raising his children?

16 A. I can give you an example.

17 Q. Please.

18 A. When we were here before with another attorney, an
19 attorney said would you get up and speak on your
20 behalf? And Eric got up and spoke on my behalf which
21 is tradition. I don't speak on my behalf. My mother,
22 if she was here, she would speak on my behalf. My
23 dad, if he was here would speak on my behalf. Or any
24 of the kids would speak on my behalf or anyone else
25 that knows me, would come and speak on my behalf. I

1 wouldn't do that, speak on my own about myself.

2 That's tradition. That's just an example.

3 And I raised him in the woods, along the river,
4 took him up to the mountains. And showed him -- told
5 him stories about the things our people did, the old
6 way, fishing. He would go fishing with me when he was
7 little. I'd take him down with me.

8 He was a pretty good fisherman here. Just
9 watching me. I didn't have to talk him through, said
10 this is what you do with this, this, and this. He
11 watched. And then he would go down and see all those
12 fish, and he would be laying in fish. Because he just
13 knew the way how to fish.

14 Q. Do you know do you have any concerns over your son's
15 ability to parent children?

16 A. No.

17 MS. DENTON: Thank you, Mr. McCloud. Your
18 Honor, I don't have any further questions.

19 THE COURT: Mr. Siewell.

20 MR. SIEWELL: I have no further questions.

21 THE COURT: Ms. Acker?

22 MS. ACKER: No questions.

23 THE COURT: Thank you Mr. McCloud.

24 Who's your next witness, Ms. Denton?

25 MS. DENTON: Vivian Lee.

1 THE WITNESS: Sorry, I just had an ear block
2 right now. I ask everyone to speak up for me.

3 THE COURT: We will do that. Do you promise
4 to tell the truth, the whole truth and nothing but the
5 truth under penalties of the laws of the Quileute
6 Tribe?

7 THE WITNESS: Yes.

8 THE COURT: You may proceed.

9 * * * * *

10 VIVIAN LEE, having been first duly sworn, was
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. DENTON:

14 Q. Please state your name for the record.

15 A. Vivian Marie Lee.

16 Q. And Ms. Lee, how old are you, ma'am?

17 A. 62.

18 Q. And do you know Eric Brewer?

19 A. Yes, I do.

20 Q. How long have you known him?

21 A. Since 1997.

22 Q. How did you meet him?

23 A. Through my sister. She was a chair at the time, and
24 she's the one that hired him.

25 Q. The chair of what Tribe?

1 A. Chair of the Ho Tribe.

2 Q. Were you also working for the Ho Tribe at that time?

3 A. Not at that time, but after her I was also the chair.

4 Q. And were you chair of the Ho Tribe when Eric was the
5 chief of police?

6 A. Yes, I was.

7 Q. And are you still currently working?

8 A. No.

9 Q. In -- since knowing Mr. Brewer, have you had an
10 opportunity -- opportunity, Ms. Lee to see him with
11 his children?

12 A. Yes.

13 Q. And have you ever met his daughter, Samantha Brewer?

14 A. No, I haven't.

15 Q. Okay. Have you seen him interact with his youngest
16 children?

17 A. No.

18 Q. The two that he has now, Corvan and Laura?

19 A. No.

20 Q. Which children have you seen Mr. Brewer interact with?

21 A. Oh, I thought you meant his other daughter, Samantha.
22 I thought you were talking about her interaction with
23 him.

24 Q. Okay. You have not witnessed that?

25 A. No.

1 Q. Okay. What about --

2 A. I have witnessed his interaction with his children,
3 several occasions.

4 Q. How would you describe him as a father, Ms. Lee?

5 A. I think he's a very excellent father. Very patient.
6 And very communicative with them. Where other people,
7 I would say compared to them, he's a much better
8 father.

9 Q. Have you made these observations when you've been in
10 Mr. Brewer's home?

11 A. Yes.

12 Q. And in your opinion is Mr. Brewer's home suitable for
13 children?

14 A. Yes.

15 Q. Have you also met Mr. Brewer's wife, Jesse?

16 A. Yes, I have.

17 Q. And would -- is your opinion that she is also a safe
18 place for children?

19 A. Yes.

20 Q. Okay. Have you known Mr. Brewer since Samantha and
21 Justin were taken from him?

22 A. Yes.

23 Q. And have you witnessed the impact it has had on
24 Mr. Brewer to have his children removed from him?

25 A. Yes, several times.

1 Q. How would you describe that, Ms. Lee?

2 A. Not very good. Sometimes we both cried together.

3 Sometimes it's just like I'm the one that he calls.

4 And I'm the one that consoles him as well as his wife.

5 And I also got to speak with his mother. And Jesse's

6 father. So I'm pretty much in communication with

7 pretty much his whole family, including his father.

8 Q. Is it your opinion, Ms. Lee, that Samantha Brewer

9 would be well taken care of if placed in Mr. Brewer's

10 care?

11 A. Yes, she would.

12 Q. Are you a relative of either Mr. or Mrs. Foster --

13 with Mr. and Mrs. Foster?

14 A. In a way I call his grandmother, Lillian Poland, also

15 my grandmother. Because of the cultural background in

16 sharing basket making.

17 Q. And even given that relationship it is still your

18 opinion that Samantha Brewer would be well cared for

19 in Eric's care?

20 A. I'm sorry, I couldn't hear that.

21 Q. Given that relationship with the Fosters, it's still

22 your opinion that Samantha Brewer would be well cared

23 for in Eric's care?

24 A. Yes.

25 MS. DENTON: That's all I have, Your Honor.

1 MR. SIEWELL: No questions, Your Honor.

2 MS. ACKER: No questions Your Honor.

3 THE COURT: Thank you, Ms. Lee, you're
4 excused. Thank you so much.

5 Who are we calling next, Ms. Denton?

6 MS. DENTON: I believe. Jessica Patsel.

7 THE FATHER: She's out front with the kids.

8 THE COURT: Jessica what?

9 THE FATHER: Patsel.

10 THE COURT: How do you spell that?

11 MS. DENTON: P-a-t-s-e-l.

12 Your Honor, Dana Williams.

13 THE COURT: Ms. Williams, would you please
14 raise your right hand?

15 Do you promise to tell the truth, the whole
16 truth and nothing but the truth under penalties of the
17 laws of the Quileute Tribe?

18 THE WITNESS: Yes.

19 THE COURT: Okay. Please be seated.

20 * * * * *

21 DANA WILLIAMS, having been first duly sworn, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. DENTON:

25 Q. Please state your name for the record.

- 1 A. Dana Williams.
- 2 Q. And how old are you ma'am?
- 3 A. I'll be 49.
- 4 Q. And are you currently employed?
- 5 A. Jobs here and there.
- 6 Q. Okay. And what do you do?
- 7 A. A little bit of everything.
- 8 Q. Do you work for the Quileute Tribe?
- 9 A. Yes.
- 10 Q. And so you work for them in various capacities?
- 11 A. Yes.
- 12 Q. What is your level of education?
- 13 A. 11th.
- 14 Q. 11th grade?
- 15 A. Yes.
- 16 Q. Ms. Williams, do you know Eric Brewer?
- 17 A. Yes, I do.
- 18 Q. And how long have you known him?
- 19 A. At least maybe 14 years.
- 20 Q. Okay. And how do you know him?
- 21 A. He used to have a fireworks stand down here.
- 22 Q. Have you had an opportunity, Ms. Williams, to witness
- 23 Eric parenting any of his children?
- 24 A. Yes, both of them.
- 25 Q. Okay.

1 A. We used to live right next to him.

2 Q. Which children are you referring to?

3 A. Samantha and Justin.

4 Q. Okay. So you lived next to Eric when Samantha and
5 Justin were still in his care?

6 A. Yes.

7 Q. Okay. How would you describe to the court, please,
8 how Eric was as a father to Samantha and Justin?

9 A. He was a good parent. He did everything for them.
10 Cooked and bathed them. The mother didn't.

11 Q. I'm sorry, the mother?

12 A. The mother did not do nothing for them. It was just
13 Eric, that's the one that's cooked and baked for them
14 all the time. And cleaned house.

15 Q. And at that time did you have children of your own?

16 A. No.

17 Q. Are you a mother, though?

18 A. Yes of three.

19 Q. You have three children.

20 Okay. Would you be comfortable leaving any of
21 your children in Eric Brewer's care?

22 A. Oh, yes, I would.

23 Q. Were you -- are you aware, Ms. Williams, that Samantha
24 and Justin were removed from Eric?

25 A. Yes.

1 Q. And have you been able to witness the impact this has
2 had an Eric since their removal?

3 A. He's been stressed out. Real stressed.

4 Q. Have you seen either Samantha or Justin since their
5 removal?

6 A. Once in a while. I used to workup at the day care. I
7 used to cook, so that's where I would see them.

8 Q. And how long ago was that, ma'am?

9 A. Maybe three years ago.

10 Q. Have you -- when you were working up at the day care,
11 that's when Samantha Brewer was with the Fosters; is
12 that correct?

13 A. Yeah, I think so. I think so.

14 Q. Did you have interactions with Samantha at that time?

15 A. She was just a little baby at the time.

16 Q. Okay. Were there times, Ms. Williams, when Mr. Brewer
17 would come on to the reservation expecting to have a
18 visit with Samantha, that you were aware of?

19 A. He used to have visits at the day care.

20 Q. Where you were working?

21 A. Yes.

22 Q. Were there ever times that Eric would show up for
23 those visits and Samantha would not?

24 A. Not that I can remember.

25 Q. Okay. Did you witness those visits between Eric and

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Samantha?
A. Yeah, he would stop and say hi when he comes down --
Q. Okay.
A. -- in the kitchen.
Q. How would you describe the interaction between
Samantha and Eric --
A. Nobody could go in there. So I don't know.
Q. Okay. You weren't allowed to observe the visits?
A. No.
Q. Okay. Thank you, Ms. Williams.

MS. DENTON: Your Honor, that's all I have
of this witness.

MR. SIEWELL: No questions, Your Honor.

MS. ACKER: No questions.

THE COURT: Okay. Thank you, Ms. Williams.
Ms. Williams, please -- Patsel --

THE WITNESS: Patsel.

THE COURT: Please raise your right hand.

Do you promise to tell the truth, the whole
truth, and nothing but the truth under penalties of
the laws of the Quileute Tribe?

THE WITNESS: Yes, ma'am.

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JESSICA L. PATSEL, having been first duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION

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BY MS. DENTON:

Q. Please state your name for the record.

A. Jessica Lynn Patse1.

Q. And how old are you now?

A. Twenty-eight, I believe.

Q. And what is your level of education?

A. A little bit of college. I completed high school with my diploma.

Q. And right now are you currently employed?

A. I am a caregiver for my significant other's best friend. Joseph and Nancy Buchanan.

Q. When you say caregiver, is that for their physical health?

A. Yes, Nancy is a diabetic, and Joe has traumatic brain injury with posttraumatic stress and frozen shoulders.

Q. Is this a line of work, Ms. Patse1, that you have done for a while?

A. Yes.

Q. Okay. How long?

A. I have been a caregiver for two and a half years now. And it was my mother being a registered nurse that got me interested into the medical field.

Q. Do you have any children?

A. Yes, I do. I've got three wonderful children.

1 Q. And do you have two of those children with Eric
2 Brewer?

3 A. Yes.

4 Q. He's present in the courtroom?

5 A. Yes.

6 Q. So obviously -- well, not obviously. Do you live with
7 Mr. Brewer?

8 A. Yes.

9 Q. And have you had an opportunity to observe him parent
10 your children?

11 A. Yes. He is a great father. He's very doting. Very
12 nurturing. My daughter, unfortunately, has
13 reactive -- or I'm sorry, reactive disorder because of
14 the abuse my ex-husband put us through. And so she's
15 been, you know, kind of back and forth. But Eric has
16 been absolutely great with her. She's come leaps and
17 bounds in the three and a half years that we've been
18 together.

19 Q. So the daughter that you are referring to is not the
20 daughter that you have with Eric?

21 A. No.

22 Q. It's a daughter from a previous relationship?

23 A. Previous relationship.

24 Q. And you've witnessed Eric parent her as well?

25 A. Yes.

1 Q. And do you trust your -- your daughter that you did
2 not have with Mr. Brewer in his care?

3 A. Most definitely.

4 Q. Currently, Ms. Patsel, are you -- if the court were to
5 so order, are you willing to take Samantha into your
6 home?

7 A. Most definitely.

8 Q. And is there room for her?

9 A. Most definitely.

10 Q. As well as financial resources?

11 A. Yes.

12 Q. Have you ever met Samantha?

13 A. I have seen her through the car window, but she's
14 quickly ushered away. She's waived a couple of times.
15 But we've never had any -- I've never been able to
16 speak to her. I've asked for family --

17 Q. Have you requested that?

18 A. Yes, we have, numerous times requested for family
19 visits. And we've been denied every time. By both
20 the concerned for citizens and by the family
21 therapist.

22 Q. What type of impact have you seen have upon Eric
23 Brewer, him being separated from Samantha?

24 A. He has depression. When me and Eric first met, he was
25 relatively slim, you know. And he kind of eats his

1 emotions, so he's gained a little bit of weight. But
2 we're going on a diet, right. Nod. He doesn't like
3 to cry. And I totally understand. But then he does
4 call family and friends and have his little out moment
5 to just vent and get everything off of his chest.

6 Q. Thank you, Ms. Patsel.

7 MS. DENTON: Your Honor, that's all I have
8 of this witness.

9 THE COURT: Mr. Siewell.

10 MR. SIEWELL: No questions.

11 THE COURT: Mr. Acker.

12 MS. ACKER: No questions.

13 THE COURT: Okay. Thank you so much.

14 THE WITNESS: You are welcome.

15 MS. DENTON: Our last witness is Catherine
16 Chamberlain, Your Honor.

17 THE COURT: Catherine, what?

18 MS. DENTON: Chamberlain.

19 THE COURT: Please raise your right hand,
20 Ms. Chamberlain. Do you promise to tell the truth,
21 the whole truth, and nothing but the truth under
22 penalties of the laws of the Quileute Tribe?

23 THE WITNESS: Yes.

24 THE COURT: Okay. Please be seated.

25 Your witness.

* * * * *

CATHERINE CHAMBERLAIN, having been first duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION

BY MS. DENTON:

Q. Please state your name for the record.

A. Catherine Chamberlain.

Q. And Ms. Chamberlain, what is your occupation?

A. Right now I am a supervisor at -- we are an emergency
and intake facility for children in foster care. And
I'm a supervisor.

Q. How long have you been so employed?

A. At this job, I have been employed for two and a half
years.

Q. And how about prior to that?

A. Prior to that I was a GAL within Spokane County. And
I did that for about 2 years. And then in between we
have since started a nonprofit, working with kids in
foster care.

Q. And when you say we have started a nonprofit, are you
one of those individuals?

A. Yes.

Q. What type of education or training have you received
in order to be a guardian ad litem and then hold the
current position that you have now?

1 A. Okay. I -- well, for one, I have a bachelor's degree
2 in psychology with a minor in sociology. And my
3 trainings are extensive, because I crave trainings.
4 So just some of them are like family search and
5 engagement advocating for Indian children. Also we
6 have been trained on the Indian Child Welfare Act,
7 and circle of security is another one, which is a
8 huge -- a huge program. It's now worldwide which
9 started in Spokane. And I took the -- itself by one
10 of the developers of the program, Dr. Kent Hoffman.

11 So understanding neglect, methamphetamine effect
12 on children. And family search and engagement is
13 another one of my big ones. And after that training I
14 was asked to join the team in working with trying to
15 locate absent family members.

16 Q. And when you say try to locate absent family members,
17 what does that mean?

18 A. When -- when a child was taken into care and mom --
19 say mom was the responsible parent at the time. When
20 the child is then taken into care, a lot of times you
21 will find that there will be a missing parent. And
22 for whatever reason, they are unlocatable. And so
23 we -- well, I developed research methods while I was a
24 GAL to locate the missing parent.

25 So that was one of the trainings that we -- that

1 they had brought in to do at the department that I
2 took, and through the course of the training. At the
3 end of the training I was asked if I would be
4 interested as a GAL and also working with them because
5 the dialog that had taken part during the training
6 between us -- well, me and the trainers. Brought them
7 to the idea that I could possibly help them
8 [indecipherable].

9 Q. And what would be the point of locating a missing
10 parent?

11 A. Because studies have shown that a child that has a
12 connection, a healthy connection to a biological
13 parent far better outcomes in the long run -- far
14 better.

15 MS. ACKER: Objection.

16 MR. SIEWELL: No foundation for studies
17 and -- it's --

18 THE COURT: Sustained.

19 BY MS. DENTON:

20 Q. Have you -- in the course of your training and
21 experience reviewed studies on child welfare?

22 A. Yes.

23 Q. And their connection to biological parents?

24 A. Yes.

25 MS. ACKER: Your Honor, I would object,

1 again. This witness wasn't proffered as an expert
2 witness. So I'm a bit confused by -- she was listed
3 as a layperson in this. So if they are trying to
4 qualify her as an expert. I would have to object.

5 MS. DENTON: We're not trying to qualify her
6 for an expert, Your Honor. She's giving her opinion
7 based upon her education, training, and experience.

8 MS. ACKER: Well, without personal knowledge
9 of the case, I mean, we'd considered that an expert.

10 THE COURT: As would I. So sustained.

11 BY MS. DENTON:

12 Q. Ms. Chamberlain, do you have personal knowledge of
13 this particular case?

14 A. I do have some, yes, I have.

15 Q. And you've spoken with Mr. Brewer about it?

16 A. I have. And I've also reviewed documents.

17 Q. You've reviewed court documents, correct?

18 A. Uh-huh.

19 Q. And in your review of those court documents, are you
20 aware that Samantha Brewer has been out of the care of
21 Eric Brewer since 2009?

22 A. Oh, absolutely. It's been an extended period of time.

23 Q. Do you know Eric Brewer personally?

24 A. Yes.

25 Q. And how do you know him?

1 A. I met him through my friend and his sister, Carla
2 Buff.

3 Q. Have you ever had an opportunity to observe him
4 parent?

5 A. I have. Albeit very little. And he has a natural
6 care and concern for kiddos. It is genuine and
7 authentic.

8 Q. In your -- in the witness list that we proffered,
9 Ms. Chamberlain, we indicate that you will give
10 testimony in your experience in the foster care system
11 and as it relates to the present case.

12 Do you have the ability to give such testimony?

13 A. Oh, I believe so.

14 Q. And is that based upon your background?

15 A. Absolutely, in experience, yes.

16 Q. And what's your opinion in that regard?

17 A. I have to state that I have never in all of the
18 cases --

19 MS. ACKER: Your Honor, I object. As this
20 is opinion testimony based on her training and
21 experience. I don't think it's expert -- being
22 proffered as expert testimony. I'd object to that.

23 MS. DENTON: Your Honor, we gave her name
24 and exactly what she was going to testify to, and a
25 motion in limine could have been filed. It was not.

1 And she's come all the way from Spokane --

2 MS. ACKER: She was presented as a lay
3 witness, not as an expert witness.

4 MS. DENTON: You can give it whatever weight
5 that you determine, Your Honor.

6 She's not unknown to the Tribe or what she
7 was going to testify about.

8 THE COURT: Read me exactly what you put in
9 the witness list, please?

10 MS. DENTON: Catherine Chamberlain will give
11 testimony regarding her experience in the foster care
12 system as it relates to the present case. And that's
13 exactly my question to her just now.

14 THE COURT: Okay. I'm going to allow
15 that -- you to answer that question. But she isn't an
16 expert. And she wasn't proffered as an expert, so be
17 careful of your line of questioning after this
18 question.

19 MS. DENTON: I don't plan to go any further
20 than that, Your Honor.

21 THE WITNESS: Okay. So can you please
22 re-state?

23 MS. DENTON: Yes.

24 BY MS. DENTON:

25 Q. As I stated, in the witness list we listed you as a

1 person who would give testimony regarding your
2 experience in the foster care system as it relates to
3 the present case.

4 And my question to you was what was your opinion
5 in that regard, you started to answer and then there
6 was an objection.

7 A. Okay. In regards to this case, I saw a vast
8 difference of what I have experienced in the cases
9 that were personally my own and ones that I assisted
10 on which was about 200 of these cases.

11 And I can say with absolute certainty, I had
12 never experienced a parent that was so informed, had
13 set himself out to determine, you know, what
14 information was applicable, what information was
15 available to him.

16 I also was incredibly surprised by his lack of
17 animosity and anger. There was no finger pointing.
18 There was no bad-guy/good-guy. He didn't see this as
19 a win/lose situation. And my perspective has always
20 been, it's a lose situation. It's an unfortunate
21 situation, we have a child at the center of this. And
22 that needs to remain the center of the focus for
23 everyone involved.

24 And Eric surprised me by -- in my opinion --
25 keeping this child at the center of his focus. In

1 that, too, if she was to return home, he would want a
2 connection. Her to have a connection with this
3 family. Although he doesn't feel that maybe the case
4 was, you know, justified. He was still willing to say
5 that he doesn't want to rip her from the arms of a
6 family that she's come to know and love. That's --
7 that's something I have not encountered.

8 Q. Okay. Thank you, Ms. Chamberlain.

9 MS. DENTON: Your Honor, that's all I have.

10 THE COURT: Okay. Mr. Siewell?

11 CROSS-EXAMINATION

12 BY MR. SIEWELL:

13 Q. You indicated you looked at some documents. Where did
14 you get those documents?

15 A. The documents I received were the ones I had asked
16 Eric if he had documents that I could look at.

17 Q. So the documents you looked at were the ones Eric
18 provided you.

19 Did you ever have an opportunity to look at the
20 case file?

21 A. I have not.

22 Q. Have you looked at any of the reports from -- from --

23 A. I have looked at the legal documents that have been
24 filed.

25 Q. The ones that he provided you?

1 A. Right, that do have the court stamps on them. Uh-huh.

2 Q. When you -- you're testifying about your knowledge of
3 the case, it comes solely from documents that were
4 provided to you by Eric and statements that he made?

5 A. I would say, yes, they were documents provided by him,
6 but from different sides.

7 Q. You said that you observed him parent, but I think you
8 said very limited?

9 A. Very minimal, yes.

10 Q. How many times have you seen him and under what
11 circumstances?

12 A. Oh, I would say only a couple hours.

13 Q. A couple hours total?

14 A. Yes. Most of our contact has been verbally over the
15 phone, that kind of thing. So just on his engagement,
16 even with his children in the background. You know
17 just that response to them.

18 MR. SIEWELL: I have no further questions.

19 THE COURT: Ms. Acker.

20 MS. ACKER: Nothing from the Tribe.

21 THE COURT: Any redirect?

22 MS. DENTON: No, Your Honor.

23 THE COURT: You are excused. Thank you so
24 much.

25 MS. DENTON: Your Honor, the -- I know we

1 talked about many hours ago the stipulated documents,
2 but I just wanted to make sure. I wanted to offer the
3 report of Dr. O'Leary that was stipulated by both
4 parties. And I don't know if there was a formal
5 offering, but I'm going to offer that at this time.

6 THE COURT: Okay. I have it. And it's been
7 admitted.

8 MS. DENTON: Father rests, Your Honor.

9 THE COURT: Okay. All right. So let's move
10 to brief closing statements. Then, please, let's keep
11 it brief, we are at 4:30 at this point. Who would
12 like to go first?

13 MR. SIEWELL: I'll go first.

14 Your Honor, this guardianship case should be
15 a pivot for this young child. A pivot away from the
16 uncertainty of a dependency action. And one toward
17 the permanency and security that she deserves. There
18 was a lot of testimony recently about how this has
19 affected Eric.

20 There's also been a lot of testimony about
21 how it's affected the child. This case has gone on
22 for six years. This child has bonded with this home
23 she's in. It's the home she's ever known. It's not
24 just a home. It's not just a parent. It's a
25 community. It's a Tribe. It's extended family. She

1 has an identity. She's a person of her own, and she's
2 in that family, in this Tribe, in this community. To
3 remove her from that is undoubtedly going to cause her
4 harm. I think the GAL said it would cause her
5 emotional harm.

6 When the code talks about a danger, the code
7 is talking about harm including emotional harm all the
8 way through this code -- if you read it from the
9 dependency code, the guardianship, it intertwines
10 physical danger and emotional harm. Those things are
11 a danger to a six-year-old child. And this court
12 should not gamble with this child's safety, her
13 emotional safety. And take her from a place where
14 she's well-adjusted. She's loved. She has a
15 reciprocal loving family relationship. A reciprocal
16 loving community relationship. And endanger her
17 further by taking her out of there and placing her
18 with someone who she has no relationship with.

19 The -- the counselor said that Eric and her
20 were at the very bottom level of this pyramid
21 relationship after some 14 months. That relationship
22 was still on the bottom layer of the pyramid. And
23 it's possible with more contact, they may move up that
24 pyramid. But this girl has started school. She's
25 gaining an identity as a member of the Tribe, a member

1 of the Foster family and a member of the larger
2 community.

3 Every year that goes by, as they build their
4 way up the pyramid, she is more engrained into this
5 family. And what we do by keeping the dependency open
6 is constantly leave her in fear that some other --
7 some other ICW worker may come along, some other judge
8 and pull her out of the only place she's ever known,
9 the only place she feels truly secure and that is a
10 harm to her as well. It harms her emotional
11 stability. It harms her emotionally. It is a danger
12 to her. The court should say, we are not doing this
13 anymore to this child. She's been through this for
14 six years. We're going to give her a permanent place
15 to call home. And I think, Your Honor, if the court
16 does that, it will free her up to have a relationship
17 with her father. You know, she goes through this
18 trauma not knowing what's going to happen. Not
19 knowing if she engages with the father is she going to
20 be ripped from the only home she knows.

21 This court could free her up to have a
22 relationship with her father. And by making sure that
23 she feels secure that she will spend the next 12 years
24 in a home that she called hers, since she was born.

25 I think we should put her first, Your Honor.

1 And this should be a pivot where we stop talking about
2 how this has affected father, how this has affected
3 mom. And start talking about what the code talks
4 about, which is what's in this girl's best interest.

5 And there's nobody that testified today --
6 none of the experts certainly, none of ours -- who
7 would say that it's in her best interest to remove her
8 from the only home that she's ever known.

9 THE COURT: Ms. Acker?

10 MS. ACKER: The Tribe would add a little bit
11 to Mr. Siewell's comment in just that ICW stresses
12 that the best interest of Sammi is what's really at
13 focus in this hearing. And that, the big question
14 there is emotional well-being and what is best for
15 her, emotionally moving forward in terms of giving her
16 a permanent home.

17 And ICW feels that evidence has been
18 presented and is sufficient to try to basis that. It
19 is in her best interest to remain in her current
20 placement. That there is a strong bond. There is a
21 strong attachment there. Not only to the family, but
22 of the community and primarily to Narcissus and Tony
23 Foster. And the Tribe is in no way -- and ICW I know
24 the term was used in terms of severing a blood tie.
25 That's not what the happening here. This isn't a

1 termination of parental right. We're talking about
2 giving this girl a permanent home. And the one that's
3 before the court today is the permanent home of
4 Narcissus and Tony and we believe -- [indecipherable]
5 by a preponderance of the evidence it is in her best
6 interest and for her emotional well-being that she
7 remain in their care.

8 She's six years old. She's not a baby.
9 She's six. She has a personality. And numerous
10 witnesses testified she has a strong personality. You
11 know, she has an identity. And ICW asks you to take
12 that into consideration. She has an identity. She's
13 six. And we feel that we've presented the fact that
14 she has bonded and she does -- there is evidence to
15 suggest that she does see herself as part of this
16 family.

17 I'm not going to put adult opinions as to
18 certain of her actions or what she does. But I think
19 it's clear that she does have an identity at this age.
20 And that to remove her from the only placement she's
21 ever really known would cause significant emotional
22 harm to that girl to identity and to the bond and
23 attachment that exists.

24 And you know, as Your Honor has said this
25 case has been an unfortunate history for everyone

1 involved, and it's not her fault. And we need to keep
2 that in mind. And it needs to be in the best interest
3 and emotional well-being basis for making this
4 determination for this little girl.

5 MS. DENTON: Your Honor, the father does not
6 contest that Samantha has a relationship with the
7 Fosters and that she has an identity as the prosecutor
8 calls it with the Fosters.

9 Your Honor, the father is not requesting
10 that you rip this child out of the Fosters' home and
11 put her in his home tomorrow. That would cause her
12 the danger and the harm referred to by the petitioner
13 and the prosecutor.

14 But if there was a slow, gentle,
15 therapeutically induced transition from one home to
16 the next, the effects on this child can be
17 substantially minimized. It's not right what happened
18 to Mr. Brewer. We can't undo that. But we can make
19 it right now.

20 Your Honor, there's nothing that has been
21 produced to you, whether in this case or the ICW case
22 that -- that is substantial evidence that Eric Brewer
23 should not be the one raising his child.

24 Now, the best interest of the child, as the
25 prosecutor pointed out is consideration of this court.

1 But as you're directed under the code, you must first
2 consider the placement preferences. And Mr. Brewer
3 has the ultimate preference over the Fosters. He is
4 the blood biological father. And there is nothing to
5 show that his home is not a fit and proper place for
6 Samantha. Maybe not tomorrow. But after a
7 transition. And in fact, the therapist even said that
8 all that she had observed was positive, good, healthy,
9 interactions between Eric and Samantha. She's
10 entitled to a biological relationship.

11 It's Eric's constitutional right to be able
12 to raise his biological children.

13 And Your Honor, you have no basis presented
14 to you from anyone today that supports keeping her,
15 keeping that relationship not intact.

16 Now, a guardianship a guardianship isn't a
17 termination of parental rights, we know that. But
18 there's nothing that forces guardians to continue any
19 kind of relationship with the biological parent.

20 Your Honor, what we are requesting is that
21 you dismiss this petition and dismiss this petition
22 with the faith of knowing that Samantha is still under
23 this court's supervision. That reunification, a real
24 effort towards reunification and continued visits with
25 Eric so that that reunification can take place slowly

1 and in a therapeutic way.

2 Your Honor, who loses in that regard?

3 Samantha is only six years old. She knows who Eric
4 is. She knows that she has a biological family, a
5 biological brother. She is in the home of the Fosters
6 right now, and if court handles this appropriately,
7 Your Honor, I think that the collateral damage will be
8 minimal to none.

9 We're not asking you to just rip her out.
10 Because we acknowledge, that would not be in
11 Samantha's best interest. But this guardianship is
12 not in her best interest Your Honor, because she has a
13 fit, biological parent who's prepared and ready and
14 able to take her when the time is right. So that's
15 why we ask that you dismiss this petition and really
16 direct ICW in the MINOC case to start reunification
17 efforts. If they don't work, then Your Honor, down
18 the line another guardianship petition can be filed.

19 But truly to look at this case, Your Honor,
20 reunification has not been earnest on the part with
21 ICW and the father. One visit a month, two visits a
22 month, of course they haven't established a
23 relationship. He should have had and deserves more
24 than that. But all we can do is go forward, and go
25 forward properly. Which is give this biological

1 parent a chance to really reunify with his daughter.

2 And so we ask that you dismiss this petition
3 on the lack of evidence. The lack of evidence that is
4 required under the code, under section 7.8, you have
5 to find, Your Honor, that by a preponderance, it was
6 shown that the parent -- that the child would be
7 placed at risk if placed back with the parent. And in
8 this particular case, Your Honor, there's been nothing
9 produced by anybody that shows that Eric having the
10 priority does not -- cannot adequately care and
11 protect his child and that she would be in any kind of
12 danger in his care.

13 THE COURT: Okay. So I'm going to take it
14 under advisement. And I will issue an opinion as
15 quickly as I possibly can [indecipherable] the
16 circumstances.

17 So I appreciate you all coming today and
18 trust that I know the brevity of my decision.

19 Thanks everybody.

20 [End of transcription.]

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