

COPY

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

No. DM 2002-0523
DV 2002-0761

ENDORSED
FILED IN MY OFFICE THIS

DEC 19 2002

B. Amis
CLERK DISTRICT COURT

LORENO D. BENJERIA

PATRICIA RAE AVERY,

Petitioner,

vs.

STEPHEN ANTHONY AVERY,

Respondent.

GUARDIAN AD LITEM REPORT

COMES NOW John J. Romero, Jr., Guardian *ad Litem* for the parties' minor children, Glen (age 13), Jessica (age 9) and Montie (age 6), pursuant to NMSA 1978, § 40-4-8, and for his Report to the Court STATES:

1. Pursuant to the *Bifurcated Final Decree and Minute Order* entered herein on November 15, 2002, Dr. Zieman's Recommended Parenting Plan was adopted as an Order of the Court and the parties were directed to "adhere to this plan strictly".
2. In accordance with the above-referenced Parenting Plan, Jessica and Montie were to continue residing primarily with Petitioner Mother until December 20, 2002 when all three children were to begin residing primarily with Respondent Father.
3. Sometime between November 15, 2002 and December 2, 2002, a referral or referrals were made to Child Protective Services asserting mistreatment of Montie by Respondent Father.

4. On the evening of December 3, 2002, the minor children spoke with the Guardian ad Litem by telephone stating that Petitioner Mother and her new husband had shown them a *Voluntary Termination of Parental Rights* form signed by mother and step-father, with an explanation that if they did not tell the truth at the interview with Protective Services on December 4, 2002, they would be without a mother and would not see her again.

5. As a result of information obtained in the December 11, 2002 interview, Teri Williams, Protective Services Division, contacted the Guardian ad Litem, who directed that the Children be transferred to Respondent Father until further order of the Court. Ms. Williams wrote, in part, that "Children, Youth and Families Department (CYFD) has reason to believe the children Montie and Jessica Avery are not safe in the care of their Mother Patricia Self at this time." Ms. Williams further directed, with the concurrence of the Guardian ad Litem, that the children were to be "in the care of their father until such time as she has gotten the help she needs to ensure that the children will be safe in her care"

6. Petitioner Mother was further directed to provide Ms. Williams with a list of proposed mental health professionals covered by her insurance from which a provider would be selected to conduct a psychiatric, neuropsychiatric or psychological evaluation, as deemed appropriate, to rule out any disorders which may impact on the safety and welfare of the parties' children. Clinical or therapeutic visits between Jessica, Montie and their mother would occur only after an appropriate evaluation.

7. On December 18, 2002, Petitioner Mother filed a *Petition for Order of*

Protection from Domestic Abuse in the Second Judicial District Court. A *Temporary Order of Protection and Order to Appear* issued on the same date, setting a Hearing before Special Commissioner Sheppard at 1:30 p.m. on January 14, 2003.

8. The *Temporary Order of Protection and Order to Appear* directed, among other things, that "Petitioner [mother] shall have temporary physical custody of the . . . children. . . ."

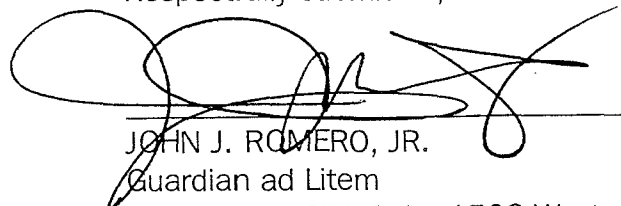
9. In view of the findings by Protective Service Division and the directives of the Guardian ad Litem and Teri Williams, it is contrary to the children's best interest and potentially detrimental to their safety and well-being for Petitioner to have physical custody of the children.

HAVING CONSIDERED THE INFORMATION OBTAINED, THE GUARDIAN AD LITEM RECOMMENDS:

A. That Respondent Father be granted temporary sole legal and physical custody of the parties' minor children until Petitioner Mother complies with the requirements established by Protective Services Division and the Guardian Ad Litem and

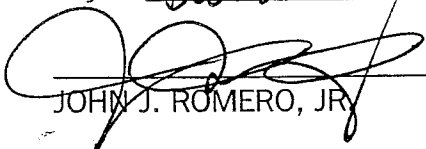
B. That the Court adopt the directives of Protective Services Division and the Guardian Ad Litem set out in paragraphs five (5) and six (6) above as the Order of the Court.

Respectfully submitted,



JOHN J. ROMERO, JR.
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I certify that a true and correct copy of
the foregoing pleading was mailed to
all counsel of record this 17th
day of December, 2002.



JOHN J. ROMERO, JR.