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IN THE CIRCUIT COURT FOR BALTIMORE CITY, BALTIMORE, MD.

FRANCIANA ARRINGTON,  
Plaintiff,

vs

Case No. PD-70 119070

JOSE DeJESUS RODRIGUEZ,  
Defendant,

**FILED**

NOV 28 1990

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS  
(Final Hearing)

Baltimore City, Maryland

June 26, 1990

BEFORE:

HONORABLE ELLEN L. HOLLANDER, Associate Judge

Appearances:

State of Maryland, /Francina Arrington, Prosecution,

MS. SANDRA CRAIN, ESQ.,

For The Defendant, Jose DeJesus Rodriguez,

MR. ALFRED NANCE, ESQ.,

CHRISTOPHER METCALF  
Official Court Reporter  
507 Courthouse West  
Clarence M. Mitchell Courthouse  
Baltimore, Maryland 21202

F I N A L - A R G U M E N T

1 THE COURT: Good afternoon.

2 Please be seated

3 The Case of Francina and Yvonne Arrington versus Jose  
4 DeJesus Rodriguez. And, it would be Case No. 70-119070, I  
5 believe is the correct case number.

6 Mr. Rodriguez is actually the movant.

7 And, we are here, I believe, for final argument.

8 Is that right?

9 MR. NANCE: That's my understanding, Your Honor.

10 THE COURT: Okay.

11 So, may I just ask the counsel to identify themselves  
12 for the Record.

13 MR. NANCE: For the Record, Your Honor, Alfred Nance, 20  
14 East Lexington Street, on behalf of Mr. Jose DeJesus  
15 Rodriguez.

16 Let the Record reflect, that Mr. Rodriguez is present as  
17 well as Mr. Ruez in Court recognized and interpreter.

18 MS. CRAIN: For the Record.

19 Good afternoon, Your Honor.

20 Sandra Crain, Assistant State's Attorney.

21 THE COURT: Thank you counsel, and the parties for being  
22 as flexible as you were to reschedule it from yesterday until  
23 today.

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1 Today, I have an ongoing trial with four attorneys,  
2 and the schedule became so very difficult. And they couldn't  
3 resume this afternoon, but could keep going yesterday after-  
4 noon. I think I had mentioned that case was scheduled  
5 yesterday.

6 So, any way. That's the reason. I appreciate your  
7 cooperation.

8 Mr. Nance, since you're representing the movant, why  
9 don't you go first.

10 MR. NANCE: If, Your Honor, please. The Case before the  
11 Court is one where Jose Rodriguez is basically asking this  
12 Court for a fundamental opportunity to have his day in Court,  
13 so to speak.

14 There is a question, he denies paternity in this Case.

15 He asked for an opportunity, for, simply, the appro-  
16 priate manner and the manner to proceed so that there can be  
17 a proper determination of that paternity.

18 He is, in no way, attempting to avoid this Court, or a  
19 determination by this Court.

20 But, what he is doing is asking that a proper method be  
21 used that would allow him an opportunity to exercise his due  
22 process rights.

23 As the Court knows, is that the circumstances before  
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1 this Court is one where Mr. Rodriguez, a non-American born.  
2 Hispanic background, was brought before an examiner.

3 He appeared before an examiner. There was no  
4 interpreter present.

5 The evidence is clear, in that there was no attempt to,  
6 nor was there any facility available at that time to give  
7 the information to him in Spanish.

8 I advise the Court, if Your Honor please, is that the  
9 Governor's Commission on Hispanic Affairs informed me that  
10 the 1980 census said in the State of Maryland that they be-  
11 lieve there were 65,000 Hispanics.

12 While we are going through a census at this time, they  
13 are estimating that, the Governor's Commission itself,  
14 estimates that there are more than a quarter-of-a-million  
15 Hispanics in the State of Maryland.

16 At the same time, they anticipate and estimate that  
17 there are roughly about 20 to 25,000 Hispanics in Baltimore  
18 City.

19 In the State of Maryland, those Hispanics work, live,  
20 vote, register, pay taxes, ectera, in the State and to  
21 operate as citizens and in fact, as proper persons within  
22 the State.

23 All that Mr. Rodriguez is asking is that ability in fact  
24 as a citizen, or in fact, as a person proper, a resident of  
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1 the United States, in the State of Maryland to have facili-  
2 tated for him, that due process which is afforded to  
3 everyond.

4 It is curious, if you will, that this Court is now in  
5 civil, and has been in civil and paternity and others, is  
6 that counsel has had, where the date passes for a default in a  
7 domestic case. Counsel writes in is that his client has a  
8 legitimate argument, wishes to go forward, and contests the  
9 divorce, without hearing, administratively is granted. A  
10 hearing, I mean, granted, and striking of the default and  
11 to proceed. In civil matters, without any question, where  
12 a legitimate argument is put forth, prima face, on paper, and  
13 saying we have a legitimate argument, is that the party moving,  
14 is allowed to proceed and due process would be allowed.

15 We suggest to the Court what is here is, is that where  
16 the actual procedure utilized is one that says efficiency is  
17 more important than in fact, whether or not due process is  
18 followed. And, whether or not, notice is followed.

19 The State, if you will, Ms. Arrington. I'm confused by  
20 that, because I'm confused as to the State's position in  
21 this. But, recognizing that its own evidence put before the  
22 Court, said the following:

23 "Examiner. Yes, I was there. Yes, I gave information.  
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1 I read it like a tape recorder, and in fact, I would not  
2 allow any one to interrupt me while doing so."

3 Well, that flies in the face of exactly what we are  
4 talking about.

5 Is what we're saying is, is that the system is saying,  
6 if we have your signature on paper, and if we've done  
7 something that appears to us as legitimate, then, therefore,  
8 you should have no question or no ability to raise the ques-  
9 tion of due process and that which has occurred.

10 Well, obviously, that isn't what this Court should be  
11 about, nor a procedure in the State of Maryland in the  
12 Circuit Court for Baltimore City.

13 In addition to that, the evidence put forward, both by  
14 a witness called by Mr. Rodriguez as movant, and infor-  
15 mation put on by the Court, if you will, and Miss Arrington  
16 is: No, we don't have any information given out in Spanish,  
17 nor do we attempt to give it out in Spanish, and nor, are we  
18 in a position to do so.

19 There's not one person in the Bureau of Support  
20 Enforcement, the Examiner's Office who is Hispanic, by back-  
21 ground, or speaks Spanish itself.

22 Nor, is there one iota of paper, if you will, that would  
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1 give information to any one in Spanish.

2 THE COURT: Let me ask you this, Mr. Nance. I don't  
3 mean to interrupt you.

4 MR. NANCE: Sure, of course.

5 THE COURT: I'll give you a chance to get back to it.  
6 I have a couple of questions.

7 Well, do you agree, or disagree that in order for me to  
8 set aside the decree, I would have to find for a mistake or  
9 irregularity. Is that. You've been talking due process,  
10 which would be basically an attack on the nature of the, or  
11 the manner in which the hearing itself was conducted. At least,  
12 that's how I understood it. But, now that the judgment, so to  
13 speak, is entered, do you agree that the Court would have to  
14 find for a mistake or irregularity?

15 MR. NANCE: The ruling. I submit that the ruling is  
16 very clear, that it has to be fraud, mistake or irregularity.  
17 However, what we advise the Court, very, very strongly is,  
18 violation of due process and lack of notice is in fact such  
19 an irregularity, that this Court cannot abide by.

20 THE COURT: So, your contention would be that a due  
21 process violation constitutes irregularity?

22 MR. NANCE: Oh, very clearly.

23 And, that the function that sets itself up, sets itself  
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1 up, that is clearly a violation of due process. In and of  
2 itself, it is saying we were operating in an irregular manner,  
3 and so therefore there is no way that it will flow according  
4 to that which we normally expect.

5 THE COURT: Well, did you.

6 MR. NANCE: I'll take both shots.

7 THE COURT: Are you suggesting that the onerous would  
8 have been on representatives, or officials, or employees of  
9 the Department of the Domestic Relations Division, to have  
10 determined, or to have raised the issue of whether he under-  
11 stood what they were saying?

12 MR. NANCE: The answer is yes. And, I'll answer it both  
13 ways so we're clear.

14 I know the State, in its memorandum is going back and  
15 putting the onerous on the non-ability person. However, that  
16 is absurd in as of itself. But, if the answer to the  
17 question is straight forwardly to the Court is, is that the  
18 time of understanding, the time of knowledge of what was going  
19 on, is that immediatley that notice is given to the State and  
20 this Court by the motion present, and before it. The evidence  
21 before the Court is, is that upon being given the actual infor-  
22 mation, that immediately the present motion was made. So, what  
23 we're really getting back to is, is that not until that actual  
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1 moment, either between November 20th, if you will, and the  
2 filing of this motion, in November 20th of '89, is that this  
3 man was then apprised of an attorney, was apprised of infor-  
4 mation. Contacted a brother, if you will, who referred him  
5 to an attorney who spoke Spanish. That attorney referred him  
6 to another attorney who was able to assist him and advise him,  
7 and immediately filed the motion.

8 THE COURT: But, when you say immediately. Would it not  
9 be appropriate for the Court to consider that if you left DRD  
10 on the day in question, knowing at least himself, maybe he  
11 never, assuming the version of events as presented by the  
12 movant.

13 Assuming he never let anyone know he didn't understand,  
14 but he himself knew he didn't understand, can he sit and do  
15 nothing for a period beyond the thrity days (30) which is  
16 what the testimony is, I believe.

17 MR. NANCE: I think what the question begs is, is that  
18 if a person is playing games with the Court do we let him  
19 play games?

20 And, in no way do we suggest that a person gives to the  
21 Court a semblance that my last name is Rodriguez, and so  
22 therefore, okay. I think, if you will. Not I think, I  
23 suggest to this Court as a memorandum that's given to you of  
24 the Law Review. "It is absurd to suggest that someone who

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1 does not understand is able to notify you in a method of  
2 understanding that he doesn't understand." This is not  
3 where someone comes in and says, my name is John Henry  
4 Rodriguez. It is on its face, is my name is Jose DeJesus  
5 Rodriguez. With the accent an all.

6 This is also a person who attempts to speak, and has a  
7 thick accent. Clearly of such, that even with the minimum of  
8 words that he does know in Spanish, indicates that there is  
9 a language question here.

10 We go to the next question of what happens under those  
11 circumstances.

12 As the Court may know, is that even in foreign countries  
13 where in the United States Court is set up, is that the  
14 United States Court is required to make circumstances avail-  
15 able and known to the litigants that are before it.

16 Now, should we say that if we go to a foreign land that  
17 we're there and say that we put forward, in a due process,  
18 new and unusual, separate and apart from that which would,  
19 in our own courts, be required of us? Of course not.

20 What we're saying is, is that in any court in these  
21 United States, whether it be State or Federal, that we go to  
22 the next step, it is the duty of the Court itself, to inquire  
23 and to be assured that the party is understanding of that

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1 which has occurred, and the rights that are afforded him or her.

3 Now, obviously, that's clear whether or not that being a  
4 guilty plea, a not guilty plea, or whether that which we, in  
5 criminal cases, or whether not we're talking about  
6 paternity.

7 But, if we go to the set in the direction of this  
8 particular case, this case is not unlike that of, where we  
9 have the used car buyer, who says: I got your signature on  
10 the line. And, so therefore, the seventy-two hours (72) has  
11 gone. The thirty days (30) days has gone, and so therefore,  
12 you lose. Or, needless to say whether it's Fuentes, or others,  
13 that says, that isn't enough. That simply is not enough. If  
14 we take advantage of the situation and the circumstances before  
15 it.

16 Well, we look at this particular case. The State contends  
17 that he's been in the United States for eighteen (18) years.  
18 We submit he has been an occupant of the United States for  
19 eighteen (18) years. May we suggest that if a person of  
20 fifty years of age (50) in the United States, in the deep  
21 south, had no education whatsoever. His natural language is  
22 English, but he cannot read and write English in such a manner  
23 as to understand that which was before it, do we automatically  
24 say that you lose, simply because of your birth? Of course

25

1 not. We have known by background, historically, where poll  
2 taxes were used to exclude persons, simply by utilizing that  
3 which is known to them, that is the user of the language,  
4 that the person that is being afforded an opportunity is  
5 unable to understand that language that is put before him.  
6 Whether or not being even the same language that they were  
7 born with.

8 We have a person at best, who has a sixth-grade  
9 education in the Dominican Republic, who has been raised in  
10 Spanish, trained in Spanish and brought into the United  
11 States in Spanish. Lived in the United States, primarily  
12 in New York, where, he says, all the persons around him  
13 spoke Spanish.

14 What do we do under those circumstances is say that  
15 of the fifteen (15) , of the eighteen (18) years that we  
16 talk about, is that he never had to venture out of his  
17 ghetto, which is Hispanic.

18 Do we hold that against him and say: Well, you've been  
19 around for so long, so therefore you should have automa-  
20 tically been afforded the opportunity to know our language  
21 and such, that your due process would have been afforded you  
22 on the day that you came in?

23 I submit to the Court, that the examiner's own response  
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1 says we're not interested. We will go through certain  
2 things, and if it meets my interpretation, then, therefore, I  
3 will go so far as to give him his rights. Well, that isn't  
4 what due process is required, whether we're talking about  
5 the 14th or 5th Amendment of the Constitution, or that which  
6 is afforded by the State Constitution itself.

7 What we're saying here, is: It is not as a simple  
8 line, that says a mother standing alone should be sufficient  
9 enough to suggest that he loses.

10 THE COURT: Well, before I could reach your position, I  
11 would have to find, am I not right, as a fact, that he did  
12 not understand English?

13 MR. NANCE: No.

14 No.

15 THE COURT: For example.

16 The testimony here is in a state of conflict.

17 MR. NANCE: My client never suggested to this Court, nor  
18 will I, as an officer of this Court, suggest to this Court,  
19 that he does not speak some English, and knows some of the  
20 English words.

21 Clearly, that is not what we're saying to this Court,  
22 and nor do we attempt to evade that.

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1           What we're saying is, is that his primary language is  
2 Spanish, and that of the circumstances of this Case is that  
3 he was not given such a situation as to have knowledge of that  
4 which is afforded him.

5           THE COURT: But, isn't that a difference between. I  
6 mean, assume for the moment, that the facts that I could,  
7 would find to support, that he knew more than just some  
8 English.

9           MR. NANCE: I think the facts would have to show,  
10 clearly that he understood the procedure that was before him,  
11 and clearly such that he was afforded an opportunity to have  
12 knowledge and notice of it.

13           THE COURT: Well, suppose I had a case in which there  
14 was a native born American, as you say, who simply was  
15 illiterate.

16           MR. NANCE: That's next month, Judge.  
17 Same lawyer, different case.

18           THE COURT: But, as unfortunately, there are also many  
19 people in that situation in today's world. But, if. But, if  
20 they. It goes. If a person in that circumstance came into  
21 such a hearing, as did Mr. Rodriguez, and could communicate,  
22 whether he or she could read. Maybe, not up to par, but  
23 could understand the language as it was spoken, are you say-  
24 ing that they could come back later and say: That I really  
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1 didn't read English, so therefore, and I didn't know what to  
2 do. So, I really didn't understand what rights I had?

3 I mean, you could really carry it one step farther,  
4 in that situation easily, couldn't you?

5 MR. NANCE: I think this Case is blatant on its face.  
6 That clearly doesn't get to the question of the gains  
7 that the Court is concerned about.

8 What we're saying is, on the face of this, is that on  
9 the side of justice, should have prevailed that additional  
10 information and method of information was required.

11 THE COURT: Well, I think the part that troubles me, is,  
12 even if I thought that there were merit to your legal  
13 argument in certain cases, I might even say I could under-  
14 stand the situation.

15 I don't demean the validity of your argument, because, I  
16 think, on the whole, it has some merit. I would have to  
17 agree, that under certain circumstances, your point might be  
18 well taken.

19 But, what I am wondering about, is, if this is that  
20 case? Because, there is certainly, evidence before the  
21 Court, that he knew that he was, from Ms. Arrington, first  
22 of all, that her testimony is that they communicated in  
23 English. And, that she never spoke Spanish. And, that the  
24 only means that they had any conversation was in English.

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1 And, that, she, according to her testimony, told him she was  
2 pregnant, and he was the father. And that. I don't want  
3 to review all my notes, right this minute, but there is  
4 certainly testimony in the Record that he was more profic-  
5 ient in English than your argument would suggest.

6 Not just someone who knew, some words, but someone who,  
7 even if it wasn't his native tongue, could understand  
8 certainly what he was doing in that room.

9 MR. NANCE: Well, number one. I think Ms. Arrington's  
10 testimony has to be questioned, and then, the credibility of  
11 that testimony should be questioned.

12 The point that we're saying is, the next point.

13 THE COURT: But, he has the burden, does he not in this  
14 Case?

15 MR. NANCE: He has the burden to put before a reasonable  
16 argument, with the surroundings that it seems just to allow  
17 him to have his hearing or day in court.

18 We're not, in any way, suggesting that he is running  
19 away from the issue.

20 Ms. Arrington. What hurt is there in it to Ms.  
21 Arrington, if we accept that she knew, at the date of  
22 conception, that he was the father, then in fact, what  
23 we're asking is an opportunity for the blood test and a  
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1 hearing for determination for him to be determined to be  
2 the father.

3 We're not asking to run away from the question itself.  
4 We're asking for the opportunity to raise a question.

5 But, let me not forget the Court's point. Is history  
6 is replete with persons going around the world, and going  
7 into native lands that are non-native to them, and are able  
8 to get such from persons that are there.

9 THE COURT: Yes, but that category was much more than  
10 that.

11 MR. NANCE: No, she said that he spoke Spanish. I mean,  
12 spoke English.

13 THE COURT: Yes, she said they loved to sit and watch  
14 TV, and had conversations, and such. It wasn't just a sexual  
15 question.

16 MR. NANCE: The question is, we've had conversations.  
17 We go back to credibility. What is a conversation?

18 You and I go into a Chinese restaurant, and speak to  
19 somebody and say: I'd like to have egg foo yong. How much  
20 it is? And the guy says seven-dollars-and-fifty-cents  
21 (\$7.50). We give him a ten dollar bill (\$10.00), and said  
22 my change, and he gives me two-fifty (\$2.50). Does that mean  
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1 he speaks English enough to know the due process that is re-  
2 quired to challenge that of him being alleged to be the  
3 father?

4 What we're saying here is, and he does not suggest that  
5 the baby is yours. And, he says, no, it isn't.

6 The questions is, is that the time of the contact with  
7 the examiner, is whether or not, is sufficient, in such, is  
8 able, and afforded an opportunity to go further, and say:  
9 Not only. No, it isn't.

10 But, how can I raise the question of: No, it isn't?

11 The procedure that is created, that the examiner, who is  
12 arguably an arm of this Court, is for the purpose of  
13 affording rights to the person that they know. You don't  
14 have to sign anything. You have a right to an attorney,  
15 and that you have a right to a blood test and a hearing.

16 The question of paternity is not known to him. The  
17 evidence is clear. The question of an attorney. He doesn't  
18 know where to get an attorney. He understand the word,  
19 lawyer.

20 Now, what we're getting to, is, even in such, when Ms.  
21 Arrington is saying: Oh, they explained to him paternity,  
22 and he agreed to paternity. And, after a questioning of  
23 her, of some time, I said: Are you saying that he used the  
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1 word paternity? Oh, no, he didn't use the word paternity.

2 What we're dealing with here is, is that which is from  
3 Ms. Arrington, an advisement; that from which Ms. Blandon is  
4 an advisement. Is not an advisement of Jose DeJesus  
5 Rodriguez.

6 If I stand before this Court, and say to this Court  
7 (Counsel Nance then spoke Spanish to the Court, and returned  
8 to English).

9 THE COURT: I'm impressed.

10 MR. NANCE: Please do. But, don't expect me to say that  
11 I understand Spanish. Because, all I said is that I studied  
12 Spanish in the Community College of Baltimore for two (2)  
13 years.

14 I would follow that with (here again, Mr. Nance spoke  
15 Spanish, then returned to English).

16 Although there are some words that I do know.

17 The same way with this man here, is that if we bring  
18 him into the United States and he is rightfully here, he  
19 should be afforded the same question and opportunity as the  
20 lady who has no background and training, and saying: The  
21 man came to me and had me to sign something. I didn't  
22 understand it, because of my background and training, and  
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1 that is unconscionable in, and of itself in Constitutional  
2 terms.

3 THE COURT: I guess this brings me back to my original  
4 question: I think the evidence, and you don't argue that he,  
5 at least, knew some English. What makes him any different.  
6 Let me see if I can repose the question, because this  
7 troubles me.

8 What makes him any different, with his limited knowledge  
9 of English, than a native born American, who, unfortunately,  
10 for whatever reason, may be uneducated, illiterate, not  
11 intelligent?

12 Many such people, I am sure, find themselves in  
13 predicaments, every day of the week, in which they are called  
14 to the Domestic Relations Division to address the issue of  
15 paternity.

16 And, why is it that he would be entitled to anything  
17 different than they are entitled to? They are told what  
18 their rights are, and maybe they don't grasp it. I mean,  
19 this is just by analogy. But a case I am trying now,  
20 there's an allegation that the mother has an IQ of 69, and  
21 maybe not that intelligent.

22 Suppose there are people like that? Are you saying that  
23 the Department, or the Domestic Relations Division would have  
24 to be sure that every citizen, or every person accused of  
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1 being the father of the child, would be. They would have to  
2 be sure, given the circummtances of each of those people, with  
3 everybodys circumstances being unique to them, that this  
4 person understands, because this person has a low IQ; or  
5 because this person doesn't know how to read; or because  
6 that person has some other deficit?

7 You see what I'm getting after?

8 MR. NANCE: Yes.

9 THE COURT: I think he does understand some English.  
10 And, I think if he understood some English, and then he  
11 didn't know what was going on, he would have known enough  
12 perhaps, to have said: Wait a minute. I'd better check  
13 this out.

14 MR. NANCE: Well, see what the question is that the  
15 Court poses. And, number one, I represent this client, in  
16 this Case.

17 THE COURT: No. It's the same theory.

18 MR. NANCE: No.

19 I have no problem responding to the Court.

20 And, nor am I as an attorney, attempting to avoid that.

21 The burden is upon this Court system, and its apparatus  
22 to do everything humanly possible to insure that the persons  
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1 who walk through these halls, receive justice.

2 That's the answer.

3 And, the burden is upon that people over there who get  
4 paid to make sure that they give information to the fullest  
5 extent, to insure that which they give informs the persons  
6 of their rights and ability.

7 The answer is, yes.

8 Now, are we saying is, is that as a pragmatic situation,  
9 and as a practical question: Do we open the flood gates? It  
10 is not the flood gate that we're talking about. It is each  
11 individual, at a given time, is that we should not be so  
12 questionably, arguably, geared up for efficiency and method of  
13 movement that we are not questionably, integrally,  
14 interested in whether or not we're doing justice.

15 And, the information before you is, justice ain't what  
16 we're about.

17 Is that on the tape recorder? I will go through it, and  
18 at the same time, I don't stop for nobody.

19 That's the evidence.

20 And, what we're saying is, is that when someone comes  
21 before you, is that our system of justice requires stop and  
22 question.

23 This little old lady who walks into your Courtroom, I  
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1 have no question that the Court will bend over bakcwards to  
2 question: Do you understand, Miss Jones as to what's going  
3 on? Can I explain it to you further? While I use this word.  
4 Now, from what I understand, she may not know that one, let  
5 me go another step.

6 The information of this Case is, that was not of  
7 interest, at all. And, what we're saying is, it is absurd to  
8 go to the next step. It is absurd to say, that you have been  
9 questioned to be a father, then therefore, you should  
10 automatically, with a limited understanding know how to get  
11 sex with a woman. You should automatically understand what  
12 the due process of our laws are all about.

13 Now, that under the circumstances is, that's what we're  
14 sying this Court. In no way is Jose Rodriguez attempting to  
15 avoid the question of whether or not he's the father.

16 But, what he is saying is that the question is even  
17 more important than that. It is a question of whether or not  
18 due process allowed him an opportunity for a proper determin-  
19 ation of he is the father.

20 It's not so simplistic as to say, that on March 21st,  
21 1989, is that there was a question mark there, and so  
22 therefore it's okay, if he slips by. 23

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1           Now, we want to say there is a child there. That a  
2 question mark of who the father is. There is a father,  
3 arguably, that needs to know whether or not he is the  
4 father.

5           There is another family, that arguably, needs to know  
6 whether or not he's the father.

7           There are kids that would like to know as to whether or  
8 not that the child in question is a sister.

9           There is a question of ultimate property rights, which  
10 we protect in the sense of a contract. But, yet we were  
11 saying is, efficiency and speed take away all of your property  
12 rights for the rest of your life, should be dealt with.

13           Now, even under the circumstances, where, I will tell  
14 you, if you read the letter itself, that arguably was  
15 supposedly signed, is that this question of who signed it.  
16 Not signed it, but typed it, and understood it?

17           If the Court goes back to his, in fact, testimony in the  
18 beginning, it is clearer than the testimony of the second  
19 time of him before you.

20           Counsel said: Do you understand?

21           The Court has some problem with that. And, I understand  
22 the question. And, I took exception.

23

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1           What we're all about is exactly that.

2           Do you understand?

3           When life was slow, if you will, and the Court was  
4 taking its time in the beginning, not saying that the Court  
5 was intentionally, not taking its time at the end. It is  
6 where there's a response, I understand, and I am in fact,  
7 telling you what my answers are.

8           What we're saying is, and the evidence is clear that it  
9 comes before you, is said that which is to him, is read to  
10 him by his wife.

11          Now, I was saying is, on the thirty-first (31) day he's  
12 out of the ballgame, or are we saying is it the ninetieth  
13 (90th) day that he's out of the ballgame?

14          Are we saying that as such, that where there were, in  
15 the forties, where we know that certain people were violated  
16 of their civil rights, that we didn't come back in and find  
17 another way to get him back in court?

18          And, what we're saying here is, the same.

19          The same is, what he's asking for is a proper day before  
20 the Court.

21          If we take it a step further, in its sense, as the  
22 article that was submitted to the Court, attached the  
23 supplemental memorandum by counsel, is that the question of  
24 rights of notice, is a very important factor of that which we  
25

1 claim to be due process.

2 If we take it a step further, as well, then we're saying  
3 here is, is that the system goes so far as, as to give the  
4 hidden game trick, or the hidden signature lie.

5 If we do what the lady that says, is that you signed  
6 here that you'll get a silver pot, and find out is that she  
7 signed her house away, do we say: Well, lady you should have  
8 been able to read and understand what was said.

9 If we go the step further here, in this particular  
10 procedure, going past the actual examiner, if there were a  
11 question, and there was no question, and the examiner says  
12 she can't remember the last she has even aided somebody by  
13 calling in somebody to answer the question.

14 But, if we go so far as to that, in this particular  
15 case, the procedure that's created is such, is that it is the  
16 State's Attorney whose to answer the question, and it's the  
17 State's Attorney who represents the other side against him.

18 Now, clearly, if I were to do an agreement between  
19 parties, in a domestic matter, and I wrote the agreement, and  
20 it is so tilted in favor of one party and not the other, do  
21 we not come back and let the wife or the husband come back and  
22 challenge that I didn't have proper information, and notice,  
23 and knowledge of that which I was binding myself to, whether  
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1 or not I spoke the English or not. Well, clearly the answer  
2 is, is that there is far reaching by one of the parties, if  
3 the other party wrote it, and therefore wasn't afforded an  
4 opportunity to question.

5 Well, then, we get here and say: Well, the State is  
6 here, with the same person that was there, and therefore, the  
7 same parties that supposedly are there, do we go to the next  
8 step, and say: He doesn't have a right to raise the same  
9 question.

10 Well, it's ludicrous not to give him that same  
11 opportunity.

12 The article which we put before you is a study by those  
13 that are deeply concerned of Hispanic rights itself. It is  
14 by definition, is saying the right of notice, and to be  
15 advised. That is the Hispanic words, and that the colon,  
16 it talks in terms of due process and bilingual notice.

17 It is a study of that which we, as English speaking  
18 persons pre-judged the world, and therefore tried to fit the  
19 round peg in a square hole, and say therefore, if it goes to  
20 the next step, it's okay.

21 That is clerly not what we're all about. And, that is  
22 not what justice should be all about. All, we're saying, and  
23 again to take it to the next step, is if we're looking for  
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1 efficiency, then efficiency is not automatically equal to  
2 justice. And, efficiency in this Case is what the examiner  
3 was all about, the procedure is all about.

4 If we go to the next step of the person that we talked  
5 to, the evidence here is that on one case, is, here's a  
6 person that I met. Well, it should have taken him three (3)  
7 days, but it took him three (3) months to do a bathroom. But,  
8 yet, in the meantime, we sit and hold hands, and we talked  
9 about something.

10 His statement was: No, he was there for a short period  
11 of time. And yes, we had sex two or three times. And, I  
12 question whether or not that is my baby.

13 I think he should be afforded the right for that  
14 question to be properly answered, within the jurisdiction of  
15 this Court, and that of justice as we understand it.

16 THE COURT: Thank you, Mr. Nance.

17 Miss Crain

18 MS. CRAIN: Thank you, Your Honor.

19 Your Honor, justic is what it's all about.

20 Every day the Domestic Relations Division, for the  
21 Circuit Court of Baltimore City is dedicated to the public,  
22 and to public service. And, as I said in my opening remarks,  
23 they don't get notches

24

25

1 on their belt for fathers. They are dedicated to justice and  
2 to serving the public.

3 The hearing officer who was present at the hearing  
4 involving the Rodriguez Case, testified before Your Honor,  
5 this is a woman of fourteen (14) years experience. You  
6 could see her manner. She is a very soft-spoken, laid back  
7 person. Not a foreful person. A person who is dedicated  
8 to conveying a message.

9 When she testified that she gives the rights of these.  
10 She is certain that everyone is told these rights. And, she  
11 does it as a tape recorder. And, she does not allow herself  
12 to be interrupted. She ment, in the sense that she wants to be  
13 certain that she does this each and every time. This is a  
14 routine that is assured because, it is important to make  
15 people aware of their rights. And this is the...

16 THE COURT: Well, I understood her to be saying she  
17 didn't mean to suggest she was acting like a robot.

18 MS. CRAIN: Right.

19 THE COURT: Robot. But, rather that it was important to  
20 make sure that she went through the entire litany.

21 MS. CRAIN: Exactly.

22 And that the litany is not very lengthy. So, that if  
23 anyone has a question, they can ask that question, and they

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1 are invited to do so. And, then this information is present-  
2 ted to them a second time in a written form.

3 THE COURT: But, suppose he didn't understand what  
4 she was saying?

5 MS. CRAIN: If he did not understand what she was  
6 saying, all he would have to do is say whether it be in  
7 English: I don't understand; or in Spanish: No comprendo.  
8 I'm sure she would have understood that. And, then the pro-  
9 cedure would have stopped. There would have been one of  
10 three things that would have happened.

11 THE COURT: Oh, so you're saying, the burden is on him  
12 to let someone there know if he didn't understand what was  
13 being said to him?

14 MS. CRAIN: The burden is not on him, as well with.

15 THE COURT: I'm sorry. Is on him?

16 MS. CRAIN: It is on him, as it would be on any adult to  
17 simply. Common sense would say: Wait. What's happening. I  
18 don't understand. Or, if she could in any way discern  
19 through her experience, and I think she testified that in all  
20 her...That she would be able to tell, from her experience, if  
21 there was a lack of understanding. And then, one of three  
22 things would happen. Either the case be sent into court, or  
23 an interpreter would be called, or someone from the State's

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1 Attorney's Office would be called to review the information,  
2 and then one of the other procedures, either the matter would  
3 be solved, or the case would be sent into court, or an inter-  
4 preter would be called. So, you know, they are not here to  
5 simply deal with cases efficiently, they are there to deal  
6 with cases, to help the public reach a justice conclusion,  
7 and a fair conclusion. And, I think that's of paramount  
8 importance to everyone who is involved in this procedure.

9 There was no interpreter present because there was no  
10 need for an interpreter, Your Honor. And, we submit to you  
11 that we have shown you over and above what is necessary in  
12 this Case to indicate that here is a man who has lived in the  
13 United States for eighteen (18) years, whether he lived in  
14 New York or Baltimore, or whatever, it was the U.S. of A.  
15 He is over fifty-years-old (50).

16 He answered a question prior to the intepretation of it,  
17 and then admitted that he did undrstand certain words. He  
18 testified himself that it was Ms. Arrington who told him about  
19 the paternity case. So, if he's admitting that he understood  
20 that, why is it that he understood when she told him about  
21 the paternity case, and as Mr. Nance said, that when she  
22 said: Baby yours, he knew enough to say: No, it isn't. Well,  
23 why isn't that when he spoke to Ms. Blandon, and she said to  
24 him: Baby yours, he didn't know to say: No, it isn't?

25



1           What he did do is, he provided his Social Security  
2 number; he provided his address; and he argued about the  
3 amount of money that it would cost him to support this child.  
4 That's what he offered on that particular day.

5           He never said: No, it isn't.

6           Your Honor...

7           THE COURT: Would it not be analogous to an attack on a  
8 guilty plea, on the grounds that the plea was not offered  
9 freely, knowingly and voluntarily, and, similar situation?  
10 Is that a reasonable analogy here?

11           If Mr. Rodriguez cannot establish that he, his consent.  
12 Well, let me restate it. That he would have to show his  
13 consent to the paternity decree was not offered freely,  
14 intelligently and voluntarily, and knowingly. If he can't  
15 do that.

16           MS. CRAIN: Well, I feel that's one leg.

17           The other leg is that there is nothing in civil  
18 litigation that demands that he be, you know, be given these  
19 rights.

20           So, that's a different argument.

21           THE COURT: That's a pretty interesting question here.  
22 In the research we've done, I'm not sure it's so clear.

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1 There are cases that go in both directions.

2 THE COURT: Right.

3 THE COURT: That's why I say, assume for the moment I  
4 found that there was an obligation on the State  
5 representatives at DRD to show that he understood. In the  
6 absence of my being persuaded now from the very beginning.  
7 He would have to show me. I would have to be persuaded now  
8 that he didn't consent freely, intelligently, knowingly and  
9 voluntarily. Just like in a plea, that there are these  
10 indicia of due process requirements. The cases, I don't  
11 think, are clear.

12 MR. CRAIN: Well, we...

13 THE COURT: Around the State.

14 MS. CRAIN: Right, not in Maryland, I don't think.

15 THE COURT: In the paternity area, I might add.

16 MS. CRAIN: Oh. Okay.

17 But, Your Honor, what I would say to you is, that in,  
18 he, we have shown that he did understand.

19 THE COURT: That was what brought me to my question to  
20 Mr. Nance. He might have a point, but I'm not sure he has  
21 the facts for the point.

22 MS. CRAIN: In this particular case, quite frankly, Your  
23 Honor, we are appaled at this case. We feel that we have

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1 someone from the Bureau of Support Enforcement, who recalled  
2 a personal conversation with this man. He, himself testified  
3 that he went to this New York tractor school. That this  
4 school is given only in English, and as a result of taking  
5 this course, and studying this manual, he was able to pass  
6 an examination, which is quite difficult, that has a very  
7 high failure rate. Mr. Nance would have us...

8 MR. NANCE: Objection.

9 That's not the testimony.

10 THE COURT: Well...

11 MR. NANCE: In fact, it is the complete opposite.

12 THE COURT: The Record will speak for itself, and I  
13 think my notes are pretty good, but for purposes of argument,  
14 I'll overrule it.

15 MS. CRAIN: Mr. Nance has indicated that in certain  
16 questioning that, the Defendant took this test three (3)  
17 times. That is not. That was never brought out. The  
18 Defendant stated that he took a driver's test three (3)  
19 times, but he didn't take this particular test, three times.  
20 He passed with flying colors on the first time with...

21 MR. NANCE: Objection.

22 MS. CRAIN: with scores of ninety-six (96), eighty-eight  
23 (88)...

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1 MR. NANCE: I'm have to object to that because, she's  
2 purposely, and intentionally and knowingly mis-stating the  
3 facts. She knows full-well that she is.

4 THE COURT: Well, that's a pretty strong statement.

5 MR. NANCE: No, I'm making it very clear that if she's  
6 going to talk about his taking of these tests, the evidence,  
7 if she knows what she's talking about, she is purposely  
8 mis-stating it, and knows full-well that she is mistating.

9 THE COURT: Well, I don't think I could say purposely

10 MR. NANCE: Because, I asked him about these tests, and  
11 doing so.

12 THE COURT: What is it that you think she said that is  
13 wrong, Mr. Nance?

14 MR. NANCE: Well, so that it's clear.

15 Is that the evidence, is that he took the test three (3)  
16 times. The question to the person from the Motor Vehicle  
17 Administration is, in fact, I asked: Isn't it true that it's  
18 normal, that people, in fact, have to take it two (2) or  
19 three (3) times? The statement, in testimony was: No, it's  
20 to the contrary.

21 And that his testimony was never shown that this person  
22 did not, in fact, as was testified, by Mr. Rodriguez, have  
23 to take this test three (3) times.

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1 MS. CRAIN: Your Honor, I think that Mr. Merrymith  
2 stated that he did not know how many times Mr. Rodriguez did  
3 take the test.

4 MR. NANCE: I think that's the point.

5 MS. CRAIN: Excuse me, sir.

6 MR. NANCE: *The point is, for the Court, mam, is that*  
7 *the testimony from him is, that he had taken it three (3)*  
8 *times, and that she is purposely, purposely mis-leading the*  
9 *Court, and knows full-well that she it.*

10 THE COURT: Well, I really must say, Mr. Nance, I  
11 thought we were all done with that kind of.

12 MR. NANCE: I have to make the argument.

13 THE COURT: I don't know how you could say she purposely  
14 misleading...

15 MR. NANCE: Your Honor, she just said what...

16 THE COURT: I don't remember this point, at all...

17 MR. NANCE: She told the...

18 THE COURT: Wait, I'm talking now.

19 MR. NANCE: I'm sorry.

20 THE COURT: And, I don't that it's all that significant  
21 in any event.

22 What was significant was that he passed the test at some  
23 point, and I don't even remember what the testimonly was. I'm  
24 looking back at my notes. But, I am troubled by your saying

25 :-35-:

1 that she's deliberately misleading the Court. I don't think  
2 you have any...

3 MR. NANCE: Your Honor...

4 THE COURT: basis to say that.

5 MR. NANCE: With all due respect to the Court. Ms.  
6 Crain just told you that the testimony from the MVA person  
7 did not say he knew how many times he took the test. And, it  
8 is Mr. Rodriguez who testified how many times he took the  
9 test, because it was asked by Counsel.

10 MS. CRAIN: Mr. Rodriguez testified that he took a  
11 driving test three (3) times.

12 MR. NANCE: Did you ask?

13 MS. CRAIN: You asked him.

14 THE COURT: Well. Counsel.

15 I'm not going to get into a debate about the point. The  
16 Record is recorded, or when it's transcribed, if it has to  
17 go that far, we'll all know exactly what it was.

18 I'm going to review my note carefully on the point.

19 Make your argument, and if it turns not to be wrong, in  
20 your rebuttal, you can point it out, Mr. Nance.

21 Go ahead, Miss Crain.

22 MS. CRAIN: Your Honor, also, I have suffered through  
23 insults by Mr. Nance throughout this procedure, and I would  
24 like to...

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1 THE COURT: Well, it's been mutual. I'd say it fair to  
2 characterize it as mutual.

3 MS. CRAINE: Well, I would have to take exception to  
4 that.

5 Mine have been responses.

6 When Mr. Nance, has on many occasions, at least, six,  
7 said that that Miss Crain...

8 THE COURT: The Court asked...

9 MR. NANCE: I thought the Court.....

10 THE COURT: Wait a minute.

11 MS. CRAIN: I'm giving my argument now, sir.

12 THE COURT: Wait a minute.

13 This is my Courtroom, and I don't want to have it  
14 reduced to this kind of nastiness. It's unnecessary. We're  
15 here to discuss the legal and factual issues.

16 MS. CRAIN: I think I can do that.

17 THE COURT: I'm not going listen any attack on the  
18 character of either of you. We're passed that. So, let's  
19 just move on, and let's confine it to the argument.

20 MS. CRAIN: When Mr. Nance said that I did not  
21 understand his argument, at least on six occasions, it is not  
22 that I did not understand his argument. I did not believe

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1 that it was a valid argument in this particular situation.

2 To get back to the New York tractor school. This man  
3 would have us believe that his wife took the study manual,  
4 and studied with him each and every night with a dictionary,  
6 that she never went to that place. But, as a result of this  
7 kind of studying, by this lady, he was able to pass this test.

8 That, I am certain, Your Honor is going to look over this test.  
9 When I arbitrarily opened the test book to any page, and poin-  
10 ted, not even looking at the page, and I had Mr. Merryman read  
11 the question, it was certainly a question that you would have  
12 to have rather a good command of English in order to compre-  
13 hend, much less answer correctly.

14 THE COURT: Incidentally, my notes reflect that Mr.  
15 Merryman said he did not know how many times Mr. Rodriguez  
16 took the test. He could have taken, this was possible stuff,  
17 perhaps based on anything, but he could have taken it three  
18 (3) times. It wouldn't be unusual to take it more than one  
19 (1) time, and he had no statistics about how many times people  
20 took the test.

21 For whatever that's worth.

22 MS. CRAIN: Your Honor, Ms. Arrington testified in this  
23 case. She indicated that this couple had a three-year (3)

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1 relationship. That they spoke with one another. They  
2 confided in one another. This was done in English.

3 Mr. Rodriguez himself, by his own behavior, indicated  
4 that he understood the procedure in the Domestic Relations.  
5 He signed a letter, but the letter was typed by his wife, or  
6 whomever, but he testified that he instructed her to send that  
7 letter. He understood the procedure, and I submit to Your  
8 Honor, he knew, really fast, to move and get a lawyer, when  
9 he got a letter about a wage lien. Because, the fact of the  
10 matter is, he was in contempt of the order. He is  
11 fourteen-hundred-dollars (\$1,400.00) in contempt of the  
12 Order. He did not follow the compromise that they had agreed  
13 upon in the Domestic Relations, where he was going to increase  
14 the amount of support at a certain date. And, so, when he got  
15 that letter from the, that there was going to be a lien, he  
16 moved very quickly. He didn't need thrity-days (30) after  
17 that. And, I submit to Your Honor, that the law provides  
18 for finality. If there is any area of the law in which  
19 finality is important, it is this one.

20 This man has acknowledged paternity of this child, not  
21 only in the Domestic Relations Division, but in the community.  
22 He has visited the child. He has given the child gifts,  
23 according to the testimony of Ms. Arrington. She was a  
24 credible witness. Certainly more credible than Mr. Rodriguez.

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1 And, as far as I'm concerned, you cannot throw parenthood  
2 like an old cloak. And, we submit to you, Your Honor, that  
3 this Case should be, is closed, and must remain closed.

4 Thank you.

5 THE COURT: Thank you, Miss Crain.

6 Rebuttals.

7 MR. NANCE: Very briefly.

8 I think what is permeating the air, is a question of  
9 whether or not this paternity case, as a paternity case  
10 deserves to be shuffled aside in a different manner than  
11 rights given and afforded by the Circuit Court of this City,  
12 or the Constitution of these United States and the State  
13 of Maryland.

14 And, clearly the answer to that is: No.

15 But, yet, what is being suggested here is, this is a  
16 paternity case, and so let's end it as quickly as possible,  
17 and move on.

18 If this were a non-paternity case, brought before the  
19 Court, any court, in this State, in the United States, with  
20 these circumstances, and facts, and question mark of whether  
21 or not he had a legitimate argument to be raised. What  
22 would be said is: Okay, I'm going to allow him to have his  
23 day in court for a proper determination.

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1 But, for some reason, it is said that he's not allowed  
2 that here. That is absurd. And, that is crux of the  
3 question, where movant has said, over and over again:  
4 I'm not sure that respondents understand the question. What  
5 we're saying is: He is not running away from a determin-  
6 ation of him being the father. A blood test will tell us  
7 in a matter of days.

8 Boom.

9 What he wants is, is the blood test.

10 That's all he's asking, is an opportunity for him to  
11 have a blood test and that the parties. What does Ms.  
12 Arrington lose is an opportunity to say: I had sex with him,  
13 and that, that's the baby.

14 Does she lose that?

15 The answer is, no.

16 And, all that is being asked is him being allowed to do  
17 so.

18 If we go to the second step is, I have not seen anything  
19 to support, and suggest to this Court, anything to support  
20 this question of him holding himself out to the community as  
21 the father.

22 In fact, it's the contrary.

23 What we have is an allegation of somebody who wants to  
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1 keep him to be named as a father of her child, for whatever  
2 reason. A person who has, at least, if you will, a college  
3 education, and with the years of experience as a teacher, I  
4 would suggest that she has more than a basic college educa-  
5 tion and training compared to someone who has a sixth-grade  
6 education, from the Dominican Republic, at best.

7 But, if we go to the second step, is what we're saying  
8 is, the Wage-lien letter sticks out like a sore thumb. What  
9 the State wants to use is, all he's doing is, is saying that  
10 he had a wage lien on him, and therefore he's reacting to  
11 that, and ignoring the evidence before the Court. What this  
12 letter represents, and that which is before the Court, is  
13 saying is, is that this came to be: Not only did I never  
14 understand it. If my wife did not understand it, who has  
15 been the one that I go to to inerpret things for me, and that  
16 I was sent to my brother. I called my brother. She called  
17 my brother. We discussed it. He pointed me in the direction  
18 of so, that I received the information as to what due process  
19 is all about. At that point, at that point, immediately upon  
20 knowledge and notice of that which he has, immediately was  
21 the motion brought before you to say: I don't understand,  
22 and didn't understand that which is before us.  
23 Whether it's the thirtieth (30) day and one-half hour,

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1 or whether or not it's the ninety-first (91) and one-half hour,  
2 it's still the same question of, immediately upon having infor-  
3 mation given to me that I can understand, and know my rights,  
4 I exercise or try to attempt to exercise to do something.  
5 That's what the letter does.

6 This man isn't running away from the question. He's  
7 still unemployed, and will be unemployed at the time of the  
8 determination of whether the blood test. And, so therefore,  
9 the question still doesn't go any further than: What if she  
10 lose, is a real answer to the legitimate question that due  
11 process is supposed to answer for him.

12 Now, if we go to look at the questions, is that the  
13 argument of: She finds it hard to believe, if you will, that  
14 is, his argument on behalf of Ms. Arrington, find it hard to  
15 believe that someone sits there with his wife, who reads to  
16 him in Spanish and helps him to understand English words, begs  
17 the understanding of how this Country was forged by immigrants.  
18 What we're saying is, is that the same ability that is given  
19 to immigrants, whether or not they're Irish, Italian, ectera,  
20 is the question that we go to the next step is, we are saying  
21 that if you are Hispanic, there ain't no reason to give it to  
22 you.

23 And, I mean that. That is exactly what the question  
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1 begs itself is, if he walked in there and they would have at  
2 least done something to say, I want to make sure you  
3 understand. They don't feel that they have an obligation to  
4 do so.

5 THE COURT: But, I don't think that's consistent with  
6 the testimony.

7 I think the testimony was, that based on the kinds of  
8 things he said, such as providing key information;  
9 appropriately raising the issue of the amount of support.  
10 There wasn't any reason for any one to think that he didn't  
11 understand. I mean, clearly, if he. Looking at as many  
12 cases as I've looked at so far, I would say he was entitled  
13 to advice of rights. I'm not sure that all the case law says  
14 that.

15 But, at least in Maryland, I'm happy to report, that is  
16 the procedure, so he was advised on his rights. The question  
17 then is: Did he understand what he was advised of, and did  
18 he appreciate the consequence of the consent he supposedly  
19 gave, according to the information. And, if there was no  
20 reason for anyone to doubt that he did, then what? I mean,  
21 in the absence of them, in the DRD automatically being re-  
22 quired to get an interpreter for everyone who has an accent,  
23 or who seems less intelligent than the next person, to take

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1 extra, you know, precautions of some sort, it seems to me  
2 that he would have to show that they had a reason to think  
3 he didn't understand.

4 They don't have, I don't believe, a duty automatically  
5 to have an interpreter right there just because he has a  
6 Hispanic last name and has an accent.

7 MR. NANCE: I think what a quarter-of-a-million people  
8 of this State being Hispanic by background.

9 THE COURT: Well, you don't have that in evidence.

10 MR. NANCE: Well, I suggest to the Court that if the  
11 Court would allow that the Governor's Commission, I'll get a  
12 certified copy to you. But, if you take it a next step. The  
13 question this Court raises, is a question of advising of  
14 rights. And, what we're saying is, is when are rights are  
15 biased. What we're saying to you is, is that the evidence is  
16 clear. As soon as he was advised is that he took action. He  
17 didn't sit on this. He took action. And, that under the  
18 circumstances, what we have is, is the contradiction of, in  
19 the beginning of this, that is the Bureau sitting down with  
20 him and the examiner is saying: I saw nothing to raise.  
21 What we're saying is: They weren't looking for it. And,  
22 they weren't interested in it by its actions. If we go to  
23 the.

24  
25

1 I am sorry.

2 THE COURT: No, as I say. If you...

3 MR. NANCE: This isn't personal with the examiner.

4 THE COURT: No, I understand that. But, it's almost,  
5 It reminds me of a Miranda argument in the sense that you  
6 might have a police officer read, from the card, as they're  
7 supposed to do, like a tape recorder, the Miranda Rights.  
8 And, the fact that you're advised of your rights, in and of  
9 itself, is not sufficient to admit a statement that's incrim-  
10 inatory. If the gun was pointed to the head of the person at  
11 the time if he was asked if he would sign the Miranda state-  
12 ment, or waive his Miranda rights. In other words, it has to  
13 be that you freely and voluntarily waive your rights. Not  
14 that you, just that you receive your rights. So, it's the  
15 same point here. I think that's what you're saying. He may  
16 have been advised, but he didn't know what he was being  
17 advised about. So, he couldn't have voluntarily consented to  
18 the paternity.

19 MR. NANCE: Even the testimony here, when those same  
20 rights were interpreted to him in Spanish, he asked: What is  
21 that? And, that there had to be explanation further. So, if  
22 we're saying that we have an interpreter here in Spanish, 23

24

25



1 that in so doing, he had to ask questions for further explana-  
2 tion, that the evidence would take us to the next step is, if  
3 we're sitting there with somebody whose speaking to him like  
4 a tape recorder, and only in English, then should we not raise  
5 the question of that whether or not he was advised of his  
6 rights in a meaningful manner?

7 I mean. Simply by someone saying is: I read it to him,  
8 is not meeting the need. Now if we go to the step. I'm sure  
9 the Court is concerned from a practical sense. From a prac-  
10 tical sense is, when is enough is enough? And, what we're  
11 saying is: Is that justice requires, is that we in fact, lean  
12 toward that which is required to insure receipt of the infor-  
13 mation, and receipt of notice of that which occurred.

14 In this particular Case, what we're saying to the Court  
15 is: Is that his tax dollars, my tax dollars, are in fact,  
16 being insured if everybody receive appropriate rights  
17 being afforded them and due process. One being taken out of  
18 the system hurts us all. And, we're saying, in this partic-  
19 ular Case, is that we have to go to the next step. If we go  
20 so far, is questioning in fact itself, as to if we have it  
21 as a finality on a signing a paper, then we have done nothing  
22 for ourselves and civilization as such, and the family.

23 Finality in this Case began here, and hasn't ended. It  
24  
25

1 did not begin on March the twenty-first (21). It began when  
2 he understood as a result of this. What this triggered, and  
3 in fact, because anybody that would go to somebody and say:  
4 I can't read this in English or Spanish. Go to somebody. And  
5 that's what happened. But, what happened there is, is that he  
6 was forced off of center to speak to somebody who gave him a  
7 little information, and then somebody who was able to inter-  
8 pret it to him in Spanish. And, then somebody else was  
9 able to take the steps on his behalf.

10 Let me just, in closing suggest to the Court that we  
11 look at two things. Is that the respondents position in this  
12 Case flies against, again, that which not only, we believe,  
13 that this Country's about, but this Court is about.

14 The State's own witness, and that is Ms. Arrington  
15 witness. I'm sorry, the State, slash (/), Arrington, said  
16 that he has had people who took the same test who has diffi-  
17 culty speaking to him in English. But, yet, we're attempting  
18 to ignore that.

19 What we're saying is, is that we're getting down to is,  
20 a writing test, a driving test, or that of fatherhood, is  
21 that we have to go to the step further that would insure us  
22 all. It's the integrity of what is, and that which we are all  
23 about. In this particular Case is, is that the integrity was  
24 shattered. It is questionable. And, if we look at the facts,  
25

1 and truly upon the facts, without it being flavored or preju-  
2 diced by the question of motherhood or fatherhood, then  
3 clearly, that he has not been afforded equal protection rights,  
4 and due process as are afforded other persons that walk these  
5 halls of justice. In this particular Case.

6 The only way to cure that is very clear. In this  
7 particular Case, is to allow an opportunity for it to go  
8 forward for a hearing and a determination of paternity.

9 Soft.

10 Does she lose anything?

11 The answer is, no.

12 Does he lose anything?

13 The answer is, no.

14 Do we all gain something?

15 The answer is very clearly, yes.

16 THE COURT: All right counsel.

17 Thank you very much.

18 I appreciate the arugments.

19 I will hold the matter sub curia, and I'll be issuing a  
20 written opinon.

21 Hopefully in the near future, but.

22 Thank you.

23 MR. NANCE: Thank you, very much, Your Honor.

24

25

1 MS. CRAIN: Thank you, Your Honor.

2 MR. NANCE: There is a motion being made, to the Court  
3 on behalf of Mr. Rodriguez, asking that the cost of the  
4 interpreter be attributable to the Court.

5 THE COURT: Well, I don't know if I even have author-  
6 ity to do that.

7 MR. NANCE: The answer is, is that the Administrator  
8 said it has to be made.

9 MR. CRAIN: Your Honor, I would oppose that.

10 MR. NANCE: I'm just advising the Court, that a formal  
11 motion in writing. I will make it, if you will at this time.  
12 But, I'll make a formal motion in writing in concurrence with  
13 that which we are doing.

14 THE COURT: I don't know.

15 Maybe I am the one who approves it. I don't know that I  
16 am, though.

17 MR. NANCE: I have...

18 THE COURT: If it's already been done, I'm sort of  
19 getting presented with it after the fact. So...

20 MR. NANCE: Well, I'm just saying to the Court, is that  
21 we were instructed by the Administrator that a motion had to  
22 be submitted to the Court.

23 THE COURT: Instructed by who?  
24  
25

1 MR. NANCE: The Court Administrator.  
2 THE COURT: Oh. Mr. Howard, you mean?  
3 MR. NANCE: That's right.  
4 THE COURT: To this Court.  
5 MR. NANCE: To this Court.  
6 THE COURT: Should the result of that abide the results  
7 of my ruling, or you saying it is separate and apart?  
8 MR. NANCE: I think the motion itself is one that flies  
9 in the face of. Well, I think the Court reaches its  
10 decision...  
11 THE COURT: Will you give me something in writing?  
12 MR. NANCE: That's right.  
13 I think it goes in to the question of procedural.  
14 MS. CRAIN: And, I'll respond to it.  
15 THE COURT: Okay.  
16 MS. CRAIN: Thank you, Your Honor.  
17 MR. NANCE: Thank you.  
18 THE COURT: All right.  
19 Thank you counsel  
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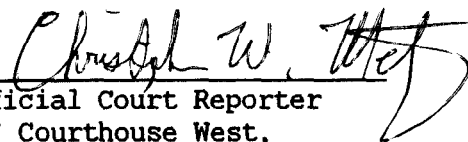
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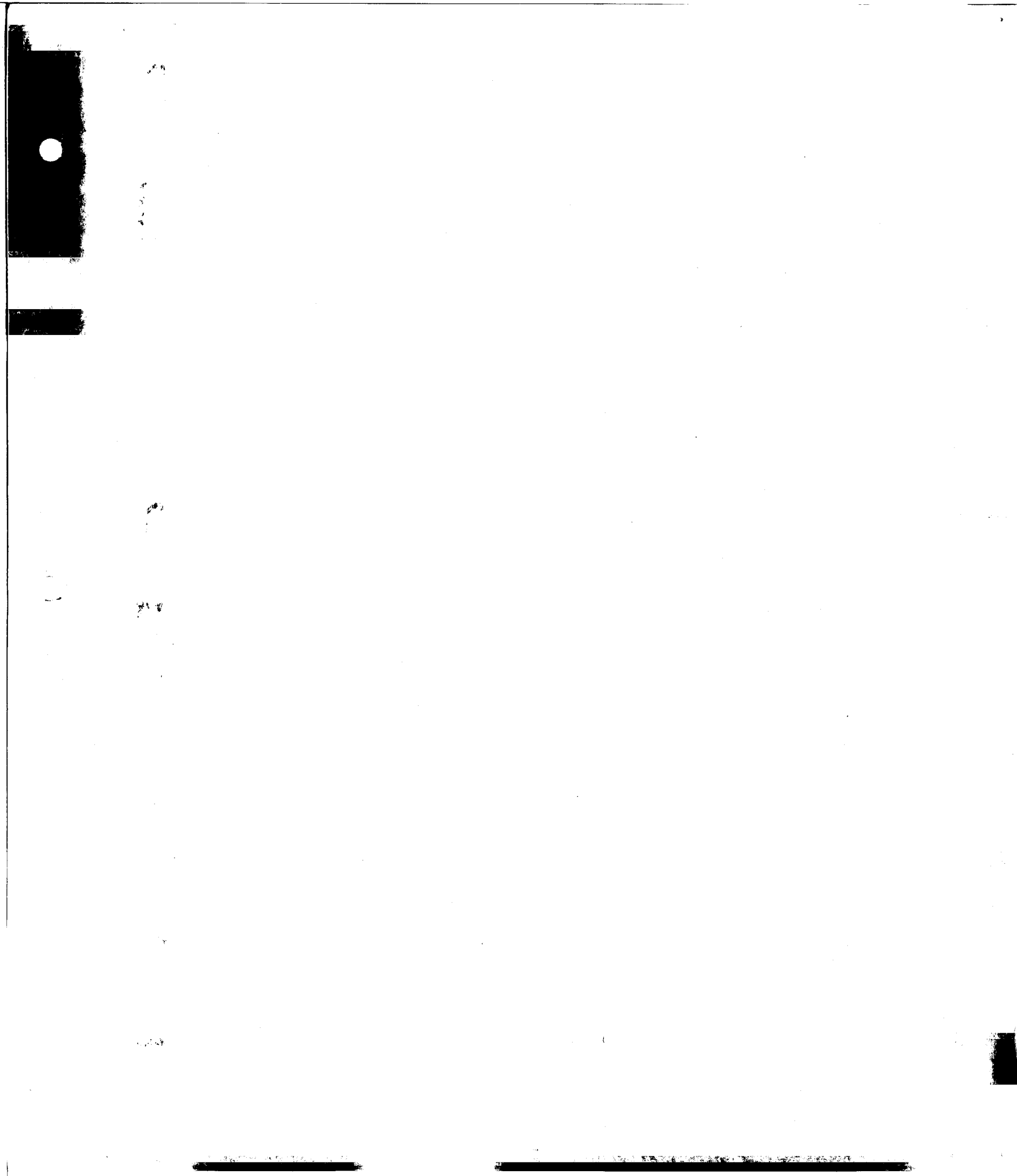
I, Christopher Metcalf, an Official Court Reporter of the Circuit Court of Baltimore City, do hereby certify that I recorded the proceedings in the matter of The State/ Franciana Arrington vs. Jose Rodriguez, in the Circuit Court of Baltimore City, Case No. PD70-119070 on the twety-sixth day of June 1990, before the Honorable Ellen L Hollander, Associate Judge.

I further certify that the page numbers one through fifty-one represent the official transcript of the proceedings as transcribed by me from my recorded notes to the within typewritten matter in a complete and accurate manner.

In Witness Whereof, I have affixed my signature this

28<sup>th</sup> day of November, 1990.

  
Official Court Reporter  
507 Courthouse West,  
Clarence M. Mitchell Courthouse  
Baltimore, Maryland 21202



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IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

FRANCINA EVONNE ARRINGTON,  
Plaintiff,

vs. Case No. PD70-119070

JOSÉ DEJESUS RODRIGUEZ,  
Defendant.

\_\_\_\_\_ /

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS

Baltimore, Maryland

Tuesday, June 12, 1990

BEFORE:

ELLEN HOLLANDER, Judge

APPEARANCES:

For the Plaintiff:

SANDRA CRANE, ESQ.

For the Defendant:

ALFRED NANCE, ESQ.

BRENDA TROWBRIDGE  
Official Court Reporter  
533 Courthouse East  
Baltimore, Maryland 21202



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T A B L E O F C O N T E N T S

<u>PLAINTIFF'S WITNESS:</u>	DIRECT	CROSS	REDIRECT	RE CROSS
JACQUELINE BLANTON	3	14		
NANCY ALEXANDER	44	52		
FRANCINA ARRINGTON	62	73	83	86
JOSEPH SELBY		124		
 <u>DEFENDANT'S WITNESS:</u>				
JOSÉ RODRIGUEZ	104	107	110	113
<u>PLAINTIFF'S EXHIBITS:</u>	FOR IDENTIFICATION		IN EVIDENCE	
7 WORK SHEET		12		14
8 MAY 9 LETTER		64		130
9 DECREE		131		131

1 A F T E R N O O N S E S S I O N

2 (2:15 P.M.)

3 THE CLERK: All rise. The Circuit Court for  
4 Baltimore City Part 20 will now resume its session. The  
5 Honorable Ellen L. Hollander presiding.

6 THE COURT: Please be seated. Good afternoon.

7 ALL: Good afternoon.

8 MS. CRANE: Good afternoon, Your Honor.

9 THE COURT: Good afternoon. Do you want to call  
10 the case?

11 MS. CRANE: Yes. This is paternity docket 70-  
12 119070, Francina Arrington versus José Rodriguez.

13 MR. NANCE: For the record, Your Honor, Alfred  
14 Nance, One East Lexington Street, on behalf of the  
15 defendant, Mr. Rodriguez. Let the record reflect that Mr.  
16 Ruiz, an interpreter, is present as well as Mr. Rodriguez.

17 THE COURT: All right.

18 MS. CRANE: And, Your Honor, for the record, I'm  
19 Sandra Crane, Assistant State's Attorney, representing  
20 Francina Arrington in this matter.

21 If we could proceed, we would call now Ms. Jackie  
22 Blanton.

23 JACQUELINE BLANTON

24 a witness produced on call of the Plaintiff, having first  
25 been duly sworn, was examined and testified as follows:

1 THE CLERK: Would you please state your name,  
2 address for the record.

3 THE WITNESS: My name is Jacqueline Blanton. I'm  
4 a hearing examiner with the Domestic Relations Division of  
5 the Circuit Court of Baltimore City.

6 DIRECT EXAMINATION

7 BY MS. CRANE:

8 Q Ms. Blanton, how long have you been in this  
9 position?

10 A I've held this position for fourteen years.

11 Q Would you describe the procedure when a couple  
12 comes to you in an initial paternity proceeding.

13 MR. NANCE: Objection.

14 THE COURT: Grounds.

15 MR. NANCE: Irrelevant as to what is generally  
16 done. The question is, what was done in this case?

17 THE COURT: Well, I assume we're going to get to  
18 that. So, for now I'm going to overrule it.

19 THE WITNESS: The initial proceeding would begin  
20 with my picking up a folder at the front desk, calling the  
21 names of the two parties involved, escorting them back to  
22 my office, greeting them, going over the basic information  
23 that would be handed to me on the paternity complaint  
24 sheet, and that basic information being name, dates of  
25 birth of the two parties, their addresses, the name of the

1 child in question, the child's date of birth. After that  
2 point, I explain to the putative father, the defendant in  
3 the case, what rights he would have with respect to the  
4 questioning of paternity, elicit from that person whether  
5 or not they understand the rights, then find out from the  
6 putative father whether or not he admits or questions or  
7 denies the child. Based upon the information obtained at  
8 that point, it would be determined as to what procedures  
9 would follow.

10 BY MS. CRANE:

11 Q When you tell a person the rights that they have,  
12 what specifically do you tell them?

13 MR. NANCE: I ask the Court for a general  
14 objection to this line of questions.

15 THE COURT: Well, Mr. Nance, I'm going to ask you  
16 to just make your objections on a question by question  
17 basis.

18 MR. NANCE: On each question?

19 THE COURT: Yes. It won't upset me.

20 MR. NANCE: Thank you.

21 THE COURT: I think it's safer to protect the  
22 record.

23 MR. NANCE: Thank you. Objection.

24 THE COURT: Counsel, will you repose your  
25 question. I'll hear it again.

1 MS. CRANE: All right.

2 BY MS. CRANE:

3 Q Ms. Blanton, in each and every case, including  
4 the Rodriguez case, what do you state? Do you state the  
5 same thing in regard to rights?

6 MR. NANCE: Objection.

7 THE COURT: Well, that question isn't exactly the  
8 same, and I don't think I understood it.

9 MS. CRANE: Okay.

10 THE COURT: I'm going to sustain the objection  
11 because I don't think the question was clear.

12 BY MS. CRANE:

13 Q Do you state the same thing to each person who  
14 appears before you with regard to rights that they have as  
15 a possible father in a paternity case?

16 MR. NANCE: Objection.

17 THE COURT: Grounds.

18 MR. NANCE: The same.

19 THE COURT: On the relevance grounds, do you  
20 mean?

21 MR. NANCE: Yes. I also may add form, as to  
22 leading.

23 THE COURT: Well, it is a leading question. I  
24 have to sustain it on the grounds that it is leading. I  
25 will not sustain it on the grounds of relevance.

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BY MS. CRANE:

Q What do you state to each person in regard to rights who may be a father in a paternity case?

MR. NANCE: Objection.

THE COURT: And when you say objection --

MR. NANCE: One, is the relevance or materiality; the second is the presumption in the question that without fail the same thing is done in all cases. And that's what the question is in this case for the determiner -- I'm sorry, as the finder of fact in this case -- a trier of fact.

THE COURT: Overruled.

THE WITNESS: When I have a putative father in front of me, I explain to that person that if he has any question as to whether or not this child is his child, he has the right to have a court or jury trial, he has the right to be represented by an attorney, and he has the right to have a blood test.

BY MS. CRANE:

Q Do you say the same thing to each father?

MR. NANCE: Objection.

MS. CRANE: Each possible father?

THE COURT: Well, that is a leading question.

BY MS. CRANE:

Q What do you do in regard to each case?

1 MR. NANCE: Objection.

2 THE COURT: Grounds.

3 MR. NANCE: One, is again as to relevance as to  
4 each case and the presumption that everything is done in  
5 each case; and secondly is that the implication is by  
6 saying each case that by buttressing what is done as the  
7 normal that that was, in fact, what occurred here. And  
8 that is what the trier of fact is being asked to determine.

9 THE COURT: Well, on relevancy grounds, again,  
10 I'm going to overrule it, but can you -- tell me, Ms.  
11 Blanton, the frequency with which you explain the  
12 information you just related to the Court?

13 THE WITNESS: I explain that information in every  
14 paternity case.

15 BY MS. CRANE:

16 Q After you do this orally, is there another time  
17 that rights are explained?

18 A Yes.

19 MR. NANCE: Objection.

20 MS. CRANE: Describe -- excuse me.

21 MR. NANCE: Objection.

22 THE COURT: Overruled. I think it's important --  
23 first of all, as I understand your issue, Mr. Nance, there  
24 is this sort of pervasive due process issue about the  
25 procedure not being -- obviously, Ms. Crane has to tie it

1 in to make sure that it was done -- whatever the general  
2 procedure is, that it was followed in this case. But I do  
3 think, since you've made that allegation that his due  
4 process rights were violated, it's important to find out  
5 what the procedure is generally that is used, and the next  
6 step is then whether it was followed in this particular  
7 case. So, on that basis, I think it is a relevant line of  
8 inquiry and I will overrule your objection.

9 MR. NANCE: I appreciate the Court's position.

10 THE COURT: Yes.

11 MR. NANCE: I do.

12 BY MS. CRANE:

13 Q Describe the procedure in which you again inform  
14 people of their rights.

15 A There is a form that is signed by the putative  
16 father that is -- of course a printed form -- in which all  
17 the rights are again enumerated. And that form is handed  
18 to the person and I explain to them that they are to read  
19 the form over, check one of the small lines, sign one of  
20 the longer lines, and at that point I leave the room so  
21 that the other documents that need to be prepared can be  
22 prepared. When I return, I look at the document to make  
23 sure that it is signed.

24 Q Suppose the document is signed in both places,  
25 what do you do?



1 MR. NANCE: Objection.

2 THE COURT: Again, on relevance, do you mean?

3 MR. NANCE: I don't understand the question and  
4 the relevance to this case at all.

5 THE COURT: If both --

6 MS. CRANE: Well, Your Honor, in this case, the  
7 document was signed in both places.

8 MR. NANCE: Then let's get to the document. I  
9 mean, suppose that it rained that day. What does that have  
10 to do with the case?

11 THE COURT: Can you recall any instances  
12 generally in which a person has checked both boxes on the  
13 form to which you've just made reference?

14 THE WITNESS: Yes, that does happen on occasion.

15 THE COURT: And when that happens, what is your  
16 practice?

17 THE WITNESS: My practice is to elicit from them,  
18 if they truly have a question regarding the document or if  
19 they just have not followed directions.

20 BY MS. CRANE:

21 Q Ms. Blanton, I'm going to show you Defendant's  
22 Exhibit Number 1, and this is, in this particular case, the  
23 notification of rights with a signature in both slots? How  
24 could you explain what this form now looks like?

25 MR. NANCE: Your Honor, may we have, so the

1 record is clear, the reference to the exhibit because it  
2 was introduced?

3 THE COURT: Yes, I think she did just make  
4 reference.

5 MR. NANCE: What number is that, please?

6 MS. CRANE: Number one.

7 MR. NANCE: Thank you.

8 MS. CRANE: Did you want to see it? Did you want  
9 to look at it?

10 MR. NANCE: Your Honor, would you ask the -- I'm  
11 fully prepared to go on. I didn't hear reference to the  
12 exhibit number and I'm clear.

13 THE COURT: Okay. She's asking if you wanted to  
14 see it.

15 MR. NANCE: I'm not getting into a colloquy with  
16 the State.

17 THE COURT: He doesn't want to see it apparently.

18 THE WITNESS: Would you repeat the question,  
19 please.

20 BY MS. CRANE:

21 Q Can you explain why this would appear as it does.  
22 Do you have any explanation for that.

23 A The only way that I would be able to explain it  
24 is to say that it is signed on both lines. One signature  
25 has been stricken. And beside that one that has been

1 stricken are the initials of the defendant.

2 When I talk with a person and they have signed  
3 the wrong line or they have signed both lines in error, if  
4 they tell me that they only want to sign one or the other,  
5 the one that they do not want to sign I ask them to cross  
6 it out and put their initials beside it.

7 Q In the event that Mr. Rodriguez signed the bottom  
8 one only, I want this notification explained to me, what  
9 would have happened?

10 MR. NANCE: Objection.

11 THE COURT: Well, again, because the issue of due  
12 process on the procedural grounds has been raised, I think  
13 it's relevant and I'll allow it.

14 THE WITNESS: Okay. If Mr. Rodriguez had signed  
15 the bottom line and said that he wanted the notification  
16 explained to him, it would have been explained to him by an  
17 assistant state's attorney who would have signed off at the  
18 bottom of the form.

19 BY MS. CRANE:

20 Q What occurs if there is any problem whatsoever  
21 in this process regarding understanding, whether it be  
22 language or any type of understanding problem in this  
23 process?

24 A Since it is a consent process, if there is a lack  
25 of understanding, then it cannot be a viable consent and we

1 would have stopped the procedure at that level. And the  
2 case would have been referred on to the court.

3 (Brief pause.)

4 MS. CRANE: I would ask that this be marked as an  
5 exhibit.

6 THE CLERK: Plaintiff's Exhibit Number 7.

7 (Plaintiff's Exhibit Number 7  
8 was marked for purposes of  
9 identification.)

10 BY MS. CRANE:

11 Q Ms. Blanton, I'm going to show you this paper.  
12 Is your handwriting on that paper?

13 A Yes, it is.

14 Q What is this form?

15 A This is our paternity complaint work sheet.

16 THE COURT: Paternity complaint work sheet?

17 THE WITNESS: Work sheet, yes, Your Honor.

18 BY MS. CRANE:

19 Q And was this the work sheet that you used in this  
20 particular Rodriguez case?

21 A Yes.

22 Q What do your notes indicate in regard to this  
23 particular case regarding rights?

24 A That on March 31, 1989, I gave orally to Mr.  
25 Rodriguez his rights.

1 Q What else does it indicate, your notes?

2 A My notes indicate that he admitted paternity.  
3 He stated that he was willing to support. My notes further  
4 indicate that this case was initially referred to court for  
5 establishment of a support amount; that the PW, which is  
6 our code for the prosecuting witness, requests \$200 a  
7 month; that the defendant offers \$100 a month. It further  
8 indicates that there was a pay order established which  
9 means that after that notation was made, we worked out an  
10 agreement between the parties where the support amount  
11 would be \$25 a week effective April the 3rd of 1989, to be  
12 increased to \$50 a week effective June the 5th of 1989.

13 My notes further indicate that Mr. Rodriguez  
14 corrected his address from 504 East 36th Street to 2660  
15 Dumbarten Avenue. He further corrected his date of birth  
16 to December 28, 1938, and he provided me with his Social  
17 Security Number which was 073-52-4237.

18 I obtained information regarding from the birth  
19 certificate of the child which is the certificate number,  
20 and that number is 119-39104.

21 Q Thank you. And this was --

22 MR. NANCE: Your Honor, I assume they are going  
23 to introduce this. I think we can read the document. I'm  
24 not sure what we are doing at the moment.

25 THE COURT: Well, she can question her about the

1 document. Are you offering it as well?

2 MS. CRANE: Yes, I'm going to offer it, Your  
3 Honor, that it be placed in evidence at this time.

4 THE COURT: Any objection?

5 MR. NANCE: Not if she identifies her signature  
6 or writing on it.

7 THE COURT: I think she did that earlier.

8 MS. CRANE: Well, you did that, did you not?

9 THE COURT: Is that your handwriting, ma'am?

10 THE WITNESS: Yes, it is.

11 THE COURT: Any objection?

12 MR. NANCE: No, Your Honor.

13 THE COURT: Received.

14 (Plaintiff's Exhibit Number  
15 7, previously marked for  
16 identification, was received  
17 in evidence.)

18 MS. CRANE: I have no further questions.

19 THE COURT: Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. NANCE:

22 Q Ms. Blanton, would you state your background in  
23 language, please?

24 A My background in language?

25 Q Yes, ma'am.

1           A     I speak English.

2           Q     All right. Do you speak any foreign languages?

3           A     No, I do not.

4           Q     Can you tell the Court whether or not at any time  
5 that you attempted to speak to Mr. Rodriguez in any  
6 language other than English?

7           A     No, I did not.

8           Q     Now, have you --

9           MR. NANCE: Your Honor, may I see the form?

10          THE COURT: Yes. Let me just take a look at it.

11          MR. NANCE: Whenever the Court is done. I'll  
12 come back to it.

13          THE COURT: Hang on one second.

14          (Brief pause.)

15          MR. NANCE: I'll come back to it.

16          THE COURT: There you go. Here it is.

17          BY MR. NANCE:

18          Q     Ms. Blanton, you made reference to a number of  
19 information on your work sheet. But a good part of it, in  
20 fact, is typed, is it not?

21          A     Not any of the part that I referred to.

22          Q     But that's not my question.

23          A     I'm sorry. Please rephrase your question or  
24 repeat your question so that I can understand it.

25          Q     Thank you, ma'am. The truth of the matter is,

1 looking at form, State's Exhibit Number 7 --

2 A Yes.

3 Q -- is that the vast majority of it is, in fact,  
4 typed, is it not?

5 A Most of the information here is typed, correct.

6 Q Thank you. Now, the handwritten portions of it,  
7 is there anywhere on it -- I notice that your initials are  
8 scribbled or written -- I don't mean they are scribbled --  
9 you have lovely handwriting -- is written here; is that  
10 right?

11 A And again at the bottom. The scribble is my  
12 scribble.

13 Q All right. I'll take that jab. Is there  
14 anywhere on here the initials placed on it by Mr.  
15 Rodriguez?

16 A No, there would be no reason for Mr. Rodriguez  
17 even to have seen that form.

18 Q Just answer my question. I'm sorry, just take  
19 your time here.

20 THE COURT: Well, are you saying you don't want  
21 her to explain her answer, counsel?

22 MR. NANCE: No, I want her to answer my question.  
23 And then if she wishes to elicit by way of a statement  
24 further than what I'm asking, then I'm sure the State can  
25 do that. Thank you. We advise the Court -- no, strike



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that.

BY MR. NANCE:

Q When were these notes written by you?

A March 31, 1989.

Q And, in fact, they were written after Mr. Rodriguez left the area?

A That is incorrect.

Q That is incorrect? Did he see your written notes at the bottom?

A I'm not aware of what Mr. Rodriguez saw.

Q Did you give him an opportunity to correct it if it was incorrect?

A I'm not aware that Mr. Rodriguez had an opportunity to look at our work sheet since it is our work sheet.

Q Well, since you are aware of your general procedure, do you ever give it to the putative father to review your notes?

A We certainly do not.

Q So, therefore, it is likely that you did not in this case?

A Oh, it's highly likely that I did not show that to Mr. Rodriguez to correct in this case.

Q Okay. Now, is it possible, since we know that a number of things are possible, is it possible that the

1 witness did not, in fact, understand the words that you had  
2 spoken?

3 A No, in my opinion, it is not possible.

4 Q I didn't ask you your opinion. I asked you was  
5 it possible. You are not an expert.

6 A I am an expert --

7 Q I'm sorry, ma'am.

8 A -- as far as communicating with people.

9 MR. NANCE: Your Honor, would you advise the  
10 witness she has not been qualified as an expert to render  
11 an opinion in this matter.

12 THE COURT: Wait a minute. Counsel you brought  
13 that up about the expert.

14 MR. NANCE: No, I said is it possible. I didn't  
15 ask her opinion.

16 THE COURT: No, but then you said, you're not an  
17 expert, or something like that.

18 MR. NANCE: I move to strike as unresponsive to  
19 the question.

20 THE COURT: I think her response was responsive  
21 to the question because you asked her something not being  
22 an expert.

23 MR. NANCE: I said is it possible.

24 THE COURT: I know, but --

25 MR. NANCE: I'll move on if the Court is ruling

1 that you're not going to grant the motion to strike.

2 THE COURT: I guess what I'm trying to say is I  
3 don't want us to get off on tangents, but I thought you had  
4 opened the door. And I don't think there is any point in  
5 talking about what's possible or not possible. I think we  
6 should talk about what is probable or not probable. In any  
7 event, why don't you rephrase the question.

8 MR. NANCE: Well, I thought I was following the  
9 line that you gave the State, but I'll move on.

10 BY MR. NANCE:

11 Q Ma'am, at any time --

12 THE COURT: Well, I don't know that you were or  
13 you weren't, Mr. Nance. I'm just trying to let you get  
14 your information elicited from her that you apparently want  
15 to ask.

16 MR. NANCE: Okay. Thank you.

17 THE COURT: One thing is whether she could  
18 determine from their conversation whether he understood  
19 what she was saying.

20 MR. NANCE: I'll ask that specific question for  
21 the purpose of --

22 THE COURT: Go ahead. That's what this is all  
23 about, isn't it?

24 MR. NANCE: I thought so, Judge.

25 THE COURT: Well, go ahead.

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MR. NANCE: We took a turn there.

BY MR. NANCE:

Q Could you determine in any way as to whether or not Mr. Rodriguez understood each and every word that you spoke to him?

A I could determine that he did understand what was going on. Each and every word, I could not determine whether or not he understood each and every word.

Q That was my question. So you could not determine if he understood each and every word that you spoke?

A Not each and every word.

Q All right. Have you ever in your fourteen years with your job at any time found someone to be illiterate, could not read or write?

A Yes.

Q Had you found someone that could not read the English language or write the English language other than his signature?

A Yes.

Q And when, in fact, they appeared to know what was on a paper, but they did not, has that ever occurred?

A Yes.

Q At any time -- strike that. At the time that you spoke to Mr. Rodriguez on the date in question, did he not

1 have a heavy accent?

2 A I don't specifically remember.

3 Q Okay. In picking up the file, you knew the  
4 putative father's or defendant's name; is that correct?

5 A That's correct.

6 Q And his name was José Dejesus Rodriguez; is that  
7 correct?

8 A Yes.

9 Q Is that correct?

10 A Yes.

11 Q Was there any inquiry specifically done by you to  
12 inquire as to his ability to understand English?

13 A I do not remember specifically.

14 Q Okay. Was there any affirmative steps taken by  
15 you or your department to ensure, in fact, that someone was  
16 there who spoke Spanish?

17 A No, that was not requested nor did it appear --

18 MR. NANCE: I'll ask that the latter part be  
19 stricken as unresponsive to the question.

20 MS. CRANE: Your Honor, I think she should be  
21 permitted to answer the question.

22 THE COURT: I must say that we're just playing  
23 games, and this isn't a jury trial. Ms. Crane will come  
24 back and ask her why weren't steps taken. Let's just get  
25 the information. I think that she ought to explain and I'm

1 going to overrule that. No steps were taken to get an  
2 interpreter or something like that, and then you were in  
3 the middle of saying something else.

4 THE WITNESS: Nor did it appear that one was  
5 necessary.

6 BY MR. NANCE:

7 Q Now, in terms of this specific case, and  
8 referring to Exhibit 1 -- in this particular case, in  
9 fact, you pointed to the line where you wanted Mr.  
10 Rodriguez to sign, is that not true?

11 A That is incorrect.

12 Q That is incorrect?

13 A Definitely.

14 Q Now, you were asked as to your general procedure,  
15 and you said that you left the room. Did you, in fact,  
16 leave the room in this case?

17 A Yes.

18 Q And when you came back in this case, is it your  
19 testimony then that Mr. Rodriguez signed the bottom line?

20 A That is not my testimony.

21 Q Well, I'm asking you in fact what did occur in  
22 this case?

23 A In this case --

24 Q If you recall, specifically.

25 A In this case, when I returned one of two things

1 could have happened.

2 Q No, I'm asking you what, in fact, did occur, if  
3 you recall.

4 A I have no specific knowledge.

5 Q So, when you said that that, in fact, you did not  
6 point to the line as to where he was to sign, are you now  
7 saying you specifically recall that you, in fact, did not  
8 do that or that you can't recall doing that at all?

9 A I specifically know that I never point to a line  
10 for a defendant to sign using this form.

11 Q Okay. My question is, ma'am --

12 A Yes, sir.

13 Q -- since you didn't recall what, in fact,  
14 specifically occurred, are you now specifically remembering  
15 only portions of what did occur?

16 A No, sir. I stated to you that specifically with  
17 this case I cannot testify as to whether Mr. Rodriguez had  
18 signed only the bottom line or had signed both lines when I  
19 returned to the room. I am not saying to you that I am  
20 electing to recall only bits and portions of what I do  
21 because I have been doing it for such a long time and I try  
22 to be precise.

23 Q Well, we won't bore you with going over each and  
24 every day of your fourteen years. But you would agree with  
25 me, ma'am, that each and every day you don't go about

1 everything as a robot and do it specifically identical, do  
2 you?

3 A Unfortunately, sometimes I feel like a tape  
4 recorder.

5 Q Well, sometimes.

6 A And, yes, I do.

7 Q Are you saying you feel like a tape recorder, you  
8 do or --

9 A I am a tape recorder.

10 Q You are a tape recorder.

11 A I am a tape recorder when it comes to rights.

12 Q Would you tell us exactly -- I'm sorry.

13 A When it comes to rights, I am a tape recorder. I  
14 will not be interrupted when someone asks me or tries to  
15 say, no, I don't want anybody to explain those rights to  
16 me. I continue. I'm saying I say to them, I'm sorry, you  
17 are just going to have to bear with me.

18 Q So, regardless of what the person is saying to  
19 you, you specifically, as a tape recorder, go through  
20 certain things?

21 A No, that's not what I'm saying to you, Mr. Nance.

22 Q Isn't that what you just said?

23 A No, I said with respect to rights, I am like a  
24 tape recorder.

25 Q Oh, I'm sorry.



1           A     And I make sure that I say these things over and  
2 over again in each and every case.

3           Q     Well, let me again ask my question.

4           A     Okay.

5           Q     In reference to the rights form, regardless of  
6 what the person says to you or not says to you, you repeat  
7 the same thing?

8           A     Regardless -- with respect to the rights form?

9           Q     To the rights form, yes.

10          A     By the time this rights form is handed to the  
11 defendant, he has already heard the rights given.

12          Q     Yes, but that's not my question. Based on what  
13 you said a moment ago, regardless of what the putative  
14 father or defendant is saying to you, you specifically go  
15 through a rotation of certain things in explanation of  
16 that form regardless of what he says. You won't be  
17 interrupted, is what you've just said.

18          A     With respect to the oral enumeration of the  
19 rights.

20          Q     Well, doesn't that denote inflexibility as to  
21 what the person may or may not be able to understand and  
22 whether or not he understands it at your pace?

23          A     No, that does not.

24          Q     All right.

25          A     That just means that I make sure that I complete

1 all of the steps that I need to.

2 THE COURT: Well, what if they have a question?

3 THE WITNESS: I answer the question after I go  
4 through my little spiel.

5 BY MR. NANCE:

6 Q Are you saying then, ma'am, you've presumed that  
7 the person you are speaking to is able to recall what it is  
8 at the time that he would have wanted to ask you at the  
9 time?

10 A I'm sorry, would you repeat that?

11 Q Hang in here with me, Ms. Blanton. You presume  
12 then that the party you are speaking to is able to  
13 comprehend your tape recorded speech, albeit given by you  
14 humanly, and then recall what his question may have been at  
15 a later time rather than bending with the person you are  
16 speaking to, as if it were a conversation and explanation?

17 A Yes.

18 THE COURT: How long does it take you in time to  
19 go through the oral recitation of rights? How long would a  
20 person, in other words, have to remember their question  
21 from the beginning of the first word of the advice of  
22 rights until you finish, how long does it take you to give  
23 the rights?

24 THE WITNESS: I've never really timed it, but I  
25 would imagine, on the outside, forty-five seconds.

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BY MR. NANCE:

Q Have you ever read it to them twice?

A It is a possibility that I have read it to them twice.

Q Okay. In this particular case, the form that you have before you, still referring to Defendant's Exhibit 1, it is, in fact, signed on both lines?

A Yes, it is.

THE COURT: Mr. Nance, can I ask just one other question on the rights?

MR. NANCE: Of course.

THE COURT: Is what you say orally identical to what is contained on the form?

THE WITNESS: No, it's not.

THE COURT: In what respect would it be different?

THE WITNESS: What I say orally is that the defendant, if he questions as to whether the child is his child, he has the right to be represented by an attorney, he has the right to have a court or jury trial, and he has a right to have a blood test.

THE COURT: And is the mother present when you do that?

THE WITNESS: Usually, yes.

THE COURT: Or the prosecuting witness, I should

1 say.

2 THE WITNESS: Yes, usually yes.

3 THE COURT: Go ahead, counsel.

4 BY MR. NANCE:

5 Q I'm curious. You earlier testified in response  
6 to Ms. Crane's question is that you said if there were a  
7 question it would have been explained to him by, say, Ms.  
8 Crane.

9 A That's correct.

10 Q And Ms. Crane or a member of her office, if he  
11 disagreed with what was occurring, would be the person  
12 representing the mother in this case; is that right?

13 A That's correct.

14 Q So, you respond to the State's Attorney's office  
15 for questions; is that right?

16 A I'm sorry. I don't understand.

17 Q You, as an individual in your job capacity,  
18 respond to the State's Attorney's office for questions in  
19 the case; is that right?

20 A No.

21 Q No?

22 A That's not correct.

23 Q If there was a question of whether or not this  
24 case is to be referred or whether or not the disagreement  
25 can be resolved and the State said send it to court,

1 wouldn't it not be sent to court?

2 A Not necessarily.

3 Q But you do contact the State's Attorney's office  
4 during that dispute?

5 A No.

6 Q Never? I mean, you --

7 A I'm not going to say never.

8 Q Well --

9 A But as a general practice, my division is not  
10 part of the State's Attorney's office.

11 Q Well, when there is a --

12 A We have our own rules and regulations --

13 Q I'm sorry.

14 A -- and we follow our own rules and regulations.

15 And if we determine that a case should or should not be  
16 referred to court, then that's a determination that our  
17 office makes. The State's Attorney's office, on a routine  
18 matter, would become involved in this case at a much later  
19 point in time, not at the point in which both parties are  
20 in the office discussing.

21 Q Well, correct me if I'm wrong since we've handled  
22 one of these before at least is that if it gets to be a  
23 legal question, your legal question is answered by the  
24 State's Attorney's office?

25 A If it gets to be a legal question, the legal

1 question is answered by one of the judges of the Circuit  
2 Court.

3 Q You don't physically walk over to Ms. Crane's  
4 office or her supervisor's to ask a question?

5 A A legal question?

6 Q Yes.

7 A No.

8 Q If your supervisor, the man in charge of your  
9 department, says that's what you do as a matter of practice  
10 in your department, then he's incorrect?

11 A Not a legal question.

12 Q Well, would you tell the Court under what  
13 circumstances questions are asked by you or the examiners  
14 in their capacity of the State's Attorney's office? Maybe  
15 you could help us then.

16 MS. CRANE: Your Honor, I think we are also  
17 getting very far afield in this particular case, and I  
18 would object in regard to relevance.

19 MR. NANCE: Well, Ms. Crane has forgotten Mr.  
20 Selby's testimony.

21 MS. CRANE: No, I remember it very well, and I  
22 believe that I objected to that too because I felt that it  
23 was irrelevant.

24 THE COURT: Well --

25 MR. NANCE: This goes to credibility of this

1 witness, and specifically I'm bringing out, is there a  
2 question, as to whether or not we are getting roped  
3 answers and responses rather than dealing with what  
4 occurred. And the only way you can get to the credibility  
5 is to deal with the innuendos and, in fact, the intricacies  
6 of those questions.

7 THE COURT: I don't know that it's relevant or an  
8 appropriate method or if there is any reason to pursue, for  
9 that matter, any issue as to credibility based on what the  
10 testimony has been. This lady has answered what her  
11 practice is and what she knows about it. They don't even  
12 necessarily have the same job responsibilities. There  
13 hasn't been anything that suggests Ms. Blanton's job  
14 responsibilities, what she might have reason to know about  
15 from the State's Attorney, if she had any reason at all, is  
16 the same as the person in charge of the unit.

17 But if you are saying that -- well, on that  
18 basis, I don't see where we are going. But if the question  
19 is whether the State's Attorney is involved and whether in  
20 some manner that might be coercive, that's a different  
21 point.

22 MR. NANCE: Well, that becomes an argument later.  
23 I'm dealing with the credibility of this witness.

24 THE COURT: But first you have to have the facts,  
25 and that's what I thought you were trying to pursue, that

1 you were trying to bring out the extent to which the  
2 State's Attorney's office somehow was involved in what goes  
3 on in the DRD unit. That's why I would say it would  
4 relevant, possibly, depending on what the information is.

5 But if she testifies that she doesn't go to the  
6 State's Attorney's office, that's her answer. I think --

7 MR. NANCE: The Court has ruled.

8 THE COURT: Your last question, though, I wasn't  
9 going to overrule the objection to it. If she goes to the  
10 State's Attorney's office for questions and you want to  
11 find out what they might be, I think that's appropriate to  
12 find out.

13 MR. NANCE: Well, so that we can move on.

14 BY MR. NANCE:

15 Q When do you go to the State's Attorney's office  
16 to inquire?

17 THE COURT: If you do.

18 THE WITNESS: I'm trying to think back as to the  
19 last time I went to the State's Attorney's office for an  
20 inquiry. And the most recent time would have been an  
21 occasion where I attempted to work out a paternity case  
22 regarding a guideline figure.

23 BY MR. NANCE:

24 Q Okay. When was the last time?

25 A Okay. I would say maybe January or February.



1 Q Any other times other than your guideline figure?

2 A Not that I can recall this year.

3 Q Okay.

4 THE COURT: But did I understand, ma'am, that you  
5 said that if a person had a question that someone from the  
6 State's Attorney would come in and answer the question for  
7 the putative father?

8 THE WITNESS: If they would like to have the  
9 written notification of rights explained to them, if they  
10 signed that line and that's the line that they intend to  
11 sign, then I call over to the State's Attorney's office and  
12 I say, would you please send someone over to explain the  
13 rights to a client.

14 THE COURT: So, in that situation, you would go  
15 and get a State's Attorney to come into the unit?

16 THE WITNESS: And a State's Attorney would be  
17 obtained, that's correct.

18 THE COURT: Okay. At the time that you do that,  
19 is there a particular State's Attorney assigned to the  
20 case?

21 THE WITNESS: No, there is not.

22 THE COURT: Is it just --

23 THE WITNESS: Just whoever is available will come  
24 over and go over the form with the putative father and sign  
25 off on the bottom.

1 THE COURT: And then, that Assistant State's  
2 Attorney would be required to sign your form?

3 THE WITNESS: Yes. There's a signature right  
4 down at the bottom of the form.

5 THE COURT: Okay. Thank you.

6 BY MR. NANCE:

7 Q So, is it your testimony that it's never been to  
8 your recollection a need for a State's Attorney to explain  
9 to anyone that rights form or what line to sign?

10 A No, that's not my testimony.

11 Q Well, since you couldn't recall, has it been so  
12 long ago that it -- can you tell us when the last time that  
13 has occurred that someone had a question about the rights  
14 form that required an explanation beyond that which you  
15 were giving?

16 A If there is a problem that a putative father has  
17 with the notification of rights, in my mind, I do not  
18 believe that that is a legal question.

19 Q Okay.

20 A That it's part of our procedure for me to contact  
21 the State's Attorney's office.

22 Q Ms. Blanton, I'm only trying to follow what you  
23 told the Court. Has there ever been a time that a State's  
24 Attorney in a case that you are handling was needed to come  
25 over, give an explanation that required that State's

1 Attorney to sign in the manner in which you explained to  
2 this Court?

3 A Yes.

4 Q When was that last time?

5 A I cannot recall when the last time was  
6 specifically.

7 Q Can you give us roughly how long ago it was?

8 A I would say within the last twelve months.

9 Q All right. And in your fourteen years, can you  
10 give us roughly how many times that it may have been?

11 A No, I cannot estimate that.

12 Q Could it have been less than five?

13 A I do not think it was less than five.

14 Q Well, can you give us --

15 MS. CRANE: Your Honor, the witness said she  
16 cannot estimate it. She answered. She can't estimate it.

17 THE COURT: Overruled.

18 BY MR. NANCE:

19 Q Can you give us some idea?

20 A I would guess maybe less than a hundred times,  
21 maybe more than fifty; between fifty and a hundred times.

22 Q In the last fourteen years?

23 A Or less frequently than that because this isn't a  
24 form that has been used for fourteen years. This is a form  
25 that may have been used by our division, by the Domestic

1 Relations Division, I would say, approximately five years.  
2 Prior to that point, it was a form that was used by the  
3 State's Attorney's office solely, and that occurred for  
4 maybe a period of two years. So this form might have been  
5 in existence for possibly seven years --

6 Q So --

7 A -- or something.

8 Q I'm sorry. Are you finished?

9 A Yes.

10 Q So may we assume then that your explanation is so  
11 sufficient even to someone that may be bilingual that, in  
12 your case, that there would have been very little need for  
13 any other additional information to be given to that  
14 person?

15 A Would you repeat the question, please?

16 Q I will withdraw that question. I think that it's  
17 -- no, I will repeat the question for the benefit of it.  
18 So, therefore, in your operation, that is you as an  
19 examiner, with the persons that you deal with, you have  
20 been so efficient in giving the explanation that there has  
21 been little or no need for additional information to be  
22 given by someone other than yourself to the putative  
23 father, even if that person is bilingual?

24 A Generally, yes.

25 Q Now, can you tell us at -- strike that. You have

1 already told us that you have never brought in -- strike  
2 that. Have you ever brought in a Spanish interpreter for  
3 any of the persons that you have dealt with as putative  
4 fathers?

5 THE COURT: Spanish or any interpreter?

6 MR. NANCE: Well, I asked Spanish initially  
7 because it is relevant to this case. I will ask the  
8 general question.

9 THE WITNESS: I remember being involved with a  
10 case where there was an interpreter. I cannot specifically  
11 say that it was Spanish or what the other language was.

12 BY MR. NANCE:

13 Q Okay. So you recall one other time that you were  
14 involved with an interpreter?

15 A Maybe once, maybe twice. I'm not sure the number  
16 of times, but I know that the office has been involved with  
17 interpreters.

18 Q Well, I'm asking you specifically, you, since we  
19 are away from your office as to how many times you  
20 specifically have been, in your fourteen years, involved  
21 with an interpreter?

22 A Mr. Nance, I cannot remember.

23 Q Okay.

24 THE COURT: But you are saying you do remember a  
25 case --

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THE WITNESS: At least on --

THE COURT: -- with an interpreter?

THE WITNESS: Yes, ma'am.

BY MR. NANCE:

Q How many cases have you dealt with where the person that you found out could not read?

MS. CRANE: Your Honor, I object. It's just, you know, irrelevant to this particular case. Reading is not an issue here. You know, it is language.

THE COURT: Well, it's relevant if he doesn't read English, even if he can read Spanish. And it's analogous to someone who can't read English, who speaks English, but on that basis, I'll overrule it.

BY MR. NANCE:

Q How many times have you been involved where the person you found could not read the English language?

A I cannot quantify that. I can't give you a number.

Q Can you recall any?

A Yes.

Q But you have no recollection of how many or a rough amount within your last fourteen years?

A No, I really don't remember. I'm sorry.

THE COURT: The difference is, of course, if they can't read English but they understand English, the problem

1           could readily be resolved by reading what's on the form.

2                   MR. NANCE: Well, I'll save my argument. It's a  
3 building block process of development, and I won't deal  
4 with each individual, if you don't mind.

5                   BY MR. NANCE:

6           Q       So you don't recall whether or not he had a thick  
7 accent? You don't recall if he indicated at any time any  
8 non-understanding?

9           A       If I were dealing with a person and it was  
10 apparent that they did not understand what I was saying, I  
11 would attempt to get help.

12                   MR. NANCE: I have no further questions.

13                   THE COURT: Any redirect?

14                   MS. CRANE: I have no further questions, Your  
15 Honor.

16                   THE COURT: I have a few questions, Ms. Blanton.  
17 My question really is a follow up to Mr. Nance's last  
18 question or next to the last question.

19                   Can you tell us whether there has been any  
20 occasions where you have determined, at least from your  
21 perspective, that a person did not understand what you were  
22 saying?

23                   THE WITNESS: Yes.

24                   THE COURT: And, in those instances where it was  
25 due to a foreign language being the native tongue of the

1 putative father, what would you do?

2 THE WITNESS: I would postpone the case or refer  
3 the case into court so that an interpreter could be  
4 present.

5 THE COURT: If a person wanted an interpreter,  
6 who would have to pay for it?

7 THE WITNESS: I'm not aware of who would have to  
8 pay for it, Your Honor.

9 MR. NANCE: We're learning, Judge.

10 THE COURT: Have you had any occasions where the  
11 person, the putative father, asked for an interpreter?

12 THE WITNESS: I have had an occasion where I  
13 requested an interpreter because it was obvious that the  
14 parties did not understand the purpose of the hearing.

15 THE COURT: So you have, yourself, requested an  
16 interpreter?

17 THE WITNESS: Yes.

18 THE COURT: And where would that interpreter  
19 report? To the DRD or to court itself?

20 THE WITNESS: In that instance, the interpreter  
21 reported to Domestic Relations and the case was  
22 rescheduled.

23 THE COURT: Do you remember who paid for the  
24 interpreter?

25 THE WITNESS: Your Honor, I'm afraid I do not.



1 THE COURT: Insofar as the Rodriguez case is  
2 concerned, do you remember independently, either through  
3 the aid of your notes refreshing your memory or otherwise,  
4 anything about your conversation with Mr. Rodriguez?

5 THE WITNESS: Not specifically, Your Honor.

6 THE COURT: Do you have any memory of what lead  
7 you to conclude that he understood what you were  
8 explaining?

9 THE WITNESS: Just generally, and that in  
10 communicating with people, you can usually tell whether or  
11 not they understand what you are saying to them by their  
12 responses to your questions.

13 THE COURT: Do you remember what language he  
14 responded in?

15 THE WITNESS: English.

16 THE COURT: And you say he responded in English.  
17 Do you have any memory of the kinds of responses he would  
18 have given? Either with Exhibit 7 refreshing your memory  
19 or otherwise.

20 THE WITNESS: The only memory that I would have  
21 would be the items that I enumerated previously with  
22 respect to correcting the date of birth and things along  
23 that line because those are the items on that exhibit where  
24 I have made an ink correction or an ink addition to the  
25 form that had been previously typed. So I know that I got

1 that information from the respondent when he was in my  
2 office.

3 THE COURT: Okay. Any questions in light of the  
4 Court's?

5 MR. NANCE: I do, very briefly, with the Court's  
6 permission.

7 THE COURT: Go ahead, counsel.

8 CROSS-EXAMINATION (Continuing)

9 BY MR. NANCE:

10 Q Since your recollection of dealing with persons  
11 who may be bilingual or another language is limited in your  
12 job capacity, have you dealt with persons who speak another  
13 language other than English? In your personal activities,  
14 have you had the occasion of coming in contact with persons  
15 that their primary language was not English?

16 A Yes.

17 Q And have there been occasions in speaking with  
18 those persons that they may understand some things you say,  
19 but not all things that you say?

20 MS. CRANE: Your Honor, I must object to this. I  
21 just feel it's just not relevant.

22 THE COURT: Well, I think it already was covered.

23 MR. NANCE: Well, I think, just to follow up so  
24 that it is very clear as to where we are.

25 THE COURT: You asked, I believe, earlier, Mr.

1 Nance, if she understand -- if she could testify that he  
2 understood each words, and she said she couldn't say he  
3 understood each word.

4 MR. NANCE: I understand that. I just wanted to  
5 make sure we did. I withdraw the question. The Court  
6 understands the reason for the question.

7 THE COURT: And I think you got it out before and  
8 I made note of it.

9 MR. NANCE: I recall.

10 THE COURT: All right.

11 MR. NANCE: And I thank the Court for pointing it  
12 out. I have no further questions of Ms. Blanton. She can  
13 turn off her tape recorder.

14 THE COURT: May she be excused?

15 MS. CRANE: Yes, Your Honor. Thank you.

16 THE COURT: Thank you, Ms. Blanton.

17 MS. CRANE: I now would like to call Nancy  
18 Alexander to the stand.

19 NANCY ALEXANDER  
20 a witness produced on call of the plaintiff, having first  
21 been duly sworn, was examined and testified as follows:

22 THE CLERK: Be seated, please. State your name  
23 and assignment for the record.

24 THE WITNESS: Nancy Alexander --

25 MR. NANCE: I can't hear her.

1 THE COURT: Ma'am, you have to try to keep your  
2 voice up. Let me see if this is working.

3 MR. NANCE: The interpreter can't hear her as  
4 well.

5 THE WITNESS: Nancy Alexander, Support  
6 Enforcement Agent Fot the Bureau of Support Enforcement.

7 MR. NANCE: If you could turn this around a  
8 little because she needs amplification. We can't hear her.

9 MS. CRANE: Ms. Alexander --

10 MR. NANCE: Can we wait one second, please.

11 THE COURT: Wait, wait. Apparently, it's not  
12 working.

13 MR. NANCE: It was.

14 COURT REPORTER: Hers doesn't work. The PA  
15 system does not work in the courtroom.

16 MR. NANCE: They need to speak up, then.

17 THE COURT: The court reporter's works.

18 MS. CRANE: Ms. Alexander, I'm going to ask you  
19 to yell, please, your answer.

20 THE COURT: My microphone, the PA system, isn't  
21 working.

22 DIRECT EXAMINATION

23 BY MS. CRANE:

24 Q Do you have with you records kept in the ordinary  
25 course of business at the Bureau of Support Enforcement?

1           A     Yes.

2           Q     And are you qualified to testify from those  
3 records today?

4           A     Yes.

5           Q     In those records, did you make note of a  
6 telephone conversation that you had with Mr. Rodriguez?

7           MR. NANCE: I have to object, Your Honor. It's  
8 leading.

9           THE COURT: Well, it is a leading question.

10          MS. CRANE: All right.

11          BY MS. CRANE:

12          Q     What is in the records relating to any  
13 conversation that you may have had with the defendant in  
14 this case?

15          MR. NANCE: It's still leading, but I'm not going  
16 to --

17          MS. CRANE: Thank you.

18          THE COURT: Okay. There's no objection, so you  
19 can testify to it.

20          THE WITNESS: On May the 21st, 1990, I called Mr.  
21 Rodriguez.

22          THE COURT: You called Mr. Rodriguez, is that  
23 what you said?

24          THE WITNESS: Yes, yes, I did, at 323-4518, which  
25 is his home. The reason why I called is because a lien was

1 requested before -- I think it was -- a lien was requested  
2 May the 7th. And this case was due for court again, so I  
3 looked at the case and I found out that a lien was not  
4 done. So that's why I called him, to find out where he was  
5 employed. A female answered the phone and I asked to speak  
6 to Mr. Rodriguez. He came to the phone. I identified  
7 myself again. I told him where I was calling from. And I  
8 asked him if his name was Mr. Rodriguez. He replied yes.

9 BY MS. CRANE:

10 Q What conversation did you have that you recall?

11 A I asked him if he was still unemployed. He told  
12 me yes. He said he used to -- he said he was a mechanic  
13 and he used to fix tractor trailers or trucks or something  
14 like that in the back of his yard, but he could not get a  
15 permit so he stopped. He told me that he attended New  
16 England Tractor Trailer School.

17 THE COURT: He attended what, ma'am?

18 THE WITNESS: New England Tractor Trailer School.

19 BY MS. CRANE:

20 Q What language do you speak, Ms. Alexander?

21 A English.

22 Q Do you speak any other language?

23 A No.

24 Q This conversation that you related, what language  
25 did Mr. Rodriguez speak to you?

1           A     English.

2           Q     Did you understand him?

3           A     Yes, I did.

4           Q     Did he respond to the questions that you asked

5           him?

6           A     Yes, he did.

7           Q     Did he have an accent?

8           A     Yes, he had an accent.

9           Q     Did that prevent you from understanding him?

10          A     No, ma'am.

11          Q     In the record that you have before you, there is

12          a letter dated May the 9th, 1989. Can you find that

13          letter?

14          A     May the 9th?

15          Q     Yes. Here is a copy that fell out of it.

16                 MR. NANCE: I can't hear the conversation between

17          the State's Attorney and the witness.

18                 THE COURT: All right.

19                 MS. CRANE: I said here is a copy of the letter.

20                 THE WITNESS: Here it is, yes.

21                 BY MS. CRANE:

22          Q     Would you tell the Court what that letter

23          consists of?

24          A     It states, To whom it may concern, I am not able

25          to send a check for \$25 this week. It has in parenthesis,

1 "5/9/89," because I do not have money and I have to pay a  
2 lot of bills. I also have my own family to support too. T-  
3 o-o. Sincerely yours, Rodriguez, Case Number 119070.

4 Q Is the letter handwritten or typewritten?

5 A Typed.

6 Q Is there any handwriting on the letter?

7 A He signed his name.

8 MR. NANCE: Objection. It's a conclusion that  
9 this witness is unqualified to testify to.

10 THE COURT: Well, I have to sustain that. But  
11 whose signature appears? What name, I should say, by way  
12 of handwritten signature, appears?

13 THE WITNESS: Mr. Rodriguez.

14 MR. NANCE: Objection. You are saying the name  
15 is Mr. Rodriguez?

16 THE COURT: Yes.

17 THE WITNESS: Yes, that's what I'm saying.

18 THE COURT: It's signed by someone who identifies  
19 himself as --

20 MR. NANCE: No, I can't even let that happen.

21 THE COURT: It may or may not be.

22 MR. NANCE: With all due respect to the Court.

23 THE COURT: What's wrong with that.

24 MR. NANCE: I have no problem that the letter has  
25 the name of Mr. Rodriguez on it.



1 THE COURT: Yes, that's my question. What is the  
2 purported signature on the letter?

3 MR. NANCE: Right. I have no problem with that,  
4 in fact, it's his name on the letter.

5 THE COURT: Right.

6 MS. CRANE: All right.

7 THE COURT: But she doesn't know who wrote it,  
8 the contents of the letter, obviously.

9 BY MS. CRANE:

10 Q What order is in that file regarding the payments  
11 that are to be made?

12 A It's a consent paternity decree.

13 THE COURT: Wait, I didn't understand or hear the  
14 question.

15 MR. NANCE: Consent and paternity decree.

16 THE COURT: I didn't hear the question.

17 MS. CRANE: I said what order was in the file,  
18 you know, requiring payments to be made.

19 MR. NANCE: I have to object. The fact that  
20 there is an order in the file has anything to do with the  
21 motion presently before the Court.

22 MS. CRANE: Well, Your Honor, I want to show that  
23 the defendant complied with the consent order that he made.

24 MR. NANCE: Well, I --

25 MS. CRANE: That he evidently understood.

1 THE COURT: Are you trying to establish -- has  
2 that been introduced, incidentally, the court file? Are  
3 you objecting to the use of the term "consent"?

4 MR. NANCE: I'm objecting that there is an order  
5 in the file that has anything to do with the motion, and  
6 I'm objecting to her attempting to say that he complied  
7 with the order by way of what's in the file. Clearly, the  
8 evidence is to the contrary, is that there is compliance of  
9 payments but not that the defendant complied per se.

10 THE COURT: Well, I'm not sure --

11 MR. NANCE: She's attempting to bootstrap that in  
12 fact that we have a name on a piece of paper that says it  
13 is Mr. Rodriguez and that she has a payment received. The  
14 evidence is to the contrary. His wife made the payment.

15 THE COURT: I don't know what the evidence is  
16 because I haven't heard it, but just to play it out, it  
17 would seem to me the history of this case is from March of  
18 '89, and if payments came in until a certain date, that  
19 would be relevant to show on the issue of consent or  
20 comprehension of what he consented to. That's why I would  
21 allow it.

22 MR. NANCE: My objection is very much more basic  
23 than that. Is the presumption in that statement that the  
24 payments were made by Mr. José Dejesus Rodriguez? And  
25 secondly, is that the contact on those payments were made

1 by Mr. Rodriguez? The testimony that you've already  
2 received is to the contrary. This witness is not qualified  
3 to testify other than that records show that they were  
4 received.

5 MS. CRANE: I haven't asked her that yet, Your  
6 Honor.

7 THE COURT: I didn't think you did, but for the  
8 time being I'm going to overrule it. And if you would, Mr.  
9 Nance, renew your objection as we go along. For right now,  
10 I'm going to allow that question to be posed.

11 BY MS. CRANE:

12 Q What order is in the file?

13 A It's a paternity decree stating \$25 per week for  
14 the support of one minor child effective April the 3rd,  
15 1989, to be increased to \$50 per week effective June 5th,  
16 1989.

17 Q What payments have been received under the order?

18 A As of April the 25th, 1990, a total of \$1250 has  
19 been sent to Child Support.

20 MS. CRANE: I have no further questions.

21 THE COURT: Could you determine, though, when  
22 those payments were sent, from what period to what period?

23 THE WITNESS: May 1st, 1989, we received \$25, up  
24 until June 7th, 1990, \$25. That is the last payment we  
25 received.

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THE COURT: Until June 7th of 1990?

THE WITNESS: June 7th.

THE COURT: Are there any weeks where payments were missed?

THE WITNESS: Well, we got three payments in February. There should have been four.

THE COURT: February of '90, now?

THE WITNESS: Yes, ma'am. We got two payments for May in May of '90. It should have been four.

THE COURT: At the increased rate of \$50, or at the original rate of \$25?

THE WITNESS: \$25.

THE COURT: So the amount that has been paid all along has been at the rate of \$25 a week?

THE WITNESS: Yes.

THE COURT: Okay. Cross-examine, counsel.

CROSS-EXAMINATION

BY MR. NANCE:

Q Ms. Alexander.

A Yes.

Q If I sent \$25 a week to you with his name and the number of the case, how would you record it?

A I do not handle payments.

Q I'm sorry. If your department received \$25 sent in by me with an indication of his name and case number,

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what happens to it?

A They would post the \$25 to the case number.

Q So it does not mean the fact that you have it posted that in fact it was sent by Mr. Rodriguez?

A Correct.

Q And, in fact, at the time of your contacting Mr. Rodriguez by phone, you had talked to Ms. Crane before calling him, had you not?

A No, I hadn't.

Q You had not?

A No, I hadn't.

Q Did you ever indicate to him -- strike that. In fact, over the phone several times the person that you spoke to, the male voice, said, I don't understand what you're saying.

A No, he did not.

Q Do you recall the woman who spoke on the phone?

A I don't know who she was.

Q Do you recall a woman that spoke to you on the phone?

A Yes.

Q Do you recall a woman that spoke to you as you were speaking to the man on the phone?

A No, no, I don't.

Q Have you ever met that lady back there in the

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glasses?

A No, I haven't.

THE COURT: For the record, indicating Mrs. Rodriguez.

MR. NANCE: Mrs. Rodriguez.

THE WITNESS: No, I haven't.

BY MR. NANCE:

Q Can you tell us as to what your relationship and contact, that is, with Mr. Rodriguez in March of 1989?

A March of 1989?

Q Yes, ma'am.

A Nothing.

Q You have to speak up, ma'am.

A I've never seen Mr. Rodriguez.

Q So, from March of 1989 to May of 1990, you had no personal contact with him?

A No.

Q So can you tell us as to whether or not his ability to understand the English language on March of 1989 was the same as when you spoke to him in May of 1990?

A How could I say that and not --

Q You can give me a yes or no as to whether you can or not. I won't argue with you. Can you tell us that his ability to understand the English language was the same as you indicated that it was in May of 1990?

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A No.

Q The answer is what, ma'am?

A No. No.

Q Thank you. Now, in fact, ma'am, you cannot tell this Court that that is his signature on the paper that you received; is that right?

A No, I can't.

THE COURT: Do you have any involvement in your office or you personally in explaining to a person what their support obligations are once it has been determined by the decree?

THE WITNESS: If the payor or the payee would come in and want to discuss their case, then the agent involved in the case would go downstairs and try to explain the case to them if they did not understand the payments. The agent involved -- I am not an agent.

THE COURT: If that had taken place, would such an occurrence be noted in the file?

THE WITNESS: Yes.

THE COURT: And is there any such notation in the file?

MR. NANCE: A notation of what again, Your Honor.

THE COURT: Whether anyone in the Rodriguez case had ever come in asking to have their obligations explained.

1 MR. NANCE: Or that they knew that they could  
2 come in.

3 THE COURT: Well, I'm just asking did anybody  
4 ever come in and ask for an explanation of what they were  
5 required to do.

6 MR. NANCE: Your Honor, may we have her look at  
7 her file that is supposed to be hers if she is going to  
8 testify from it?

9 THE COURT: Well, I assume counsel was just  
10 looking through like any other record, but I did want an  
11 answer to the question.

12 MR. NANCE: I don't understand that counsel for  
13 the State, in the midst of the Court's questions, is  
14 pulling the file away from the witness that is supposed to  
15 be testifying.

16 THE COURT: No, they had already done that before  
17 I was posing the question. But can you just let her look  
18 through that and get an answer to my question. Is there  
19 any reference in the file to any time when anyone in the  
20 Rodriguez case, anyone, not just Mr. Rodriguez, ever came  
21 in and asked for an explanation of obligations pursuant to  
22 the decree?

23 THE WITNESS: No, ma'am.

24 THE COURT: Okay. That was my question. You can  
25 go ahead.



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MR. NANCE: May I?

CROSS-EXAMINATION

BY MR. NANCE:

Q In fact, your file, ma'am, has letters sent to the home of Mr. Rodriguez, addressed to Mr. Rodriguez, indicating that he was to pay \$25 a week; is it not in your file?

A Yes.

Q And, so if it were received by his wife, and she sent the \$25 a week in, that may be the compliance that you are referring to for the notations of payment that you have there; is that correct?

A It could be, yes.

Q You have to speak up. The answer was yes?

A Yes.

Q Now, is there any mechanism of your office to go out to a Spanish speaking person to make sure that they know what the information is or rights are?

A Repeat that again.

Q Is there any mechanism of your office -- you are at the Bureau of Support Enforcement, is that where you are?

A Yes.

Q For them to go out where there maybe a problem of a Spanish speaking person or bilingual person?

1           A     No.

2           Q     Would you tell the Court how many people in your  
3 section of Bureau of Support Enforcement or the Department  
4 of Bureau Support Enforcement, as you know, speaks Spanish  
5 fluently?

6           A     No one in my unit.

7           Q     The truth is that you have not come in contact  
8 with anyone at the Bureau of Support Enforcement that  
9 appeared to speak Spanish?

10          A     No one in my unit.  No.

11          Q     Is there anyone there with a Spanish surname, to  
12 your recollection, at the Bureau of Support Enforcement?

13                MS. CRANE:  Your Honor, I object.  It's just  
14 time consuming and irrelevant.

15                MR. NANCE:  I think it's a cramping of the feet  
16 question, Judge.

17                THE COURT:  What?

18                MR. NANCE:  I think it's a cramping of the feet  
19 objection.  I think she can answer it and she understands  
20 it.  It's the same as --

21                THE COURT:  I haven't heard that term before, Mr.  
22 Nance.

23                MR. NANCE:  Yes, Judge, and I felt it before,  
24 too.

25                THE COURT:  A cramping of the feet objection.

1 Well, this line of inquiry doesn't excite me. I mean,  
2 there's no basis --

3 MR. NANCE: Well, it's a quick question. I'll  
4 move on.

5 THE COURT: Well, if you make an objection -- if  
6 one side makes an objection I'm going to consider it. So  
7 that's my job. But I'm just saying whether they do or they  
8 don't speak spanish at the Bureau of Support, we're past  
9 that point. The issue --

10 MR. NANCE: No, but the question was the from the  
11 Court as to whether or not he inquired of them or someone  
12 inquired --

13 THE COURT: Well, if the record had been that  
14 someone came, then what you're saying might be more  
15 exciting.

16 MR. NANCE: Well, the Court -- with all due  
17 respect --

18 THE COURT: But their record is nobody ever  
19 showed up.

20 MR. NANCE: Well, with all due respect, the  
21 implication of the Court's question is that, one, that he  
22 knew to do so; and two, is that the procedure is and the  
23 burden is upon him to make the inquiry.

24 THE COURT: No, that wasn't the purpose of my  
25 question.

1 MR. NANCE: With all due respect, the Court may  
2 have in her mind certain intention of the question, the  
3 reader of the record or the interpreter -- I don't know  
4 where the Court is going and I can't even speculate that  
5 the reason for the question is based on that Court's  
6 question.

7 THE COURT: Overruled.

8 BY MR. NANCE:

9 Q Anybody with a Spanish surname was my last  
10 question.

11 A I really don't know. It's five floors, and if  
12 you're talking about just in my unit --

13 Q To the best that you know.

14 A -- I don't know. No, there's no one in my unit.

15 MR. NANCE: Okay. Now -- I'm sorry, Your Honor,  
16 one second.

17 THE COURT: No problem.

18 (Brief pause.)

19 BY MR. NANCE:

20 Q Do you specifically, in your notes in your file,  
21 have the specific questions that you spoke to Mr. Rodriguez  
22 over the phone and his exact answers over the phone? I  
23 remind you, I'm using the word exact.

24 A I have the exact -- where he told me he was  
25 attending school, that is an exact. He gave that to me.

1 Q I'm sorry. What you have is the school name that  
2 you exactly wrote down?

3 A Yes.

4 Q All right. But what I'm saying is is that you  
5 spoke to him using sentences, phrases, or whatever.

6 A Right.

7 Q Do you have specifically what you said to him?

8 A No, we're not allowed to write all that in our  
9 notes.

10 Q I understand.

11 A We have to shorten it, do you know what I'm  
12 saying.

13 Q By the same token, do you have specifically what  
14 he said word for word?

15 A No.

16 Q And, in fact, there were times he went "What,  
17 what" to you; isn't that right?

18 A No.

19 Q Never?

20 A No.

21 Q And you recall that?

22 A Yes.

23 MR. NANCE: I have no further questions.

24 THE COURT: Any redirect?

25 MS. CRANE: No, Your Honor.

1 THE COURT: Thank you, ma'am. You can step down.

2 MS. CRANE: I would like to call Francina  
3 Arrington, please.

4 FRANCINA ARRINGTON  
5 a witness produced on call of the plaintiff, having first  
6 been duly sworn, was examined and testified as follows:

7 THE CLERK: Please be seated. Speak loudly and  
8 give me your name and home address.

9 THE WITNESS: Francina Arrington, 5201 Ready  
10 Avenue.

11 DIRECT EXAMINATION

12 BY MS. CRANE:

13 Q What is your occupation, ma'am?

14 A I'm a teacher.

15 Q And how long have you been doing that?

16 A Sixteen years.

17 MR. NANCE: I can't hear the witness, I'm sorry.

18 THE COURT: You've got to keep your voice up, Ms.  
19 Arrington.

20 MS. CRANE: Could you speak up.

21 THE WITNESS: Sixteen years.

22 MR. NANCE: The interpreter asked me again to ask  
23 her to speak up.

24 THE COURT: Okay. Ma'am, just so there is no  
25 problem about being able to hear, could you keep your voice

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up.

BY MS. CRANE:

Q You're acquainted with Mr. Rodriguez; is that correct?

A Yes.

Q Have you ever seen Mr. Rodriguez' handwriting?

A Yes, I have.

Q I'm going to show you this letter that was in this file of the Bureau Support Enforcement. Can you look at that signature.

A Yes.

Q Can you identify that for the Court?

A Yes, that is his signature, José Rodriguez.

Q How did you meet Mr. Rodriguez?

THE COURT: Did you want that letter marked as an exhibit? It hasn't been. The record would be very muddled right now.

MS. CRANE: Your Honor, yes, I'm going to ask that this be marked, the file from the Bureau Support Enforcement, be marked as an exhibit and be admitted in evidence.

MR. NANCE: Your Honor, I would remind the State, before she does so, if she's admitting that file, that whole file has to stay in the court record.

THE COURT: Well, we could have a copy of it

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made, couldn't we?

MR. NANCE: Well, because we're getting into the authenticity of a signature of a page.

MS. CRANE: Your Honor, I do have a copy of that letter. Then I would ask that the letter, the copy, in that case be marked and admitted.

THE COURT: Why don't we just use a copy of the letter?

MR. NANCE: Subject to my cross-examination of her qualification to testify.

MS. CRANE: Fine.

THE COURT: But you are just marking the letter; is that right?

MS. CRANE: Yes.

THE COURT: The May 9 letter?

MS. CRANE: That's correct.

THE COURT: As what?

THE CLERK: Plaintiff's Exhibit Number 8.

(Plaintiff's Exhibit Number 8 was marked for purposes of identification.)

MS. CRANE: And I'm asking that it be admitted.

THE COURT: Any objection?

MR. NANCE: I'm sorry, was that to the letter?

THE COURT: She was offering the letter of May 9,



1 a copy, as Plaintiff's Exhibit 8.

2 MR. NANCE: I do object to the letter subject to  
3 cross-examination. If the Court wants to interrupt now as  
4 to her ability to testify.

5 THE COURT: No, well, we'll just hold it pending  
6 your cross-examination.

7 MS. CRANE: Okay.

8 BY MS. CRANE:

9 Q Can you relate to the Court a --

10 MR. NANCE: Excuse me, Your Honor. So we don't  
11 get into -- procedurally, I have to ask that the original  
12 of the letter be maintained by the Court until -- if the  
13 Court wants to keep the copy later, then we'll deal with  
14 it, but I need that for cross-examination.

15 THE COURT: Well, is it going anywhere?

16 MR. NANCE: Well, I was told that I have to ask  
17 Ms. Crane for it, and I won't through the State's Attorney  
18 to ask what I do in court.

19 THE COURT: The witness who had the originals is  
20 still here; is that right?

21 MS. CRANE: That's correct.

22 THE COURT: The file is still here?

23 MS. CRANE: Yes.

24 THE COURT: If you all are planning to leave,  
25 would you let me know? Otherwise, we'll just assume when

1 he wants to cross-examine about the letter it will be  
2 available because there's no reason the copy couldn't be  
3 used right now.

4 BY MS. CRANE:

5 Q How did you meet Mr. Rodriguez?

6 A I met Mr. Rodriguez from a teacher's aid at my  
7 school. She brought her son to do some work for me, and  
8 her son brought Mr. Rodriguez in to do some work in my  
9 house.

10 THE COURT: I'm sorry. I don't understand how  
11 you met.

12 THE WITNESS: I met Mr. Rodriguez from a  
13 teacher's aid in my school. She brought her son in to do  
14 some work in my house, and he then brought Mr. Rodriguez in  
15 to do some work in my house.

16 THE COURT: Okay.

17 BY MS. CRANE:

18 Q Can you tell the Court, how your relationship  
19 with Mr. Rodriguez began?

20 THE COURT: First of all, when was this that you  
21 met?

22 THE WITNESS: Oh, it was back in -- it's been --

23 MR. NANCE: Your Honor, I don't know the  
24 relevance of this, but if we're going to get into the whole  
25 story, we're going to have to hear the whole story.

1 THE COURT: I don't know if we're getting into  
2 the whole story. I'm just trying to get a date.

3 MR. NANCE: I just want to state, I don't mind --  
4 you know, I think this is irrelevant to the case, but if  
5 you're going to get into --

6 THE COURT: Well --

7 MR. NANCE: -- how this relationship developed --

8 THE COURT: I assume she's going to be able to  
9 testify as to Mr. Rodriguez' knowledge of the English  
10 language.

11 MS. CRANE: That's where I'm heading, Your Honor.

12 THE COURT: And, it's also, I would assume --

13 MR. NANCE: That ain't where the question is  
14 headed.

15 THE COURT: Well, I just asked a date. I would  
16 like a time period of when you met.

17 THE WITNESS: It was possibly in 1986 or '87.

18 THE COURT: So you've known him since 1986 or  
19 1987?

20 THE WITNESS: Yes.

21 BY MS. CRANE:

22 Q And what was the nature of your early  
23 relationship?

24 A Originally, he was working in my house and we  
25 became very good friends.

1 Q And as friends, how did your friendship -- what  
2 did you do as friends?

3 A Well, originally, we just talked and we spent  
4 time watching TV and, you know, talking about general  
5 things, just general friendship.

6 Q When you talked, in what language did you speak?

7 A In English.

8 Q Do you speak any other language?

9 A No.

10 Q When you came to the Domestic Relations Division  
11 with Mr. Rodriguez present, who else was there?

12 MR. NANCE: Objection.

13 THE WITNESS: In the room?

14 THE COURT: Wait a minute, ma'am. If there's an  
15 objection, you have to wait.

16 THE WITNESS: Okay.

17 THE COURT: So I can rule.

18 MR. NANCE: This is a major witness, and all of  
19 these leading questions, I have to object to, and I have to  
20 start with this one, especially.

21 THE COURT: Was anyone else present when -- who  
22 was with you when you went to the Domestic Relations  
23 Division?

24 THE WITNESS: In the room --

25 THE COURT: Yes.

1 THE WITNESS: -- when we talked with an examiner?

2 THE COURT: In the room.

3 THE WITNESS: Just myself and José Rodriguez.

4 BY MS. CRANE:

5 Q So, you were present; is that correct?

6 A I was.

7 Q What did you hear in regard to rights? What the  
8 hearing examiner told Mr. Rodriguez, if anything?

9 MR. NANCE: Objection. This motion isn't based  
10 on her hearing or understanding. If the examiner said she  
11 read it to him, the question is whether or not he  
12 understands it.

13 THE COURT: Well, I'll allow her to develop what  
14 first, I would assume, she's trying to establish or verify  
15 that the rights were actually read, and that's an important  
16 issue, so I'm going to overrule the objection.

17 THE WITNESS: The examiner gave the rights and  
18 she asked him -- she told him he was able to get a blood  
19 test if he was denying paternity. And he said no, and then  
20 he turned to me and said, I never told you she was not  
21 mine.

22 THE COURT: Ma'am, I'm sorry, but I'm having  
23 trouble hearing you. You said the examiner gave the  
24 rights. And you mentioned something about a blood test. I  
25 didn't hear after that.

1 THE WITNESS: She gave the rights. She told him  
2 he had a right to an attorney. He had a right to a blood  
3 test. She also asked him was he accepting paternity. And  
4 he said, yes, and he turned to me and said I never told you  
5 she was not mine.

6 BY MS. CRANE:

7 Q What else, if anything, did he say during that  
8 period of time regarding the paternity of the child?

9 A I don't exactly understand that.

10 Q I'll withdraw that. Were there any other  
11 discussions in that room on any other issue?

12 MR. NANCE: Objection, leading.

13 THE COURT: Overruled.

14 THE WITNESS: Well, he asked why I didn't bring  
15 my daughter, or our daughter and --

16 THE COURT: He asked what?

17 THE WITNESS: He asked why I did not bring my  
18 daughter, our daughter, and the examiner --

19 THE COURT: Well, which one did he say, mine or  
20 our?

21 THE WITNESS: He said "the girl" because that's  
22 how he called her, "the girl."

23 BY MS. CRANE:

24 Q Has he acknowledged paternity of your daughter  
25 outside of --

1 MR. NANCE: Objection.

2 BY MS. CRANE:

3 Q -- the Domestic Relations Division?

4 A Yes.

5 Q In what way?

6 A He's always been there for her. He did for her.

7 He's always supported her. He's always helped me fix up

8 the house so it would be nice for her. He's always

9 provided Christmas for her. He's always done a lot of nice

10 things for her.

11 Q Did there come a time --

12 THE COURT: Excuse me one minute. Counsel, I

13 have an important phone call from another judge. I'm going

14 to have to take a brief recess, if you don't mind. We'll

15 take a brief recess.

16 THE CLERK: All rise.

17 (Brief recess.)

18 THE CLERK: All rise. The Court will now resume

19 its session.

20 THE COURT: Please be seated. Ms. Arrington was

21 at the portion of her testimony where she was explaining

22 the manner in which -- I think your question was has he

23 acknowledged paternity and she was responding.

24 DIRECT EXAMINATION (Continuing)

25 BY MS. CRANE:

1 Q Can you relate to the Court a conversation that  
2 you had with Mr. Rodriguez initially regarding the  
3 paternity of the child?

4 A Well, I told him --

5 THE COURT: When you say initially, counsel,  
6 when?

7 BY MS. CRANE:

8 Q When you first became aware that you were going  
9 to have a child.

10 A Okay. I told him the day of conception that I  
11 was pregnant because I knew it. But when I went to the  
12 doctor --

13 THE COURT: The day of conception?

14 THE WITNESS: The day of conception.

15 BY MS. CRANE:

16 Q You believed that?

17 A I knew it.

18 Q Okay. And then what happened?

19 A And then I went to the doctor and I told him  
20 again.

21 Q Did he appear to understand what you told him?

22 A Yes, he did.

23 MS. CRANE: I have no further questions.

24 THE COURT: Cross-examine.

25 CROSS-EXAMINATION



1 BY MR. NANCE:  
2 Q Ms. Arrington, you had the child in question that  
3 was born on what date?  
4 A My daughter? August 11, '82.  
5 THE COURT: '82?  
6 THE WITNESS: August -- I'm sorry, I'm sorry. I  
7 have two kids. August the 9th -- my son was born on the  
8 11th -- August the 9th, '87. I'm sorry.  
9 THE COURT: That's a girl or a boy?  
10 THE WITNESS: That's a girl.  
11 BY MR. NANCE:  
12 Q Did you have a third child?  
13 A No.  
14 Q So you remember the date of conception. What  
15 date was that?  
16 A Oh, that was -- I can't give you the exact date  
17 because it's been a long, long time ago.  
18 Q But you remembered it?  
19 A I remembered it. I knew it when it happened.  
20 Q And, in fact, Mr. Rodriguez came to your house to  
21 fix a toilet?  
22 A Mr. Rodriguez came to my house to put in a  
23 bathroom. That is correct information.  
24 Q He didn't come there to fix a toilet?  
25 A He came to put a new bathroom in on the first

1 floor.

2 Q Did he put in a new bathroom?

3 A Yes, he did.

4 Q All right.

5 A A powder room.

6 Q A powder room.

7 A Yes.

8 Q For those of us that don't know what a powder  
9 room is, is that basically a toilet and a wash basin?

10 A It's a sink or a vanity and a commode.

11 Q A toilet.

12 A Yes.

13 THE COURT: It's a bathroom, isn't it?

14 THE WITNESS: Yes.

15 BY MR. NANCE:

16 Q Now, in fact --

17 THE COURT: Go ahead.

18 MR. NANCE: I'm not going to get into the hand  
19 signals.

20 THE COURT: Well, I'm not. I'm just  
21 communicating with you now.

22 MR. NANCE: Thank you.

23 THE COURT: I mean, I think we all know what a  
24 powder room is, don't we?

25 MR. NANCE: My client may not.

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BY MR. NANCE:

Q But moving right along, in fact, he was only in your house about five times actually doing the toilet; isn't that correct?

A No, he took three months to do a three day job.

Q Is that because he was coming to see you during that three months?

A I don't know. I don't know why he dragged it out that long, but it took him that long to complete the job.

Q Yes, I appreciate that.

THE COURT: Was he getting paid for this?

MR. NANCE: I don't think --

THE WITNESS: Yes, but a set fee. We agreed on an amount for him to do the job. So he got a job fee, not an hourly fee.

BY MR. NANCE:

Q But he was never paid the total fee in money?

A Yes, he was.

Q Now, do you have anything written to you by Mr. Rodriguez?

A No, we did not set up a contract. We made a verbal agreement which was also a contract.

Q Well, ma'am, hold it, excuse me. So we understand each other. I'm not here to argue about your contract with --

1           A     Oh, no, we're not going to argue because I'm not  
2 going to deal on that level.

3           Q     Would you please just answer my question.

4           THE COURT: Wait, wait, wait. I think she just  
5 misunderstood. She thought you were talking about the  
6 contract to do the bathroom.

7           MR. NANCE: Okay.

8           BY MR. NANCE:

9           Q     Do you have anything that was sent to you in  
10 writing, given to you in writing, by Mr. Rodriguez at any  
11 time?

12          A     No.

13          Q     Would you tell the Court then -- strike that. In  
14 fact, you never saw Mr. Rodriguez' handwriting other than  
15 what Ms. Crane showed you as the letter in question, have  
16 you?

17          A     That is not true.

18          Q     Well, do you have any bits of writing that you  
19 can refer to that you were acquainted with before this  
20 piece of paper?

21          A     Yes, he left me notes, a number of notes.

22          Q     Do you have any of that with you?

23          A     No, I don't. I didn't bring it. I would have  
24 brought it if I thought I would have needed it.

25          THE COURT: You have them at home?

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THE WITNESS: Yes.

THE COURT: And you didn't bring them with you?

THE WITNESS: No.

THE COURT: Why not?

THE WITNESS: I don't know, I just didn't think that I would need them. I have notes that he left. I have little sketches and things that he wrote, but I just didn't bring them. I didn't think I needed them.

BY MR. NANCE:

Q Sketches with numbers?

A With words.

Q Ma'am, you are a school teacher?

A Yes, I am.

Q And you would agree with me that your education is greater than Mr. Rodriguez'?

A Yes.

Q And at the time that you spoke to Mr. Rodriguez, he spoke with a very heavy accent from the time when you first met him; isn't that right?

A I wouldn't agree with you there.

Q Can you give me a yes or a no?

A He has an accent, which I think any foreign person might have, but --

Q And you knew --

A -- he can speak English.

1 Q I'm sorry. Are you finished?  
2 A Yes.  
3 Q And you knew he was foreign at the time that you  
4 met him?  
5 A Yes, I did.  
6 Q And you knew that he was born in Dominican  
7 Republic?  
8 A Not until he told me.  
9 Q Okay. So he told you that he was born in  
10 Dominican Republic?  
11 A Yes.  
12 Q And did you learn that he had moved to Venezuela?  
13 A Yes, I knew about that.  
14 Q And you knew that his primary language was  
15 Spanish?  
16 A (No response.)  
17 Q Can you give me a yes or no?  
18 A I can't give you a yes or no to that question,  
19 no.  
20 Q You don't know if his primary language is  
21 Spanish?  
22 A I know that he was born and raised in Spanish-  
23 speaking countries, but I know he spoke English with me and  
24 I know he was in the States, the United States for eighteen  
25 years. And I think he speaks English well.

1 Q Okay. Is there anyone else that you know that  
2 speaks two languages?

3 A A number of people.

4 Q Now, in this particular case with Mr. Rodriguez  
5 dealing with your bathroom, you had to explain to him over  
6 and over some things that you wanted done to with  
7 bathroom?

8 A No, he knew exactly what to do.

9 Q And so, based on your instructions, he knew  
10 exactly what to do, and it took him --

11 A No, I didn't give him instructions. I know  
12 nothing about how to do bathrooms.

13 Q Oh, so there was no real communication between  
14 the two of you?

15 A No, he knew he was coming in to put a powder room  
16 in, and he did it. As for telling him how to do that, I  
17 cannot do that.

18 Q I understand. The truth of the matter is that  
19 there was very much, either on a social or business basis,  
20 of conversation between the two of you, wasn't it?

21 A Yes.

22 Q That is true, is that what you are saying?

23 A Yes. We talked a lot.

24 Q Well, that isn't what my question is, and I don't  
25 want to trick you.

1           A     Okay. Well, then you give me the question again  
2     so that I can answer what you are asking.

3           Q     All right. I said it's true that there was very  
4     little conversation?

5           A     No.

6           MR. NANCE: Your Honor, let the record reflect  
7     that the State is shaking her head in a negative, and I  
8     think it's --

9           THE WITNESS: Because I didn't hear very little  
10    --

11          MS. CRANE: Excuse me, Your Honor, I did not  
12    believe that was the first question that he asked, so I,  
13    too, was confused. That's all.

14          THE COURT: Why don't you just start over? Ask  
15    the question.

16          MR. NANCE: I'll withdraw the question and repeat  
17    it.

18          BY MR. NANCE:

19          Q     In fact, during the time, either dealing with the  
20    bathroom or personally, there was very little conversation  
21    between the two of you, was it?

22          A     That's not true, no. That's not true.

23          Q     And the times that he was in the house is that he  
24    was primarily in the bathroom working on the bathroom?

25          A     No, that's not true.



1 Q Well, there obviously came a time that the two of  
2 you did have sex.

3 A Yes, that is true.

4 Q And the time that you, in fact, had sex was only  
5 about three times?

6 A That is not true.

7 Q That is not true? And you have -- I'll withdraw  
8 the question. Now, in terms of this child, the child born  
9 on August 9th of '87; is that right?

10 A Yes.

11 Q And you met Mr. Rodriguez in '86; is that right?

12 A Yes.

13 Q So, therefore, the meeting is around the  
14 conception time that you claimed here?

15 A That's not true. I knew him a whole year before  
16 I had a child by him.

17 Q Was he working on the bathroom then, too?

18 A Of course not.

19 Q Okay. Now, the fact, ma'am, is that he told you  
20 specifically that he did not believe that this was his  
21 child?

22 A He's never told me that. The first I ever heard  
23 that was here.

24 Q And is your testimony that in front of the lady,  
25 that is Ms. Blanton, that he agreed that this was your

1 child and said that he never denied it. Is that your  
2 testimony?

3 A Yes, he never denied it.

4 Q And is your testimony, in fact, that he's been to  
5 the house to see the child since then?

6 A Yes, he has since the child --

7 Q When, in fact --

8 A Oh, are you talking about since the child has  
9 been born?

10 Q I'll withdraw the question. I ask you the  
11 questions. Please answer. In fact, he's never brought the  
12 child any Christmas presents?

13 A Yes, he has.

14 Q And, in fact, he's never done anything with the  
15 child at all?

16 A Yes, he has.

17 Q And, in fact, he told you specifically that he  
18 wanted a blood test; isn't that right?

19 A No, he did not. The first I heard that was  
20 here.

21 MR. NANCE: No further questions. I have no  
22 further questions.

23 THE COURT: Wait. Ma'am, it's a yes or no, but  
24 the State will have an opportunity to question you again.  
25 Any redirect?

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MS. CRANE: Yes, Your Honor, just very briefly.

REDIRECT EXAMINATION

BY MS. CRANE:

Q Prior to the birth of your daughter from the time of your last menstrual period until you missed a period, what men were you having intercourse with?

MR. NANCE: Objection.

THE WITNESS: Only José Dejesus Rodriguez.

THE COURT: Well, wait a minute. Ma'am, you've got to wait until I can rule on the objection. Grounds?

MR. NANCE: I'll withdraw the objection. I mean

--

THE COURT: Okay. You can answer it. Objection withdrawn.

BY MS. CRANE:

Q You can answer.

A Only José Dejesus Rodriguez.

MS. CRANE: I have no further questions.

MR. NANCE: Well --

THE COURT: I have some questions, though. Hang on one minute. Well, go ahead, Mr. Nance. I'll come back.

MR. NANCE: I'll wait, Your Honor, if you want.

THE COURT: You indicated the child was born August of '87. And when, ma'am, did you file the action to obtain a paternity decree, if you remember? How much after

1 your child was born, in other words?

2 THE WITNESS: Okay. I filed it, oh, we came in  
3 on March the 31st, I think. And I had filed it --

4 THE COURT: Of '89?

5 THE WITNESS: Right, but I had filed it, I guess,  
6 six to eight weeks before. I think it takes that long for  
7 them to process, or four.

8 THE COURT: So early '89?

9 THE WITNESS: Yes.

10 THE COURT: Had you had any contact with Mr.  
11 Rodriguez prior to or around the time that you filed the  
12 paternity action?

13 THE WITNESS: Yes.

14 THE COURT: Can you tell us whether or not you  
15 told him what you were doing?

16 THE WITNESS: What happened was, I didn't tell  
17 him that I was coming down to Support Enforcement. He was  
18 bringing money, but he was bringing it -- he had moved from  
19 every week to every two weeks, to every three weeks, to  
20 once a month, and it moved from one amount, to another  
21 amount, to a smaller amount, and it got down to like \$10 a  
22 month. And that's when I came down before I went into the  
23 hospital for surgery.

24 THE COURT: Are you saying that before you filed  
25 the paternity action, Mr. Rodriguez had been bringing you

1 money for the child?

2 THE WITNESS: Yes, every week faithfully.

3 THE COURT: But it was becoming erratic, is that  
4 what you are saying?

5 THE WITNESS: That's right because the  
6 relationship had changed.

7 THE COURT: Between the time the child was born  
8 and the time that you filed the action in early '89, are  
9 you telling us, though, you did get support from Mr.  
10 Rodriguez for the child?

11 THE WITNESS: Yes.

12 THE COURT: In varying amounts?

13 THE WITNESS: Yes.

14 THE COURT: Did you ever have any conversation  
15 with him at anytime before you actually went to Domestic  
16 Relations in March of '89 in which you discuss with him  
17 what you were doing?

18 THE WITNESS: I told him that if he continued to do  
19 what he was doing, spreading the money out, making it less  
20 and less, I was going to go down to Support Enforcement and  
21 he was just going to have to send the support downtown.

22 THE COURT: Do you remember what his response  
23 was?

24 THE WITNESS: He said, well, then you'll have to  
25 do that.

1 THE COURT: After you actually you filed the  
2 action in early '89, did you have any occasion to talk to  
3 him about the steps you had taken?

4 THE WITNESS: What happened was, the day before,  
5 the day I came out of the hospital --

6 THE COURT: Do you remember when that was, for  
7 the record?

8 THE WITNESS: It was March, we came into Support  
9 Enforcement, I think, on the 31st. It was the day before I  
10 got out of the hospital on the 30th of March, and right  
11 after I came back from the hospital, he came in.

12 THE COURT: He came where?

13 THE WITNESS: He came into my house right after I  
14 got home from the hospital and he asked me to withdraw the  
15 -- you know, not to take him downtown. And he gave me \$50.  
16 And I told him no, I was going on with it. And I asked him  
17 did he want the \$50 back, and he said no.

18 THE COURT: I have no further questions at this  
19 time, counsel.

20 MR. NANCE: With the Court's permission.

21 THE COURT: Certainly.

22 RECROSS-EXAMINATION

23 BY MR. NANCE:

24 Q Ma'am, so that we understand each other, in fact,  
25 you filed for non-support because you were receiving no

1 support for this child.

2 A I was receiving little support. Like I said, it  
3 had gotten to like \$10 a month he was giving me.

4 Q Well, didn't you, in fact, the Bureau of Support  
5 Enforcement that you were receiving no money from José  
6 Rodriguez?

7 A No, when I came and I told --

8 MS. CRANE: Excuse me, Your Honor, if I could  
9 clarify it for the record. This is a paternity case, not a  
10 non-support case.

11 MR. NANCE: Well, I thought it was the questions  
12 of the State and the Court that got into this as to  
13 payments.

14 THE COURT: I don't think she is saying that.  
15 There is just two different types of actions. One is a  
16 support action, and one is a paternity action. I thought  
17 that that was the purpose of what you were trying to say.  
18 They come under different names. They still may involve  
19 issues of support.

20 MS. CRANE: Your Honor, to clarify for the  
21 record, the Bureau of Support Enforcement testified  
22 regarding the payments following the establishment of the  
23 order. The case that Ms. Arrington filed was to establish  
24 paternity. Prior to that, no support is required or can be  
25 obtained from anyone until the man was made the father. So

1 she couldn't have -- you know, there was no non-support.

2 THE COURT: Okay. Well, that's argument.

3 MR. NANCE: I think you misunderstood the  
4 question. I said that she came down because she was  
5 receiving no money. That has nothing to do with --

6 THE COURT: That was her motive.

7 MR. NANCE: Yes.

8 THE COURT: That was what I understood it to be.

9 MS. CRANE: Oh, okay. Fine.

10 THE COURT: Go ahead, counsel.

11 BY MR. NANCE:

12 Q Isn't that true, ma'am? That you came to the  
13 Bureau Support Enforcement because, in fact, you were  
14 receiving no money from José Rodriguez; isn't that right?

15 A By the time when I came down he was not sending  
16 me anything.

17 Q And you told them that, in fact, he was not  
18 paying any money for this child?

19 A No, I told them what he had been giving me. I  
20 told the lady from day one what he had been giving me, but  
21 it had gotten to \$10 a month, and now he hadn't given me  
22 anything. And I was coming down to file an order.

23 Q Now, in terms of this question, you have to help  
24 me out. Ms. Crane asked you of the time from your  
25 menstrual period until conception how many men you were



1 with, I have to ask you again, can you tell us the date of  
2 the end of the --

3 A I can tell you that. Is that what you want to  
4 know?

5 Q I'm not sure unless you let me try to --

6 A Oh, okay. I'm sorry.

7 THE COURT: Okay. Finish your question.

8 BY MR. NANCE:

9 Q Can you tell us the date of the end of your  
10 menstrual period and the date of actual conception?

11 THE COURT: Well, those are two questions. Do  
12 you want both?

13 MR. NANCE: I'll try one at a time, if the Court  
14 wants.

15 BY MR. NANCE:

16 Q The date of the end of your menstrual period.

17 A Okay. I missed my menstrual period after we  
18 conceived. That next month my period did not come on.

19 Q Can you tell me what you are talking about in  
20 terms of dates? You said you knew the exact date.

21 A It's hard for me -- I knew when I conceived.

22 Q But my question now to you is can you tell us the  
23 date of the end of your menstrual period, was my first  
24 question.

25 THE COURT: Prior to conception, is what you are

1 talking about.

2 BY MR. NANCE:

3 Q That's right. The date.

4 A Okay. I can't --

5 Q The answer is you cannot.

6 A I cannot go back. I know it was -- I missed my  
7 period and nine months later I had a baby.

8 Q Can you answer my question?

9 A I can tell you that.

10 Q Can you answer my question?

11 A Pardon me?

12 Q Can you answer the question?

13 A I cannot give you an exact date. It's been a  
14 long time.

15 Q The answer is no, you cannot. Okay. And, in  
16 fact, you can't give us the exact date of the conception  
17 either?

18 A If I went back and was due, I could tell you.

19 Q Now, in terms of how many men during this period  
20 of time --

21 A I don't understand why you keep saying how many  
22 men.

23 Q I didn't ask the question first, your lawyer did.

24 A There was only one man in my life, and that was  
25 --

1 THE COURT: Well, he's just posing questions,  
2 ma'am.

3 THE WITNESS: Oh, okay. I'm sorry.

4 BY MR. NANCE:

5 Q You are not saying that the only man that you  
6 have been with is José Rodriguez, is it?

7 A I'm saying he is the only man I've been with  
8 since '86.

9 Q Since '86?

10 A Yes, when I met him. Since the day I met him and  
11 started seeing him.

12 Q Until now?

13 A Up until now.

14 Q Okay. Now, these rights that were given that you  
15 recall hearing that you testified to, are you saying that  
16 Mr. Rodriguez understood the word paternity?

17 A She didn't use that word.

18 Q Well, I thought you said that she told him about  
19 paternity?

20 A She told him that he had the right to an  
21 attorney, he had the right to go into court, he had the  
22 right to get a blood test, and she asked him was he  
23 accepting paternity. She rephrased it for him. I'm glad  
24 you said that, because she rephrased it for him.

25 Q Well, didn't you hear --

1           A     And she asked him, are you saying that you are  
2     the father of this child.

3           Q     Well, but that isn't what you said earlier, is  
4     it?

5           A     I said paternity because that's the word that I  
6     use.

7           Q     Okay. In fact --

8           A     I'm sorry. She rephrased it for him and asked  
9     him was he saying that he was the father, and he understood  
10    that.

11          Q     Are you finished? But you know, specifically you  
12    know that if you answer the questions contrary to you are  
13    now, is that the question is is that he would have the  
14    opportunity for a blood test to prove in fact he's not the  
15    father. And that is why you are testifying the way you are  
16    today, is that not true?

17          A     I don't understand your question.

18                THE COURT: I don't understand your question, Mr.  
19    Nance.

20                MR. NANCE: Well, I repeat it.

21                BY MR. NANCE:

22          Q     In fact, is the reason why you are testifying  
23    that he said he was the father is because, in fact, you  
24    know that he questions that he is not the father.

25          A     No, he never questioned that. That's why I was

1 surprised when I came here and heard him say that because I  
2 was astonished -- I never in my life heard him say that.

3 Q Well, didn't you speak to your lawyer and she  
4 told you before you got here to be surprised?

5 A Yes, I understood that that's what he was saying  
6 when I found about the --

7 Q In fact, on the street he has told you that he  
8 didn't believe he was the father?

9 A Never on the street --

10 THE COURT: Only one person can talk at a time.

11 THE WITNESS: He's never told that.

12 BY MR. NANCE:

13 Q But you do know, you know, with your knowledge of  
14 the English language, you do know, with your education that  
15 if you said here today that he said otherwise, it would  
16 help him get a blood test in this case and strike him being  
17 --

18 A I don't understand what you are saying.

19 Q Well, I'll say it to you again. You do know  
20 specifically -- you don't understand my words?

21 A I'm trying to.

22 Q Okay. You know, in your understanding of why we  
23 are here, that if you say out of your mouth today in this  
24 courtroom is that it will aid him in his argument that he  
25 is not the father so there can be a blood test.

1           A     I still don't understand --

2           MS. CRANE: Your Honor, I'm sorry, I don't  
3 understand it either.

4           THE COURT: I think Mr. Nance is trying to say,  
5 if I may, Mr. Nance, because they don't understand it.  
6 It's awkwardly worded, but, ma'am, if you were to tell me  
7 -- do you realize that if you told me he did question  
8 paternity before all of this was brought, that it would  
9 benefit it him, possibly? Did you understand that if you  
10 admit to me he was questioning whether he was the father of  
11 the child all along or at any point that it might help him  
12 today? Did you know that? Am I saying the drift of what  
13 you --

14           MR. NANCE: Judge, I don't mind you --

15           THE COURT: But I want to convey the point you  
16 are trying to --

17           MR. NANCE: Yes, I think your point is clear.

18           THE COURT: It was a little awkward and I didn't  
19 understand it at first myself.

20           MR. NANCE: Judge, I don't have any problems with  
21 the way you worded it.

22           THE COURT: But I want to make sure it's what you  
23 wanted.

24           MR. NANCE: Oh, yes.

25           THE COURT: Okay. In other words, ma'am, do you

1 understand that if you come in today and tell me all along  
2 he had a doubt as to whether he was the father and that you  
3 knew that, that it might hurt him? Oh, excuse me, help  
4 him.

5 MS. CRANE: But Your Honor, wouldn't you have to  
6 qualify that by saying, if that were true?

7 MR. NANCE: What has that got to do with whether  
8 or not it's true. It's what she believes. I'm dealing  
9 with the credibility of this witness.

10 THE WITNESS: No, I'm telling you the truth.

11 MR. NANCE: Well, that's what we're getting to,  
12 ma'am.

13 THE WITNESS: And that's what I'm sitting here  
14 telling you.

15 BY MR. NANCE:

16 Q But my question to you, ma'am, is --

17 A As to whether it would make a difference for him  
18 or me --

19 THE COURT: Well, only one person can talk at a  
20 time. You've got to stop. Whenever he's talking, you've  
21 got to stop, and if she's in the middle of the answer,  
22 counsel, of course, knows not to interrupt. But the court  
23 reporter can't get it down.

24 MR. NANCE: I just simply ask the Court to  
25 instruct her to respond to the question rather than

1 dictating the argument that counsel is here for.

2 THE COURT: Did you understand that it would  
3 benefit Mr. Rodriguez if you acknowledged, or it might  
4 benefit Mr. Rodriguez, I should say, if you acknowledge to  
5 me that he had ever expressed doubt to you before this  
6 action was instituted as to whether he was the father?

7 THE WITNESS: I don't know how to answer that  
8 because I just know that I'm telling you what the truth is,  
9 and I can't change that around. This is what I understand.  
10 This is the truth. This is what I know it to be.

11 BY MR. NANCE:

12 Q Are you finished with your answer?

13 A Yes.

14 MR. NANCE: Can I go to the next question?

15 THE COURT: Yes.

16 BY MR. NANCE:

17 Q Now, in fact, your statement of him giving the  
18 child Christmas presents and gifts and payments is for the  
19 purpose -- so that you can keep him to be named the father  
20 of your child; isn't that true?

21 A He is the father of my child, that is true.

22 Q That isn't my question, though. Will you answer  
23 my question, though? In fact, the reason why you are  
24 testifying --

25 A I'm not going to answer anything that is not



1 true. I don't care where I sit.

2 Q Okay.

3 A I'm telling you the truth. He is the father of  
4 my child.

5 Q But the truth is that he questioned whether or  
6 not he is the father?

7 A He's never questioned whether he was the child's  
8 -- until I came into court and I heard it, and I'm still  
9 surprised.

10 Q All right. But you did hear him question it?

11 A I heard what he said here in court and I don't  
12 know why he said it.

13 Q Did you hear him say that he questioned being the  
14 father of the child?

15 A I heard what he said here in court because I'm  
16 sitting --

17 Q And that was prior to your testimony today; isn't  
18 that true?

19 A No, this is the first time. When I got the  
20 papers to come to court, that's when I found out that he --

21 Q I'm sorry. So that we understand --

22 THE COURT: Wait. No, let her finish because I  
23 think she's trying to explain.

24 THE WITNESS: When I got the papers to come to  
25 court, I thought they were giving me papers to come to

1 court to make him pay the \$50 a week. When I called and  
2 found out that he was saying that he was not the father, I  
3 couldn't believe it.

4 BY MR. NANCE:

5 Q Who did you speak to?

6 A I talked with somebody at the sheriff's office  
7 who served me papers.

8 Q Okay.

9 A And then I got the papers and saw it in writing.

10 Q Okay. And did you speak to somebody in the  
11 State's Attorney's office also before you came to court?

12 A Yes, I did.

13 Q And were you in court several days before today?  
14 We've been in court two other days; is that right?

15 A Yes, I have been.

16 Q And you heard him testify on the first day that  
17 we were in court?

18 A Yes, I did.

19 Q And that testimony was at least three weeks  
20 before today's testimony of yours; isn't that right?

21 A Yes, I think it was.

22 Q And so, before you got on the stand today, you  
23 knew exactly that he was saying from his lips that he  
24 questioned being the father of your child; isn't that true?

25 A I heard that in court here.

1 Q And you do know now, since you have heard that  
2 before your testimony today is that that was his position,  
3 the testimony in court. And that if you agreed that he  
4 said that prior to court, that it would be detrimental to  
5 your keeping him named -- hold it ma'am, listen to my  
6 question -- it would be detrimental to your position to  
7 keeping him named as the father in this case? Do you know  
8 that?

9 A He has not said he was not the father prior to --

10 Q Well, you just said you heard it.

11 A -- prior to us coming to court.

12 Q But you have to --

13 THE COURT: I think it's been asked and answered  
14 as best she can.

15 MR. NANCE: Okay.

16 THE COURT: It's really argumentative.

17 MR. NANCE: Well, I think the question of as best  
18 she can goes to the question that we're getting at.

19 BY MR. NANCE:

20 Q Ma'am, would you tell the Court again your  
21 training and background and education?

22 MS. CRANE: This has been done three times. I  
23 did it once. You did it twice. I object, Your Honor.  
24 This is just repetitive.

25 THE COURT: It has been developed. She's a

1 teacher. I understand your point and you can argue that.

2 BY MR. NANCE:

3 Q Have you been in Nonsupport Court before prior to  
4 this?

5 A In Circuit Court?

6 Q Yes.

7 A No, I haven't been in Circuit Court.

8 Q Have you gotten Bureau of Support Enforcement  
9 prior to this case?

10 MS. CRANE: I object.

11 THE COURT: Grounds.

12 MS. CRANE: It's not relevant to this case. I  
13 don't even know the answer myself. She could have fifty  
14 other children, it doesn't matter. As a matter-of-fact,  
15 that isn't the case at all, for the record. It just  
16 doesn't matter.

17 MR. NANCE: What isn't the case? Her knowledge  
18 of the system?

19 MS. CRANE: That she has fifty other children.

20 THE COURT: No, fifty other children. Mr. Nance,  
21 what is the purpose of the question?

22 MR. NANCE: It's getting to her understanding of  
23 the system and utilization of the system and the  
24 credibility of her testimony. I didn't ask her in terms of  
25 getting to Bureau of Support Enforcement to prove that she

1 had two or three other kids. That isn't the point. The  
2 point is whether or not she knew what the system is and  
3 gets back to the credibility and truthfulness of this  
4 witness. If Ms. Crane would listen to the question, she  
5 would understand that I am not getting to how many kids she  
6 has. Ms. Crane brings up menstrual cycles and whatever.  
7 We're not interested in that. We're interested in this  
8 credibility of this witness.

9 MS. CRANE: Your Honor, for the record, may I  
10 just say, as far as menstrual cycle, I'm sure the Court  
11 recalls that that question was asked after Mr. Nance  
12 introduced the matter of the sexual involvement of the  
13 couple, that the State did not introduce that at all.

14 Secondly, as far as her knowledge of the system,  
15 Mr. Nance is who brought this case to the Court. This lady  
16 is not doing anything with this --

17 MR. NANCE: What does that have to do with the  
18 fact that --

19 MS. CRANE: -- case but being here.

20 THE COURT: Well, wait, one at a time. One at a  
21 time.

22 MS. CRANE: Excuse me, sir. She is just trying  
23 to answer truthfully. And whether she knows the system --  
24 she could be a judge of the Supreme Court. She's here as a  
25 witness answering as truthfully as possible. She has done

1 nothing to work the system in any way.

2 THE COURT: Well, I --

3 MR. NANCE: You know, what's incredible, Judge,  
4 is that we have somebody here who speaks English, who has a  
5 college degree, who has a professional background, and we  
6 have the great argument of her ability to understand and  
7 not understand. But when we put before a man who has a  
8 sixth grade, at best, education, or fifth grade education,  
9 has a background in Spanish, and a question of whether or  
10 not he understands, then the State takes the complete  
11 opposite of who cares. But that's what we are here for.

12 THE COURT: Well, my own opinion at the moment  
13 is, frankly, this is not particularly relevant, Mr. Nance.  
14 Unless you want to focus on a particular time period.

15 MR. NANCE: Your Honor, I've asked my questions.  
16 The Court is ruling against it. I'll move on.

17 THE COURT: Move on.

18 MR. NANCE: All right.

19 BY MR. NANCE:

20 Q Ma'am, did you understand everything that Ms.  
21 Blanton said to you?

22 A Yes.

23 Q Are some of the things that we've talked about  
24 here today in terms of in court, either by the Court or Ms.  
25 Crane or myself, confusing to you today?

1           A     I basically understand --

2           MS. CRANE: Your Honor, we are not -- I object.

3           MR. NANCE: I'm sorry.

4           MS. CRANE: We are not here to determine whether

5 she is confused or not. We're here to determine whether

6 this case is closed as we believe it is. Whether she is

7 confused or not is irrelevant.

8           THE COURT: Well, as I understood Mr. Nance's

9 question all along was to establish that she may have had a

10 motive to falsify her testimony. That was the drift of his

11 question. He asked it several times. She answered it. I

12 agree with the State on this one, too, Mr. Nance.

13 Sustained.

14           MR. NANCE: Your Honor, I have no further

15 questions.

16           THE COURT: Any redirect?

17           MS. CRANE: No, Your Honor.

18           THE COURT: You can step down, Ms. Arrington.

19 Thank you.

20           MS. CRANE: Your Honor, that concludes our

21 witnesses.

22           THE COURT: Okay. Is there any rebuttal case?

23           MR. NANCE: I recall Jose Rodriguez.

24           COURT REPORTER: Your Honor, I need to reposition

25 the microphones for the interpreter.

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THE COURT: Okay.

(Brief pause.)

JOSÉ DEJESUS RODRIGUEZ

a witness produced on call of the defendant, having been previously duly sworn, was examined and testified further as follows:

INTERPRETER RAFAEL R. RUIZ

having been duly sworn to faithfully and accurately interpret the questions propounded to and the answers given by José Dejesus Rodriguez, the proceedings continued as follows:

MR. NANCE: Mr. Ruiz, would you please advise Mr. Rodriguez, as she said, that he's still under oath, please.

THE INTERPRETER: I just restated what the young lady said.

MR. NANCE: Thank you.

DIRECT EXAMINATION

BY MR. NANCE:

Q Mr. Rodriguez, you heard Ms. Arrington say and testify that you told her that you agree that you are the father of the child in question, the daughter. Have you ever told her that you agree that you are the father of the child?

A No, I never said that to her.

Q In fact, when she raised the question of your



1 being the father of the child, what, in fact, did you say  
2 to her?

3 A I was not sure that I would be the father of the  
4 girl.

5 Q You heard Ms. Arrington testify that you have  
6 been taking care of the child and supporting her and giving  
7 Christmas gifts and other things at the home.

8 A That is a lie.

9 Q Prior to your wife sending money to the Bureau of  
10 Support Enforcement, did you individually give any money to  
11 Ms. Arrington or the child in question?

12 A No.

13 THE COURT: Wait, I want to make sure I got --

14 THE WITNESS: I never --

15 THE COURT: I'm sorry. Go ahead.

16 THE WITNESS: I never gave her anything.

17 MR. NANCE: Your Honor, the letter in question,  
18 the original, may I see it? The file, wherever it is.

19 THE COURT: May 9th.

20 (Brief pause.)

21 THE COURT: As a matter-of-fact, Mr. Nance, this  
22 reminds me, you didn't voir dire the witness on her ability  
23 to know the signature.

24 BY MR. NANCE:

25 Q Mr. Rodriguez, I show you the letter where the

1 copy has been marked as Plaintiff's Exhibit 8, and I ask  
2 you, sir, did you sign this letter?

3 A Yes, but I don't remember.

4 Q Is this your signature or is this your wife's  
5 signature?

6 A It looks like my signature, but I don't remember  
7 anything about that.

8 Q The letter in this case was it sent to the Bureau  
9 of Support Enforcement by you or your wife?

10 MS. CRANE: Your Honor, I'm going to object and  
11 ask that Mr. Nance now refrain from leading the witness.

12 THE COURT: Well, it is a leading question.  
13 Whose signature is on the letter of May 9, 1990?

14 THE WITNESS: That is my signature.

15 THE COURT: Do you remember who wrote the text of  
16 the letter?

17 THE WITNESS: What is the contents of the letter?  
18 I don't know what the letter reads.

19 THE COURT: I'm going to hand Mr. Ruiz the  
20 original, the copy of which is marked as Plaintiff's --

21 MR. NANCE: Can I ask one question about the  
22 contents?

23 THE COURT: Certainly, go ahead.

24 BY MR. NANCE:

25 Q Mr. Rodriguez, do you type?

1           A     No, I don't type.

2           Q     And, Mr. Ruiz, would you read to him the contents  
3 of the letter?

4                     (Whereupon, Plaintiff's Exhibit 8 was read by the  
5 interpreter in Spanish to the witness.)

6           A     Yes, that letter was made by Maria Rodriguez, my  
7 wife, and I signed it.

8           Q     Do you remember the occasion of her sending it?

9           A     I don't remember the certain date, but we indeed  
10 sent it.

11           MR. NANCE: I have no further questions.

12           THE COURT: Any cross?

13           MS. CRANE: Just one question.

14                             CROSS-EXAMINATION

15           BY MS. CRANE:

16           Q     Mr. Rodriguez, so you are telling the Court that  
17 you instructed your wife to type this letter for you and  
18 send it; isn't that true?

19           MR. NANCE: Objection, that is not what he said.

20           THE COURT: Well, I understood she was asking  
21 that question. Did you instruct your wife?

22           MR. NANCE: Oh, no, the question was, I  
23 understand you are telling the Court that you, in fact,  
24 instructed your wife to do that. That's different than  
25 saying did you ask her to send the letter.

1 THE COURT: Rephrase the question.

2 BY MS. CRANE:

3 Q Okay. Mr. Rodriguez, isn't it true that you told  
4 your wife this is what I want to tell the Bureau of Support  
5 Enforcement and will you type it and send it for me?

6 A Yes, she wrote it.

7 Q For you, right?

8 A Yes, for me.

9 MS. CRANE: I have no further questions.

10 THE COURT: Well, whose idea was the letter?

11 THE WITNESS: That was -- I have that idea.

12 THE COURT: Any redirect?

13 MR. NANCE: I have no further questions.

14 THE COURT: Mr. Rodriguez, after you went to the  
15 Domestic Relations Division on March 31 of 1989, how did  
16 you know where to send the support payments?

17 MR. NANCE: Objection.

18 THE COURT: Grounds.

19 MR. NANCE: The assumption is in the question  
20 that he, in fact, was sending the payments.

21 THE COURT: All right. Let me --

22 MR. NANCE: The testimony is to the contrary.

23 THE COURT: Let me rephrase the question. After  
24 March 31 of 1989, were support payments sent to the Bureau  
25 of Support Enforcement for the child in question?

1 THE WITNESS: Yes, it was sent, yes.  
2 THE COURT: Who sent the payments?  
3 THE WITNESS: My wife would make the payments.  
4 THE COURT: And how did your wife know what  
5 payments to make?  
6 THE WITNESS: In accord with the letters that  
7 Maria would write. She would read them and she would know  
8 what to do.  
9 THE COURT: In accord with the letters, what,  
10 sir?  
11 THE WITNESS: The letters that would get to us.  
12 THE COURT: What letters?  
13 THE WITNESS: The letters that they sent.  
14 THE COURT: Who sent?  
15 THE WITNESS: From here, from this office. And  
16 the witness is pointing back here (indicating).  
17 THE COURT: From the Domestic Relations Division,  
18 does he mean?  
19 THE WITNESS: I don't know. I don't remember  
20 where those letters came from.  
21 THE COURT: After March 31 of 1989, when you came  
22 to the Domestic Relations Division, did you tell Mrs.  
23 Rodriguez that support payments had to be mailed in for the  
24 benefit of the child in question?  
25 THE WITNESS: Yes, I told her that.

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THE COURT: I have no other questions.

MR. NANCE: I do, Your Honor.

REDIRECT EXAMINATION

BY MR. NANCE:

Q Mr. Rodriguez, do you understand the Court's question as to whether or not you understood what needed to be done or whether or not your wife was telling you as to what needed to be done?

MS. CRANE: I object to that, Your Honor.

THE COURT: Well, I'm going to sustain that. I think my question was clear and he answered it. Now, you are leading him.

MR. NANCE: Well, I think it is incumbent upon the Court so that the witness --

THE COURT: He has a translator here. He didn't indicate he didn't understand my question.

MR. NANCE: Well, see, we have two things going. The man has a fifth or sixth grade education, number one, and then secondly is whether or not he understands through his translator. Even with someone speaking English understands.

THE COURT: Sustained. If you want to ask questions in light of the Court's, that's fine.

MR. NANCE: Okay.

THE COURT: I don't think that's a proper

1 question.

2 MR. NANCE: Exception, but I'll follow the Court.

3 THE COURT: Certainly.

4 BY MR. NANCE:

5 Q Mr. Rodriguez, who determined that payments had  
6 to be made, you or your wife?

7 A I did.

8 Q How did you make that determination that payments  
9 had to be made?

10 A Before the letter got home and she was going to  
11 read it, I knew what was going on.

12 Q Did you know that there was a question of your  
13 being the father?

14 A Yes.

15 Q Did you know how to question to be the father, to  
16 ask to come to court?

17 MS. CRANE: Excuse me. I don't understand that  
18 question.

19 MR. NANCE: Well, I'm not interested in that, but  
20 I'm asking the witness --

21 MS. CRANE: Well, I object.

22 THE COURT: Well, then I'm going to ask you to  
23 rephrase it.

24 MR. NANCE: Well, I --

25 THE COURT: I don't think I really understood it

1 either, Mr. Nance.

2 BY MR. NANCE:

3 Q Did you know how to ask to come to court to  
4 question being the father before you had a lawyer?

5 A I did not know that.

6 Q And that was in December?

7 A Yes.

8 MS. CRANE: Excuse me. December of what year?

9 THE COURT: What year, sir?

10 THE WITNESS: That was in December of '89.

11 BY MR. NANCE:

12 Q And that was after you received the letter in  
13 November of '89 on the lien?

14 A Yes, that happened after that.

15 Q So you knew from the meeting with Ms. Blanton and  
16 the Bureau of Support Enforcement where Ms. Arrington was  
17 that she was asking for money?

18 MS. CRANE: Your Honor, I'm going to object to  
19 the question as leading and also asked and answered.

20 MR. NANCE: Well, if the State wants to stipulate  
21 that it's been answered before, I have no further  
22 questions.

23 THE COURT: It's leading, let me just say that.  
24 If you want to rephrase it, I'll allow you to pursue it.  
25 But it is a leading question.



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MR. NANCE: I have no further questions.

THE COURT: Any recross?

MS. CRANE: No, Your Honor.

THE COURT: Mr. Rodriguez, one answer that you gave confused me, and I may not have your words exactly right, but I understood you to say, sir, that you knew there was a question as to whether you were the father.

THE WITNESS: Yes, I have doubts.

THE COURT: Excuse me one minute.

(Brief pause.)

THE COURT: Did you understand that -- well, never mind. I withdraw it. But you've clarified it for me, sir. Anything else, counsel?

MS. CRANE: Just one more question.

REXCROSS-EXAMINATION

BY MS. CRANE:

Q When you were at the Domestic Relations that day in March, you never expressed those doubts, did you?

A Well, I didn't know what was going on, what the matter was about.

Q And you never told anybody that you didn't know what was going on, did you?

A No, I did not tell anyone.

Q And you only decided that you were going to try to bring this case up again when you got that paper for the

1       lien; isn't that what happened?

2           A     When those letters arrived, I did.

3           Q     The lien letters, right?

4           A     That's when I got a letter that was stating that

5       there was against me a lien on that.

6           MS. CRANE: No further questions.

7           THE COURT: Anything else, Mr. Nance?

8           MR. NANCE: I have no further questions.

9           THE COURT: Thank you, sir. You can step down.

10       (Brief pause.)

11       THE COURT: Any other rebuttal?

12       MR. NANCE: We have nothing further at this time.

13       MS. CRANE: No, Your Honor.

14       THE COURT: Well, the Court did have a question

15       in light of some of this testimony. I don't know what your

16       respective feelings are about it, but I would be interested

17       in hearing from Ms. Blanton on the question of what a

18       putative father is told as to how to make payments. And if

19       she recalls what this particular father was told, alleged

20       father, Mr. Rodriguez would have been told, since the

21       question has now come up about the records and when

22       payments were made. How would he have known what to do?

23           MR. NANCE: There was earlier testimony that the

24       Court may not recall.

25           THE COURT: Perhaps I don't. Do you all want to

1 -- well, I can look through my notes, if you want to give  
2 me a minute.

3 MR. NANCE: I have no problem in whatever, but I  
4 will tell the Court the earlier testimony was very much  
5 clearer than --

6 THE COURT: Who was the witness, counsel?

7 MR. NANCE: It came from Mr. Rodriguez the  
8 initial day of testimony. May I step away from the table  
9 for a minute while the Court looks?

10 THE COURT: Certainly.

11 (Brief pause.)

12 MS. CRANE: Your Honor, I'm going to see if I can  
13 find anyone else.

14 THE COURT: Well, it would have to be the person  
15 involved in this case, though, I would imagine.

16 MS. CRANE: Your Honor, Ms. Blanton is gone for  
17 the day. Mr. Selby is present and I'm sure that he would  
18 be happy to come to enlighten the Court as to that  
19 procedure.

20 THE COURT: Let me ask Mr. Nance if this is what  
21 he is referring to. In my notes, I have that Mr.  
22 Rodriguez said he had come to an agreement and told them he  
23 could give \$25 a week.

24 MR. NANCE: No, he later testified that after  
25 then that there was letters that came to the house that his

1 wife read that said money had to be paid, and that she sent  
2 a check, was his testimony.

3 THE COURT: But I don't know if I have the date  
4 of those, and the payment schedule is now --

5 MR. NANCE: Oh, I can't tell -- the date of that  
6 was not --

7 MS. CRANE: Your Honor, Mr. Selby is here.

8 MR. NANCE: I would object to Mr. Selby  
9 testifying as to what was said directly to the witness as  
10 to the witness' understanding.

11 MS. CRANE: Well, it's my understanding, Your  
12 Honor, that you were just concerned about the procedure in  
13 the Domestic Relations and the way it related to informing  
14 a putative father as to how to make payments.

15 THE COURT: Well, I am concerned about that but I  
16 think it would be better to have the actual examiner who  
17 would have had responsibility for this case to tell me if  
18 she remembers anything about what would have transpired.

19 MS. CRANE: Your Honor, I think the procedure as  
20 Ms. Blanton said, is so routine, that I feel Mr. Selby  
21 could give that information. These things really are  
22 very, very routine, and these examiners do much of the  
23 instructions by routine procedure.

24 THE COURT: Well, he could only the general  
25 information.

1 MS. CRANE: That's right. And I'm sure that 's  
2 what she would give as well, because I don't know that she  
3 would remember specifically the Rodriguez case. There  
4 would have been no reason for her to do so.

5 THE COURT: My records show from testimony of --  
6 I'm just making a quick review of my notes -- Nancy  
7 Alexander that the first payment was made on or about May  
8 1 of '89, and I don't know when those letters that have  
9 been made reference to were received. So my inquiry is  
10 between March 31 of '89 and May 1 of '89, how would, in  
11 this case, of course, I'm referring to Mr. Rodriguez, know  
12 what to have done between March 31 and May 1 when the first  
13 payment was made. No letters were received by that time,  
14 were they?

15 MR. NANCE: The truth of the matter is that I  
16 would assume that everybody should understand that nothing  
17 could be done until an official thing is sent later on. So  
18 if the Court's inquiry is to whether or not he's told then  
19 that he's supposed to do "X" in March, I think that's what  
20 the Court's inquiry is, no father, including Mr. José  
21 Rodriguez can simply walk out the door and walk up the  
22 street and begin to make payments until something is set up  
23 with a number.

24 MS. CRANE: Well, that's not correct. I would  
25 proffer, Your Honor, that the defendants are usually told

1 where payments can be made on the date of the hearing and  
2 then further information is usually provided. But they are  
3 told on that day, and we do that here every day that we  
4 have Court.

5 MR. NANCE: Ms. Crane doesn't understand what I'm  
6 saying is that from that standpoint that there has to be a  
7 number assigned. They won't even accept payment until  
8 later on. I've sent men there after coming out of child  
9 support hearings or here and they were sent back and said  
10 they couldn't accept the money until later when a number is  
11 established for them to make payment. But that is a  
12 procedure outside of what the Court is inquiring as to what  
13 was told to him. But I will tell the Court in terms of  
14 procedure, a man cannot just walk up there from today out  
15 of his office up there to give a payment and say, my name  
16 is José Rodriguez. I want to give some money payments for  
17 whoever.

18 THE COURT: Well, let me tell you why I think it  
19 is important, and you all can decide if this witness is the  
20 one who can do it or not. I don't know. But it seemed to  
21 me if the letters that have been referenced to were not  
22 received before May 1 of '89, but monies were paid before  
23 May 1 of '89, then it would suggest, it may be an  
24 inference, that Mr. Rodriguez understood. There are two  
25 separate issues. I understand that Mr. Nance would contend

1 he understood the whole issue was whether he was going to  
2 pay as opposed to paternity. But, in any event, that if he  
3 had this DRD hearing on March 31 of '89 and payments were  
4 made as of May 1 of '89, in the absence of any letters  
5 coming from the Bureau or DRD or anyone else telling him  
6 what to do, that he left there understanding what he was  
7 to do, and understanding is a big issue here.

8 MR. NANCE: Well, I agree, but I don't think  
9 we're on the same wavelength either way on that. I think  
10 the records would show otherwise. Number one, there's  
11 testimony before the Court clearly and not contradicted is  
12 that payments were made, not by Mr. Rodriguez on any day.

13 THE COURT: Well, he's already said he told his  
14 wife what to do.

15 MR. NANCE: He told his wife that payments had to  
16 be sent.

17 THE COURT: Right.

18 MR. NANCE: That they said so is what he said  
19 later. The Court objected --

20 THE COURT: And the fact that he didn't  
21 physically mail them in doesn't --

22 MR. NANCE: But the testimony earlier is  
23 different than that, and I'll save that for my argument.  
24 The Court would not allow, and I took exception of the  
25 question of his understanding.

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THE COURT: Of my question.

MR. NANCE: Yes, and I have to wait to argue that at the appropriate time. The testimony of Mr. Rodriguez in the procedure of what followed is clearer from the notes in the record earlier as to how it was, when he left here. There was discussion, but letters came in and his wife is the one who made the payment to keep from the embarrassment. That's what the discussion is.

THE COURT: Well, what I'm looking for is -- it would be more helpful if it was particularized to Mr. Rodriguez, but in general, what a person leaves with when they have come to an agreement, if you will, about support. How they know what to do and what they are supposed to do, I am interested in the procedure, just generally.

MS. CRANE: Your Honor, if you are interested in that procedure, then Mr. Selby is head of Domestic Relations Division. He is here this evening and he's able to give us that information.

THE COURT: I understand he can't say anything about what Mr. Rodriguez knew, but I would find it helpful to me to understand the whole picture, if you will.

MS. CRANE: Well, he's here and I'm sure that he would be more than happy to enlighten the Court in that regard.



1 THE COURT: I don't want to drag it out, but I  
2 would like to know what the normal procedure is. So let me  
3 see if Mr. Nance -- do you have any objection to my knowing  
4 generally what the procedure is without regard to whether  
5 it was followed in this case?

6 MR. NANCE: I think it's going to lead to part  
7 two. I can't object because the Court has made it clear  
8 that it wanted to hear the procedure before it went into  
9 the other. I don't think that it's relevant and I said  
10 that earlier.

11 THE COURT: It doesn't show whether he knew it,  
12 but it just helps me understand the picture.

13 MR. NANCE: I have no problem with the Court  
14 being aware.

15 THE COURT: Okay. Well, then let's recall him.

16 MS. CRANE: Mr. Selby.

17 JOSEPH SELBY

18 a witness produced on call of the plaintiff, having first  
19 been duly sworn, was examined and testified as follows:

20 THE CLERK: Be seated, please. State your name  
21 and position.

22 THE WITNESS: Joseph Selby, Administrator,  
23 Domestic Relations Division, Circuit Court for Baltimore  
24 City.

25 MS. CRANE: Your Honor, did you want me to

1 question Mr. Selby or are you going to ask him?

2 THE COURT: Well, I guess I can do it if you  
3 don't mind. Maybe if you object to my questions, you'll  
4 tell me, counsel.

5 I was interested in knowing, sir, ordinarily what  
6 the procedure is in the office when two parties come to an  
7 agreement as to what support should be, and let's assume  
8 for the moment typically the father that's going to have to  
9 make the payments, what does that person leave with by way  
10 of instructions as to what to do?

11 THE WITNESS: The Domestic Relations Division  
12 provides each individual with an instruction sheet that is  
13 prepared by the Bureau of Support Enforcement which gives  
14 them the address and the pay or the place to which the  
15 payment should be made, the Bureau of Support Enforcement  
16 with the complete address. Also included in that are  
17 instructions as to how to contact the Bureau of Support  
18 Enforcement if there are questions or if there is a problem  
19 with the payments following that agreement at that time.

20 A copy of this is given to both parties as well  
21 as a copy of the agreement, either the nonsupport agreement  
22 or a paternity decree is given to the parties at that time.

23 THE COURT: Now, the decree ultimately gets  
24 signed by a judge; is that right?

25 THE WITNESS: That is correct.

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THE COURT: It gets signed by the judge at a later time or that very day?

THE WITNESS: It gets signed by the judge at a later time. It is presented to the clerk of the court to be presented to the judge for signature.

THE COURT: And do the parties then in question get that decree at a later time or they walked out with a copy unsigned by the judge?

THE WITNESS: The walk out with a copy unsigned by the judge. That was the procedure here in 1989. Since April of this year, they get an unsigned copy and the clerk also sends a certified true test copy of that later.

THE COURT: Okay. But in 1989, they didn't get a true test copy.

THE WITNESS: They did not. They would get an unsigned copy of the decree or the agreement that day.

THE COURT: And then on these instruction sheets that the person would get, it would explain how much was to be mailed in also for that particular case?

THE WITNESS: No, the instruction sheet would just tell to where the payments are to be made.

THE COURT: Okay.

THE WITNESS: By check or money order or in cash at the office.

THE COURT: How would a person know how

1 frequently to make the payments?

2 THE WITNESS: That's on the agreement or the  
3 paternity decree.

4 THE COURT: So the particular terms of the  
5 agreement are contained on the decree itself?

6 THE WITNESS: That is correct.

7 THE COURT: And the practice is to give a copy of  
8 the decree and that instruction sheet to each person that  
9 would have contact?

10 THE WITNESS: To both parties. In addition, in a  
11 paternity matter they are given a copy of the notification  
12 of rights that they signed, that is the right -- giving up  
13 their right to a lawyer, blood test, and a court trial.

14 THE COURT: Okay. Anybody have any questions in  
15 light of the Court's?

16 MR. NANCE: Yes.

17 MS. CRANE: No, Your Honor.

18 THE COURT: Go ahead.

19 CROSS-EXAMINATION

20 BY MR. NANCE:

21 Q Are any of these papers given to the putative  
22 father in Spanish on the date in question?

23 A No.

24 Q Your testimony is not what, in fact, occurred,  
25 but what you believe that is supposed to happen?

1           A     That is the standard operating procedure for  
2 Domestic Relations Division.

3           Q     And you would agree with me that it may or may  
4 not have occurred on May 21, 1989 in this case?

5           A     I cannot testify that it actually happened.  
6 That's the usual office procedure.

7           Q     Sure.

8           THE COURT: You have no knowledge about what was  
9 done in the particular details of Mr. Rodriguez' case. We  
10 can all agree on that, can't we?

11           THE WITNESS: I do not.

12           BY MR. NANCE:

13           Q     Were you the head of that department in March of  
14 '89?

15           A     I was the acting head in March of 1989.

16           Q     In March of '89 you were?

17           A     Yes.

18           Q     I thought Ms. --

19           MS. CRANE: She retired.

20           MR. NANCE: She retired? All right. I'm sorry.  
21 I just knew she was there.

22           BY MR. NANCE:

23           Q     Afterwards, in terms of procedure, for the  
24 benefit of the Court, how long will it take that paperwork,  
25 comes in or sent from the Court, to the putative father

1 that gives the same information? I know the decree is  
2 sent later you said.

3 A Would you repeat the question? I missed  
4 something.

5 Q After that the date that the putative father is  
6 there, you are testifying that you believe that certain  
7 things are supposedly given to him then, right?

8 A Yes.

9 Q But there are papers sent later, one of those is  
10 the copy of the decree.

11 MS. CRANE: Excuse me. For the record, I believe  
12 Mr. Selby testified that that was not done at that  
13 particular time. It was done beginning April of this year.

14 MR. NANCE: Let me hear the witness.

15 MS. CRANE: I think he testified.

16 MR. NANCE: I think this is cross-examination.

17 THE COURT: He testified that an unsigned decree  
18 was given at that time. Is that what you are talking  
19 about?

20 MS. CRANE: And that's all.

21 BY MR. NANCE:

22 Q What papers, if any, are sent to, if I may ask,  
23 after that date to the putative father?

24 THE COURT: I'm sorry, Mr. Nance, after what  
25 date?

1 MR. NANCE: After the date of being in his  
2 department, he says he believes certain papers are given to  
3 the putative father.

4 THE COURT: Right, but I'm sorry, are you talking  
5 --

6 MR. NANCE: After he leaves the examiner, are  
7 there any papers --

8 THE COURT: But we're talking about the time of  
9 Mr. Rodriguez' case? That's my question. Or are you  
10 talking about now?

11 MR. NANCE: We agreed, he can't say what happens  
12 to Mr. Rodriguez.

13 THE COURT: No, the time of Mr. Rodriguez' case.

14 MR. NANCE: Let me withdraw and restate.

15 THE COURT: Okay.

16 BY MR. NANCE:

17 Q Assuming that a person was before an examiner on  
18 March 21st, 1989, and assuming that he left out of there on  
19 March 21st, 1989 --

20 THE COURT: 31st, right?

21 MR. NANCE: Well, she said 31st. I think it's  
22 the 21st, but I would have to look at it.

23 THE COURT: Oh, I just thought it was the 31st,  
24 but it doesn't matter.

25 MR. NANCE: Well, she was adamant about the 31st,

1 and I'm not getting into that.

2 BY MR. NANCE:

3 Q Are there any other papers sent to the putative  
4 father after he leaves out of your office?

5 A Not by Domestic Relations Division.

6 Q Sir?

7 A Not by Domestic Relations Division.

8 Q In your understanding, whether or not --

9 MR. NANCE: Ms. Crane wants me to know, Your  
10 Honor, it is March 31st.

11 THE COURT: Oh, okay. Well, that was the date  
12 that's been used all along.

13 MR. NANCE: I just want you to know that Ms.  
14 Crane wants you to know that.

15 BY MR. NANCE:

16 Q Who sends papers to the putative father after  
17 that in terms of payment?

18 A The Bureau of Support Enforcement ordinarily  
19 would.

20 Q Okay.

21 A But I can't testify that they did.

22 Q Do you have any idea how long right after that he  
23 would receive notice from them that payments are due?

24 A I would not know.

25 Q You would not know that, sir?



1           A     I would not. I could not testify to that.

2           Q     But you would understand and agree that there is  
3 paper that is supposed to come from them in reference to  
4 the case?

5           A     Usually.

6           MR. NANCE: No further questions.

7           THE COURT: Anything else?

8           MS. CRANE: No, Your Honor.

9           THE COURT: Okay. Thank you for coming in. I  
10 appreciate it.

11          THE WITNESS: Sure.

12          MR. NANCE: I'm glad to see that a court employee  
13 is still around after quarter to 5:00, Your Honor.

14          THE COURT: I see lots of them at that hour.  
15 Does anybody have any other testimonial witness type  
16 evidence?

17          MS. CRANE: No, Your Honor.

18          THE COURT: Are you offering Exhibit 8, Ms.  
19 Crane?

20          MS. CRANE: Exhibit --

21          THE COURT: It was offered but you were going to  
22 voir dire and --

23          MS. CRANE: Oh, yes, I am, Your Honor.

24          THE COURT: Any objections?

25          MR. NANCE: Not now.

1 THE COURT: Okay. That will be admitted.  
2 (Plaintiff's Exhibit Number  
3 8, previously marked for  
4 purposes of identification,  
5 was received in evidence.)  
6 THE COURT: Now, are there any documents from the  
7 file, the decree, or anything like that, that's being  
8 offered in this case?  
9 MR. NANCE: I have nothing further to offer.  
10 I've offered my exhibits.  
11 THE COURT: I guess my question is, is the court  
12 file considered evidence?  
13 MR. NANCE: It was never introduced.  
14 MS. CRANE: Your Honor, I would ask that the  
15 court file be admitted.  
16 THE COURT: I haven't looked at it.  
17 MR. NANCE: I have to look through it and pick  
18 out hearsay and whatever if they are entering the court  
19 file.  
20 THE COURT: Well, how about if we just focus on  
21 the relevant documents that you all care about?  
22 MS. CRANE: All right. I would ask --  
23 THE COURT: We have to come back, counsel,  
24 anyway, for argument because we can't do it today. It's  
25 ten of 5:00, and as you may know, I have a serious

1 commitment tonight. I just can't give your arguments the  
2 credit and credence they deserve on such a short -- when  
3 I've got to be where I've got to be.

4 MS. CRANE: I would ask that the paternity decree  
5 itself be admitted into evidence and the waiver be  
6 admitted. I believe that was admitted into evidence.

7 THE COURT: I think that is in evidence, but the  
8 decree is not.

9 MS. CRANE: Okay. And then the decree itself.

10 THE COURT: Any objection to the decree, a copy  
11 or whatever?

12 MR. NANCE: I assume they will be identifying it  
13 from the court file. I have no objection to the decree  
14 being admitted.

15 THE COURT: Okay. You've got to get it marked  
16 and we'll have it copied.

17 (Plaintiff's Exhibit Number  
18 9, was marked for purposes of  
19 identification and received  
20 in evidence.)

21 THE COURT: Let me ask you this, Ms. Crane. In  
22 light of the Court's question, are you interested in Ms.  
23 Blanton coming back to answer if you can say anything in  
24 particular about Mr. Rodriguez' case?

25 MS. CRANE: Your Honor, if the Court wishes Ms.

1 Blanton to come back, she is available here five days a  
2 week. I personally feel that her testimony will not really  
3 shed any greater light. I don't feel that she remembers --

4 THE COURT: No, I'm not interested in prolonging  
5 the agony here.

6 MS. CRANE: Right. There is one other matter  
7 that is important. Mr. Merriman is here again today  
8 because of these test booklets. There was a problem about  
9 admitting them. We admitted them but he really feels  
10 uncomfortable about leaving them in the court file. These  
11 books are used for tests on a regular basis in the State of  
12 Maryland and he is really uncomfortable with them being out  
13 of his possession unless they could, number one, be  
14 returned to him or be kept under lock and key by Your  
15 Honor, or you know, some other such thing. However, I feel  
16 that it is important for Your Honor to peruse those books  
17 to determine the ability of a person to pass a test taking  
18 those particular tests.

19 THE COURT: Well, does the clerk's office have  
20 any means to seal any exhibits? I mean, I think the  
21 concern is a legitimate one.

22 MR. NANCE: Well, the State has to have its cake,  
23 but at that same time, if it wants to take its cake back,  
24 it has to understand that. I told the MVA if it's in there  
25 as an exhibit anybody has a right to review the file, and

1 he's correct.

2 THE COURT: But that's true unless an exhibit is  
3 sealed.

4 MR. NANCE: He wants to, to be honest with you,  
5 he's her witness, and honestly, he wants to take it  
6 completely out and does not want it in the file.

7 THE COURT: Well, that's my question. My  
8 question is can the clerk's office seal exhibits?

9 MR. NANCE: They seal by a piece of scotch tape  
10 and say, by order sealed.

11 THE COURT: Does anybody have any objection to my  
12 holding the exhibits?

13 MS. CRANE: I have no objection to that, Your  
14 Honor.

15 MR. NANCE: Well --

16 THE COURT: In other words, they won't be  
17 necessarily placed in the file. Just like, I could keep  
18 the whole file if I wanted to.

19 MR. NANCE: No, but what I'm saying is what we  
20 have to understand is I have no problem with it being  
21 withdrawn out of the case.

22 MS. CRANE: Well, I do have a problem with it  
23 being withdrawn out of the case.

24 MR. NANCE: Well, you have to make up your mind  
25 on it.

1 MS. CRANE: I have no objection to Her Honor  
2 holding the book. And then I could call Mr. Merriman  
3 Wednesday. They were no longer needed. And I'm asking  
4 the Court to, you know, to accommodate this unusual  
5 situation.

6 MR. NANCE: The problem is that you're talking as  
7 if this is a record kept for the non-ordinary course just  
8 for us folk. And the record has to be preserved for a  
9 reason. And the way we're talking about it doesn't do so.  
10 If she wants to ask of the Court that it be sealed, then  
11 that's between her and the Court and the MVA. But what I'm  
12 saying to you, it is my understanding MVA is not  
13 comfortable with it in the file because there are only two  
14 variations of this test of which my client took the test  
15 three times, going on four. I have no problem with what  
16 the argument is. The argument is going to be the same if  
17 it's there or not. But if she wants you to keep it as an  
18 exhibit and read it, it has to be admitted, period. If she  
19 wants to bring it back --

20 THE COURT: It was admitted already.

21 MR. NANCE: She wants to --

22 MS. CRANE: It was admitted.

23 MR. NANCE: Judge, I object to anything that it  
24 stay in the file. That's all.

25 THE COURT: You object to what?

1           MR. NANCE: I object to any removal of it, then  
2 let it stay in the file, and that's it. That is not what  
3 MVA is asking of you. I have no problem with her asking of  
4 you can it be withdrawn. But for her to say that she wants  
5 to keep it as an exhibit and not keep it as an exhibit.  
6 She specifically asked the witness to read a question into  
7 the record, I thought for the purpose of dealing with one  
8 of the questions and to argue it. But yet, she introduced  
9 it.

10           THE COURT: Well, I don't see any reason why I  
11 cannot keep the exhibit as I would keep the file to use it  
12 for purposes of issuing an opinion or any other matter for  
13 which I might peruse a file in my chambers, in which case  
14 it will be safe from public inspection. The issue is,  
15 following the time when I issue a decision in this case,  
16 the case may well be appealed, and then what happens? Now,  
17 at that point counsel, I would imagine, could agree to make  
18 any arrangements they want.

19           MR. NANCE: Judge, you can say, and with all due  
20 respect to the Court, the Court can say upon request of one  
21 of the parties would you seal this, and that would be the  
22 normal thing to do in this case. I am not quite sure that  
23 the Motor Vehicle Administration, through the State -- and  
24 I don't want to argue for them -- is saying that they don't  
25 feel comfortable even under seal. That's all I'm saying.

1 THE COURT: I understand what that is. But I'm  
2 saying right now it's not an issue because I'll keep it in  
3 my chambers.

4 MR. NANCE: But you cannot, with all due respect  
5 to the Court, you cannot keep something as an exhibit of  
6 the case, use it for the purpose of the case, and then kick  
7 it out.

8 THE COURT: No, that's not what I'm saying. I'm  
9 saying for right now it's not an issue because I can keep  
10 it and it will be safe. Down the road, it can be sealed.

11 MR. NANCE: Six months from now, after this,  
12 anybody has the right to go in the court file.

13 THE COURT: It can remain in my office until it  
14 is ready to be shipped to Annapolis for that matter by the  
15 clerk.

16 MR. NANCE: Well, anybody can go to Annapolis and  
17 read it.

18 THE COURT: But if it's sealed before it's sent  
19 to Annapolis, I don't know that it would --

20 MR. NANCE: Well, all I'm saying to you, Judge --

21 THE COURT: Or what I was going to say, Mr.  
22 Nance, is by agreement, after I have made my ruling, you  
23 all could still agree that it is not something that needs  
24 to be part of the record in Annapolis and could be  
25 returned.



1 MR. NANCE: My problem is, I was trying to  
2 helpful to MVA, and it sounds like the State is making it  
3 more complicated. That's all.

4 THE COURT: I understand. No, but do you  
5 understand what I'm saying? If after I've ruled, you two  
6 could still decide that it does not need to be part of the  
7 record or be part of the record extract when it goes to  
8 Annapolis. Rule 2516 says, "All exhibits marked for  
9 identification, whether or not offered in evidence, and if  
10 offered, whether or not admitted, shall form part of the  
11 record and, unless the Court orders otherwise, shall remain  
12 in the custody of the clerk. With leave of Court, a party  
13 may substitute a photograph or copy for any exhibit."

14 Well, that means, unless the Court otherwise,  
15 which I would order, they will remain with me.

16 MR. NANCE: But that's generally referred --

17 THE COURT: No, that part has nothing to do with  
18 the copy. "All exhibits shall form part of the record and,  
19 unless the Court orders otherwise, shall remain in the  
20 custody of the clerk." So, I could keep it, I think, and  
21 then when it gets transmitted to Annapolis, we can seal it.  
22 Now, I mean, the odds of somebody even knowing what's in  
23 there --

24 MR. NANCE: Judge --

25 THE COURT: Is that a problem? I'm asking you

1 all.

2 MR. NANCE: You and Ms. Crane work it out. I do  
3 have a problem with something being used as an exhibit and  
4 I have to object if you are pulling it completely out and  
5 that we discuss it at a later time. It's not my problem  
6 right now.

7 THE COURT: Well, I'm not pulling it out. I'm  
8 just saying the rule reads that I can order that I keep  
9 custody of it to protect it.

10 MR. NANCE: Well, the poor man has been here for  
11 two days kind of looking out of the corner of his eye  
12 saying, who is looking in the court file. I was just  
13 trying to be helpful.

14 THE COURT: I appreciate that. I'm just telling  
15 you what the rule says. The rule says, "unless the court  
16 orders otherwise, it remains with the clerk." And I'm  
17 ordering that it will stay with me.

18 MS. CRANE: Thank you, Your Honor.

19 THE COURT: Does that resolve it as far as you  
20 and your client are concerned?

21 MS. CRANE: Yes, and you know, I think that as  
22 far as Annapolis is concerned, I'm hoping that, you know,  
23 Your Honor's ruling is such that the parties will be  
24 satisfied with the ruling and that it will not even proceed  
25 beyond that.

1 THE COURT: Well, that's hopeful, but it's not  
2 necessarily the case. I don't know yet.

3 MR. NANCE: That's positive thinking, Judge.

4 THE COURT: You always have to plan ahead,  
5 though, for the worst.

6 MR. NANCE: If there were twins, we could come to  
7 that conclusion.

8 THE COURT: I'm just telling you that if I ruled  
9 and somebody didn't like it, you still could work it out, I  
10 believe, or they will just have to come up with a new test.  
11 Worst things have happened, right? It's probably time to  
12 redo the test anyway.

13 Now, that will be the only exhibit I'm going to  
14 keep, though. The rest the clerk will keep.

15 MS. CRANE: Thank you, Your Honor. Your Honor,  
16 when can we schedule these arguments?

17 THE COURT: Now, it's almost 5:00, incidentally.  
18 Let me suggest the following. I go to civil on -- well,  
19 let me look at next week for a minute. How do you all look  
20 on Tuesday the 19th at about 11:00?

21 MS. CRANE: Tuesday the 19th, is that next week?

22 THE COURT: Yes. Also, Ms. Crane, you had  
23 mentioned you wanted to respond to Mr. Nance's memo.

24 MS. CRANE: I did not do so, Your Honor.

25 THE COURT: Does anybody want to write a post-

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trial memo?

MR. NANCE: I have something already to submit based on that.

THE COURT: Okay. Is the 19th doable for you all?

MR. NANCE: That seems workable for me. I have to check with Mr. Ruiz.

THE COURT: The 19th is a possibility. On the 25th I go to civil, but I specially set a case for the 25th and the 26th.

MS. CRANE: Your Honor, the 19th is not good for me. I am not --

MR. NANCE: Which date is it?

MS. CRANE: The 19th.

THE COURT: The 19th is not good for her.

MR. NANCE: The 25th is workable for me. The 26th is bad for Mr. Ruiz.

THE COURT: The 25th I already put something special in. How long do you all anticipate needing to argue this case?

MR. NANCE: I will say short, but --

THE COURT: What I could do is this.

MR. NANCE: I think I need really about ten or fifteen minutes.

THE COURT: I'm just thinking -- you said the

1 26th would not do for you?

2 MR. NANCE: Mr. Ruiz cannot be here on the 26th.  
3 May I suggest to the Court. I mean, I know the Court has  
4 something to do. If your bailiff can give us some dates,  
5 because it is a four prong setting.

6 THE COURT: Okay. That's fine. You see, before  
7 I get involved in any civil cases that come to me, I  
8 thought if I could get you in early before I --

9 MR. NANCE: If you could give us some dates, I'll  
10 work on it very quickly and get back to you is what I'm  
11 saying.

12 THE COURT: Well, I guess there's late in the day  
13 on the 25th because I could just adjourn that trial if I  
14 had to and take argument from you, if you want to do it  
15 that way. I have the trial already set.

16 MR. NANCE: I'm at the Court's disposal.

17 THE COURT: Pardon?

18 MR. NANCE: I'm at the Court's disposal.

19 THE COURT: How about if we come in, and if  
20 there's a change, I'll have to be in touch. But what about  
21 3:30 on the 25th?

22 MS. CRANE: The only problem is that -- well, I'm  
23 sure we could get one clerk to come in on the 25th. Your  
24 Honor, that would be fine, the 25th.

25 THE COURT: Why don't we do it at 3:30 on the

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25th?

MS. CRANE: Fine.

MR. NANCE: It looks like we are all paddling in the same direction.

THE COURT: Okay. Counsel, what I would ask is if you intend to submit any post-trial memoranda, I would certainly like them by, let's say, realistically to make any use of it, Wednesday the 20th, by the end of the day, otherwise, it's -- we need time to read it and see what you cite. Okay? Otherwise, I'll assume I'm not getting anything. You don't have to submit anything.

3:30 June 25th, Monday, for argument. The Court stands adjourned.

MS. CRANE: Thank you, Your Honor.

MR. NANCE: Thank you, Judge.

THE CLERK: All rise. This court now stands adjourned.

(The trial was recessed at 5:03 p.m.)

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REPORTER'S CERTIFICATE

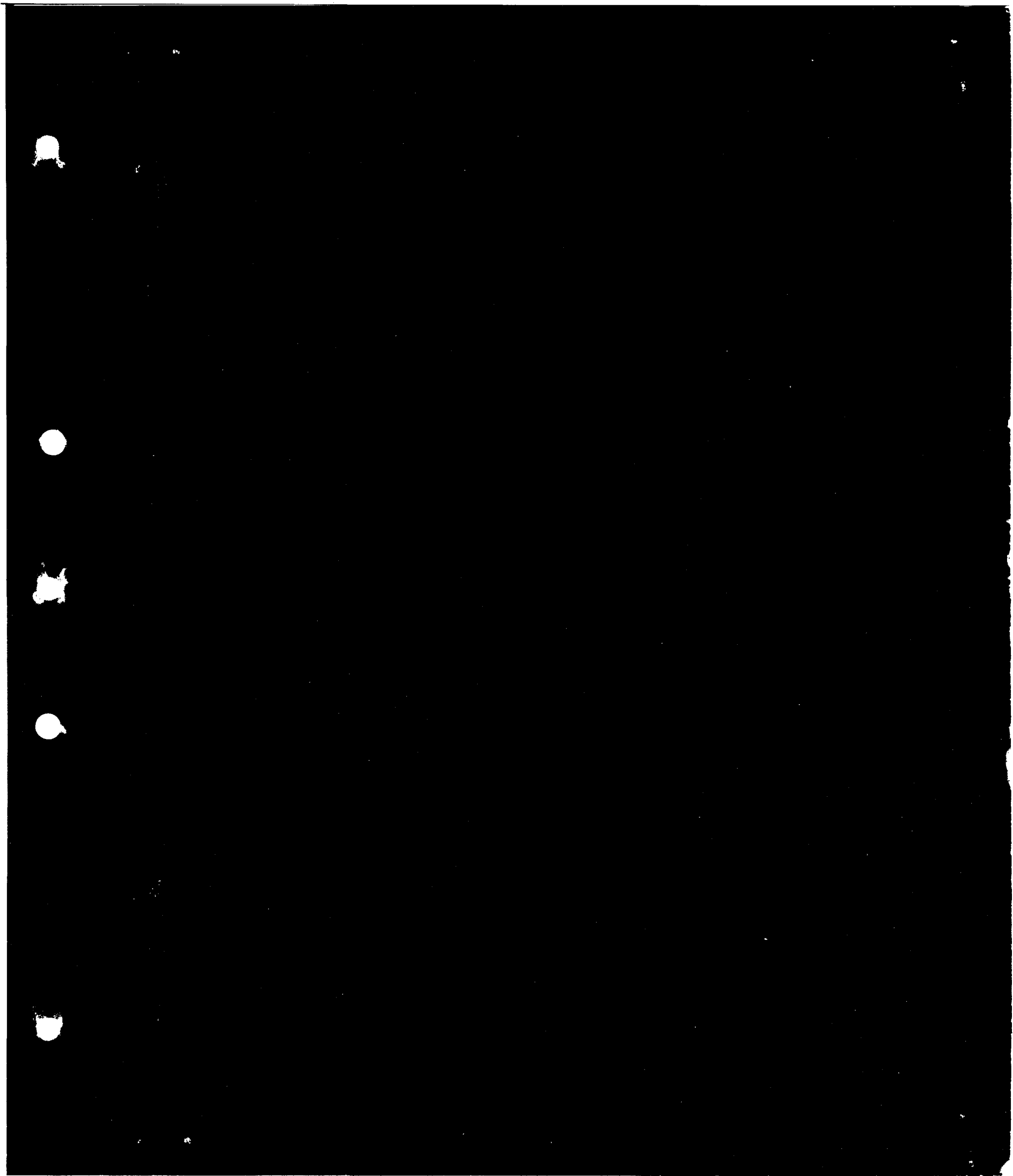
I, Brenda D. Trowbridge, an Official Court Reporter of the Supreme Bench of Baltimore City, do hereby certify that I stenographically recorded the proceedings in the matter of Francina Arrington versus José Dejesus Rodriguez, in the Circuit Court of Baltimore City, Case No. PD70-119070, on June 12, 1990, before the Honorable Ellen Hollander, Judge.

I further certify that the page numbers one through 142 constitute the official transcript of the proceedings as transcribed by me from my stenographic notes to the within typewritten matter in a complete and accurate manner.

In Witness Whereof, I have affixed my signature this *24<sup>th</sup>* day of *November* 1990.

*Brenda D. Trowbridge*

BRENDA D. TROWBRIDGE  
Official Court Reporter





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FRANCINA ARRINGTON,	:	IN THE
Plaintiff	:	CIRCUIT COURT
VS.	:	FOR
JOSE RODRIGUEZ,	:	BALTIMORE CITY
Defendant	:	Case No.:

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June 1, 1990

Baltimore, Maryland

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS

BEFORE:

THE HONORABLE ELLEN HOLLANDER, JUDGE

APPEARANCES:

On behalf of the Plaintiff:

Sandra Crane, Assistant State's Attorney

On behalf of the Defendant:

Alfred Nance, Esquire

REPORTED BY:

LISA K. BANKINS  
OFFICIAL COURT REPORTER

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T A B L E O F C O N T E N T S

WITNESSES ON BEHALF OF THE DEFENSE:

	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>
Jose Rodriguez	3	11	27	34
Joseph Selby	35	42	44	

WITNESS ON BEHALF OF THE PLAINTIFF:

Paul Merryman	46	52		
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P R O C E E D I N G S

1  
2 MS. CRANE: Your Honor, for the record, good  
3 afternoon. I'm Sandra Crane, Assistant State's  
4 Attorney for Francina Arrington. I'll be happy to  
5 call the case. This is Francina Arrington vs. Jose  
6 Rodriguez.

7 MR. NANCE: For the record, Your Honor,  
8 Alfred Nance, on behalf of the movant, Jose Rodriguez.  
9 The court interpreter, Mr. Ruez, is present in court.

10 THE COURT: He's the court interpreter.  
11 Okay. You were in the middle of your direct, were you  
12 not?

13 MR. NANCE: Yes, I was.

14 DIRECT EXAMINATION

15 BY MR. NANCE:

16 Q. As I recall, the last question I asked you,  
17 Mr. Rodriguez, was whether anyone spoke to you in  
18 Spanish on the date in question?

19 MS. CRANE: Excuse me. Just for the record,  
20 do you mean the date, do you mean at the Domestic  
21 Relations Division?

22 MR. NANCE: I went back to the last question  
23 that was on the record and it is the date at the  
24 Domestic Relations.

25 THE COURT: So that's what we are talking

1 about. Just so we understand.

2 A. No.

3 Q. Did anyone attempt to speak to you in Spanish  
4 or to explain anything to you in Spanish?

5 A. No.

6 Q. Would you tell the Court --

7 THE COURT: I'm sorry. Just to follow-up,  
8 did you ask for anybody to speak to you in Spanish?

9 THE WITNESS: No, I did not.

10 MR. NANCE: With the Court's permission?

11 THE COURT: Sure.

12 Q. What, if anything, was said to you about  
13 having a blood test? Do you recall anything about  
14 that?

15 A. No one said anything to me.

16 Q. What was said to you about having a trial or  
17 court hearing, if you recall?

18 A. I do not remember.

19 Q. Do you remember anything being discussed at  
20 all about it?

21 A. No.

22 THE COURT: Wait. I'm sorry. I got lost on  
23 that.

24 MR. NANCE: He says he has no recollection.

25 THE COURT: No recollection. Not that he did

1 or didn't, but no recollection. Just can't remember.

2 MR. NANCE: That's what he said. He didn't  
3 remember. Not to interpret the interpreter.

4 Q. What was said to you, if anything, about  
5 having a lawyer present?

6 A. No. They did not once say that to me.

7 Q. This was in March of 1989. When is the next  
8 time that you heard anything else about Ms. Arrington  
9 saying you were the father of her child? I'm sorry.  
10 Excuse me. I'll withdraw the question. I'll go to  
11 the next step. What is the next thing you recall  
12 happening at all in reference to this case?

13 A. The next time I heard about this was in  
14 November or December when a paper got to me. A paper  
15 saying that, a letter came to my house saying that I  
16 have to, a letter saying that there was something like  
17 a lien on taxes.

18 Q. How did you know --

19 MS. CRANE: Excuse me, Your Honor. If I  
20 could request, could I please ask Mr. Rodriguez to  
21 speak up because, you know, there are people in the  
22 courtroom who do understand Spanish and if we could  
23 hear his answer as well as the interpreter as well.

24 MR. NANCE: All of them are with us.

25 THE COURT: I'm not one of the ones speaking

1 Spanish so I wouldn't know if he was or wasn't.

2 MS. CRANE: I would like to hear his answer.

3 THE COURT: I don't have any reason to  
4 believe that Mr. Ruez is not translating it.

5 MS. CRANE: I agree. I don't either. But I  
6 would prefer to hear him say something.

7 Q. Mr. Rodriguez, keep your voice up.

8 A. Okay.

9 Q. When this letter came in November or  
10 December, how did you know what was in the letter?

11 A. My wife read it. But she did not understand  
12 anything that was in there. Then we called over my  
13 brother.

14 Q. And what's your brother's name?

15 A. His name is Damon Torres. First name,  
16 D-a-m-o-n. Last name, T-o-r-r-e-s.

17 THE COURT: What was the first letter, Mr.  
18 Ruez?

19 THE INTERPRETER: Of the last name?

20 THE COURT: Yes.

21 THE INTERPRETER: T as in Texas.

22 Q. After you spoke to your brother, what, if  
23 anything, occurred?

24 A. He referred me to friends. He said a  
25 sister -- a correction by the witness. A lady lawyer

1 that speaks Spanish.

2 Q. And who was that?

3 A. Her name is Carrion, C-a-r-r-i-o-n.

4 Q. And when was this? Is this still in  
5 November?

6 A. That was around November or December.

7 Q. And did you speak to Ms. Carrion?

8 A. Well, my wife called her and she was the one  
9 that referred us to Mr. Nance.

10 Q. Now what happened after you contacted me or  
11 my office?

12 A. He told me that I had the right to appear  
13 here in court.

14 Q. Was that the first time you knew you had a  
15 right to be in court on the issue of whether or not  
16 you were the father?

17 A. That was the first time. But I do not  
18 believe that I am her father.

19 Q. When was the first time you heard of a blood  
20 test?

21 A. He says after I was here with him.

22 Q. Who is him?

23 A. Oh, Mr. Nance. But I do want to have a blood  
24 test.

25 Q. Now this was the first time. It was in

1 November or December; is that right?

2 A. I do not recall that.

3 Q. Okay. Now where are you employed?

4 A. At the present time, I don't work any place.

5 Q. What is your occupation?

6 A. A mechanic.

7 Q. Now are you studying now something to get a  
8 job or are you trying to get a job?

9 A. Well, I was going to school to become a  
10 tractor trailer driver.

11 Q. How do you study to be a tractor trailer  
12 driver?

13 A. Well, they give one a book and one has to  
14 study.

15 Q. How do you study the book?

16 A. The book, I take it home and my wife helps me  
17 study it.

18 Q. How does she do that?

19 A. She reads it in English and tells me in  
20 Spanish.

21 Q. How often does she do this for him?

22 A. Every day.

23 Q. Are you studying English?

24 A. At the present time, I am not. But whenever  
25 I see a word whose meaning I do not understand, we



1 look in the dictionary.

2 Q. And what happens when you look in the  
3 dictionary? What does your wife do?

4 A. Well, that's the way I learn it.

5 Q. Now --

6 THE COURT: Excuse me, Mr. Nance.

7 (Pause.)

8 MR. NANCE: I would ask that the letter from  
9 the State of Maryland, Department of Human Resources,  
10 the Child Support Enforcement Administration Tax  
11 Refund Intercept Program dated November 20, 1989 be  
12 marked as Movant's or Defendant's, I think it's  
13 Defendant's Number 2?

14 THE COURT: I believe.

15 MR. NANCE: I ask that it be introduced.

16 THE COURT: Any objection?

17 MS. CRANE: No, Your Honor.

18 Q. Mr. Rodriguez, do you have a driver's  
19 license?

20 A. Yes.

21 Q. When did you first get a driver's license?

22 A. The first time was in '72.

23 Q. Where?

24 A. In New York.

25 Q. And was the test in Spanish or English?

1           A.    In Spanish.  Yes.

2           Q.    And when you came to Maryland, did you get a  
3 Maryland driver's license?

4           A.    Yes.

5           Q.    When was that?

6           A.    It has been now two years when I got it.

7           Q.    That's when you first got a Maryland license?

8           A.    Yes.

9           Q.    And how many times did it take you to take  
10 the test -- strike that.  Did you take that in Spanish  
11 or English?

12          A.    We took it in English.

13          Q.    And how many times did you take that test?

14          A.    I took it about three times.

15          Q.    How did you study for that test?

16          A.    Well, my wife also was helping me to study.

17          Q.    How did she do that?

18          A.    She read it in English whenever he could  
19 understand it.  At work, they would look at it on a  
20 dictionary.

21          Q.    Did she read it to you in English or Spanish?

22          A.    In both.

23                MR. NANCE:  I have no further questions at  
24 this time.

25                THE COURT:  Cross-examination.



1 she remain when you went into the hearing?

2 A. She did not come. She stayed outside in the  
3 hallway.

4 Q. When you went into the hearing, did you ever  
5 say to the hearing examiner that you did not  
6 understand?

7 A. No. I do not remember that.

8 Q. And did you ever say to the hearing  
9 examiner --

10 MR. NANCE: If I may, I would like to object  
11 for the record. It's our contention it's not his  
12 burden to so put him on notice of his lack of  
13 understanding. But so that the record is clear.

14 THE COURT: That's a legal issue, correct?

15 MS. CRANE: If I could, I would like to draw  
16 Mr. Nance's attention to the Family Law Article 5,  
17 Section 1013, in which the Law Article states that any  
18 person who has knowledge of a party's legal disability  
19 shall advise the Court of that disability and so I  
20 feel that, you know, this would be his obligation.

21 MR. NANCE: We would be glad to argue that at  
22 the appropriate time and we so cite that which means  
23 the burden is on the State as well as state personnel  
24 to do so and that's what that means and not upon the  
25 party who is illiterate and incapable of

1 understanding. I'm not sure if it's Ms. Crane's  
2 understanding that this is our contention of the case.

3 THE COURT: On those grounds that you  
4 articulated, Mr. Nance, I'm going to overrule the  
5 objection.

6 Q. All right, sir. So you did not tell anyone  
7 in that room that you did not understand?

8 MR. NANCE: Objection. The testimony was  
9 that he does not recall that being discussed.

10 THE COURT: Well, it's an important point.

11 MR. NANCE: I'm objecting to the statement as  
12 if he said an answer that he did not say.

13 THE COURT: His answer is as I recall was I  
14 don't remember if I said that or not. I think it's  
15 certainly a line of inquiry that I'm going to let her  
16 pursue.

17 MR. NANCE: I have no problem with that. I  
18 don't want her to misstate what the witness said.

19 Q. Sir, did you say to Ms. Blanton, my wife is  
20 in the hall and I need help in understanding what  
21 you're telling me?

22 A. No. I did not say that to her. I did not  
23 want --

24 MR. NANCE: I want to object. Objection.

25 THE COURT: I want to hear the answer.

1           A.    I did not want her to come in --

2           THE COURT:  I didn't want her to do what?

3           A.    I did not want her to come in because I  
4           thought that would be something that would embarrass  
5           her and I did not want that.

6           Q.    But she accompanied you; isn't that correct?

7           MR. NANCE:  Objection.  It becomes  
8           argumentative.

9           THE COURT:  Overruled.

10          A.    Yes.  She came along with me, but she did not  
11          go inside.

12          Q.    To continue.  You had testified the last time  
13          that we were altogether that you knew what the case  
14          was about; isn't that correct?

15          MR. NANCE:  Objection.  That is not what he  
16          said.  The testimony was with all due respect, the  
17          testimony was he received a letter and my wife said I  
18          had to go down to the court.  He --

19          MS. CRANE:  That's not what I was referring  
20          to.

21          THE COURT:  Counsel, let's not argue.

22          MS. CRANE:  Your Honor, I was referring to  
23          the question that Mr. Nance asked Mr. Rodriguez when  
24          he said that, when Mr. Rodriguez answered -- I can't  
25          recall the question.  But the answer was that Ms.

1 Arrington had told him that he was the father of the  
2 child.

3 THE COURT: I think I asked those questions.

4 MS. CRANE: You might have asked it. But he  
5 replied that he knew why he was coming.

6 MR. NANCE: He said that she claimed --

7 THE COURT: Let's put it this way --

8 MR. NANCE: She's putting several questions  
9 together. If she wants to state something as if he  
10 said it, she must say exactly what he said. He said  
11 later on in the questioning that she claimed that he  
12 was the father of her child. That was part of a  
13 question. But that has nothing to do with the contact  
14 or the letter.

15 MS. CRANE: Let me ask the question.

16 THE COURT: You can, Ms. Crane. First of  
17 all, the last hearing was May 24th. None of us has a  
18 transcript. We are all working by our notes. The  
19 record is going to speak for itself of what he said  
20 and what he didn't say. This is certainly an  
21 appropriate line of inquiry. You can pose it. Why  
22 don't you try avoiding putting in the words that  
23 suggest he actually said it. Just ask the question.

24 Q. All right, sir. How did you know what the  
25 hearing was about?

1           A.    My wife told me.

2           Q.    Did Ms. Arrington ever tell you that she  
3 believed that you were the father of her child?

4           A.    Yes.  She says that, but I don't believe it.

5           Q.    And in what language did she tell you that?

6           A.    In her language.  She speaks English.  But I  
7 understand some English.  Not everything.

8           Q.    I see.  So you understand certain words; is  
9 that correct, sir?

10          A.    Yes.

11          Q.    Like you understand the word baby; is that  
12 correct?

13          A.    Yes.

14          Q.    Father?

15          A.    Also right.

16          Q.    Attorney?

17          A.    Well, that word I learned it after I have  
18 been involved in this thing here.

19                THE COURT:  How about lawyer?

20                THE WITNESS:  Also with this.

21          Q.    You're a mechanic, sir; is that correct?

22          A.    Yes.

23          Q.    Did you know the word blood?

24                MR. NANCE:  I will object.  I don't know how  
25 blood gets into being a mechanic unless he's a



1 mechanical doctor.

2 MS. CRANE: Injuries.

3 THE COURT: Okay. Go ahead.

4 A. Yes. I know.

5 Q. Isn't it true that the only issue that you  
6 raised to the hearing analyst was over the amount of  
7 support for this child?

8 MR. NANCE: I object to the term raising an  
9 issue. The question becomes as to based on his  
10 understanding to raise an argument and to contest,  
11 which is what this hearing is about. If the question  
12 is that it's the only thing that he discussed that he  
13 understood was money, then maybe the question is  
14 inappropriate. The question to this particular  
15 witness contrary to an English-speaking professional  
16 witness is confusing and takes for granted the fact he  
17 may be saying something else. If the question is  
18 whether or not there's a discussion of money, I have  
19 to object. So that that question can be put before  
20 him to understand. But raising an issue in a  
21 procedural due process hearing is what this is about  
22 and the witness is saying he did not understand what  
23 was happening.

24 THE COURT: Well, of course, if that's what  
25 he discussed and was concerned about, it might show

1           that he did understand.

2                   MR. NANCE: All I'm objecting to is, I'm  
3           objecting to the question because it takes in  
4           consideration as fact that which was not happening and  
5           as fact, the question poses that he understood and was  
6           capable of raising issues.

7                   MS. CRANE: Excuse me, Your Honor. I think  
8           that the record will reflect that we will produce a  
9           witness that will show from records kept in the  
10          ordinary course of business that that was a matter of  
11          conflict between the parties, the amount of support.

12                   MR. NANCE: I have no problem with another  
13          witness testifying. I have a problem with her putting  
14          words in this man's mouth. What she's doing is  
15          assuming facts not in evidence.

16                   THE COURT: The question, raised an issue,  
17          may not be the best way to put it. But if you can  
18          think of another way, I'm going to overrule the  
19          objection. You want to try to rephrase it?

20                   MS. CRANE: I can try to rephrase it, Your  
21          Honor.

22                   THE COURT: How about asking him if he  
23          questioned the amount of the support?

24                   Q. Did you question the amount of support that  
25          Ms. Arrington wanted?

1           A.    Well, I refused to give her money because I  
2 was not working and I'm still out of work. I also  
3 have my children to support and my wife.

4           Q.    But did you ever say why should I give money  
5 when I'm not the father of your child?

6           A.    When the letter got there, that's when we  
7 started giving her money. My wife used to send the  
8 money to avert problems.

9           THE COURT: I didn't understand the answer to  
10 be responsive to the question.

11          MS. CRANE: I agree, Your Honor.

12          MR. NANCE: He may not understand the  
13 question.

14          THE COURT: Let's try again.

15          MR. NANCE: All we're doing is getting the  
16 answer that he's giving.

17          THE COURT: That's why I think he was  
18 confused. Go ahead.

19          Q.    Let me try that again, Mr. Rodriguez. When  
20 you were present in the Domestic Relations and you  
21 finally came to an agreement regarding the amount of  
22 money --

23          THE COURT: Well, why don't you ask him if he  
24 did come to an agreement?

25          Q.    Did you come to an agreement regarding the

1 amount of money?

2 A. Yes. I told them I would give \$25.00.

3 Q. Did it occur to you to say why should I  
4 support a child that is not mine?

5 A. No. It did not occur to me because I was a  
6 bit confused.

7 Q. Sir, what school did you enroll in to study  
8 to drive a tractor trailer?

9 A. At the Diesel Institute.

10 Q. And how often did you go to class?

11 A. Every Sunday. The witness says every  
12 weekend. Saturdays and Sundays.

13 Q. What language were the classes conducted in?

14 A. In English.

15 Q. I'm going to show you these books right now,  
16 sir. Do these books look familiar to you, Mr.  
17 Rodriguez?

18 A. Yeah. They look familiar.

19 Q. Can you tell us what these books are?

20 A. Those are the answers for the commercial  
21 license and also for the permit of the commercial  
22 license.

23 Q. They're the questions, aren't they, sir?

24 MR. NANCE: Objection. She wants to argue at  
25 this point. He thinks it's the answers. He may not

1 be able to give her the answer she wants.

2 THE COURT: This is cross-examination. I  
3 think it's appropriate for her to ask him.

4 MR. NANCE: All I'm saying with this  
5 particular case --

6 MS. CRANE: I'd ask that they be marked for  
7 identification.

8 THE COURT: I don't know what they are.

9 MR. NANCE: I'm only making a point for the  
10 record and the point is is that he's saying they're  
11 the answers when she is asking a question. Obviously,  
12 she is arguing the point.

13 Q. And, sir, now I'm going to show you these.  
14 Do these look familiar to you, sir?

15 A. These are the questions that I answered.

16 Q. These are the answers; is that correct?

17 MR. NANCE: Objection. If she's going to ask  
18 him, we have to take his answer.

19 THE COURT: It's a fair question. This is  
20 cross-examination.

21 MR. NANCE: I think she's trying to --

22 MS. CRANE: Your Honor, I am trying.

23 THE COURT: I don't have a problem with the  
24 question.

25 Q. And that's your signature; is that correct?

1 A. Sure.

2 Q. And these are the answer sheets that they  
3 prepared, correct?

4 A. Yes.

5 Q. And you passed these examinations, didn't  
6 you?

7 A. Yes.

8 Q. What language are these books that these  
9 questions are written? In what language?

10 A. Those questions are made in English.

11 MS. CRANE: I ask that these --

12 A. Beyond my wife helping me to study them by  
13 means of the dictionary for me to get to know them and  
14 then I passed.

15 MS. CRANE: I would ask that answer sheet be  
16 marked to be admitted into evidence.

17 THE COURT: Any objection?

18 MR. NANCE: No, Your Honor.

19 THE COURT: What are they numbered?

20 MR. NANCE: I would for the record object as  
21 to relevance and immateriality as to the matter  
22 presently before the Court.

23 THE COURT: Well, they are just being offered  
24 and therefore, relevant, I assume, on the question of  
25 his knowledge of his English, which is very material.

1 MR. NANCE: Your Honor, are any of them March  
2 of '89?

3 THE COURT: They don't have a date. Yes.  
4 Excuse me. Today's date. 2-20-90, 2-22-90, 2-21-90.

5 MR. NANCE: And the matter before the Court  
6 is his knowledge of English on March 3, '89.

7 THE COURT: I think it's certainly relevant  
8 on that. It may not be as helpful as something that  
9 occurred prior to March of '89. But it's still, it's  
10 still 11 months. I can't rule it out as being  
11 entirely irrelevant.

12 Q. Sir, was a person permitted to accompany you  
13 to the test to help you to understand English when you  
14 took this test?

15 A. No. That is not --

16 THE COURT: I'm listening.

17 A. -- that is not permitted anywhere.

18 THE COURT: Can I just ask another question?  
19 What's been marked as Plaintiff's Exhibit for, I think  
20 these are I.D. only at the moment, 1, 2 and 3, the  
21 questions. Are these the actual tests that were given  
22 to Mr. Rodriguez?

23 MS. CRANE: Yes.

24 THE COURT: And these were tests that he took  
25 in February of 1990?

1 MS. CRANE: Yes.

2 THE COURT: And did Mr. Rodriguez have the  
3 exact test questions in advance of the time that he  
4 actually took the test?

5 MS. CRANE: We had read in a book entitled  
6 Commercial Driving License, the new one that they have  
7 nowadays.

8 Your Honor, for the Court's edification, Mr.  
9 Paul Merryman is here from the Driver's License  
10 Examination Bureau. These tests are really not to be  
11 out of his presence. If they are admitted into the  
12 court file, he would need a receipt for them because  
13 they are the tests that are given. They are never  
14 taken out of the Motor Vehicles Administration.

15 MR. NANCE: I have to object to all of that.  
16 If she doesn't want to introduce those, fine. If she  
17 wants to make an argument or testify, then that has to  
18 be introduced. He reads from the book. Now if Ms.  
19 Crane wants to make a speech, the time is later on.

20 THE COURT: I understood it to be by way of  
21 proffer.

22 MR. NANCE: I don't think so. I think she is  
23 taking a cheap shot. He can't look at that answer  
24 sheet and tell you --

25 THE COURT: Let me tell you something. It's



1 an important case to everyone. It's interesting. But  
2 you all have to get along a litte bit.

3 MR. NANCE: I'm moving on. He can't look at  
4 that and tell you from the answers, from the answer  
5 sheet what it is. The introduction of that is through  
6 him. All he can say is that's an answer sheet and  
7 that's a question book. What she's doing through him  
8 is trying to say now, offer a proffer that has nothing  
9 to do with anything before in terms of his answer.  
10 His answer is I study from a book. Her proffer is if  
11 that is what he studies the night before, if we try --

12 THE COURT: No. Her answer was simply  
13 that --

14 MS. CRANE: Your Honor, I withdraw everything  
15 I said.

16 THE COURT: -- she was going to have problems  
17 with me keeping these documents. That's what I  
18 understood.

19 MR. NANCE: But the man would say what they  
20 do all the time. It's just like saying --

21 THE COURT: Mr. Nance, let's move on. We'll  
22 hear what that witness has to say. But this is an  
23 important line of inquiry and I mean I think that this  
24 is important and I have a couple of other questions  
25 about it. But I need to know did I understand then

1 Mr. Rodriguez to say he did not have these questions  
2 themselves from which to study?

3 THE WITNESS: Yes. We studied them. My wife  
4 and I, we took them from the book.

5 THE COURT: But did he have these tests  
6 themselves on which these very questions were asked in  
7 advance of the test?

8 THE WITNESS: The test, no.

9 THE COURT: He didn't know before he took the  
10 test what would be asked of him?

11 THE WITNESS: No. I did not know the  
12 questions about what was going to be the questions  
13 that were going to be made.

14 THE COURT: And for the record, I'm referring  
15 to Plaintiff's Exhibits 1, 2 and 3 for identification,  
16 okay, well, then marked for identification.

17 MS. CRANE: I would ask that they be  
18 admitted.

19 MR. NANCE: Objection.

20 THE COURT: I think you need the witness from  
21 MVA.

22 MS. CRANE: I have no further questions.

23 MR. NANCE: I have a couple, if I may.

24 THE COURT: Certainly.

25 REDIRECT EXAMINATION

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BY MR. NANCE:

Q. Mr. Rodriguez, would you tell the Court what the phrase procedural due process means to you?

MS. CRANE: I object, Your Honor.

MR. NANCE: We're testing his English and testing his knowledge of terminology.

THE COURT: All right, Mr. Nance. Wait a minute. Wait a minute. You can ask that question of people born and bred in the United States and they might have understood English, but wouldn't know what procedural due process meant. That is a term of art. Now what difference does it make whether he knows what procedural due process means, even if he was absolutely fluent. There are lawyers who can't answer that question.

MR. NANCE: I hope not. If the Court understands that point, I'll move on.

THE COURT: Move on.

Q. Would you tell us in which test given to you by the driving school any questions that dealt with blood test in comparisons of parents?

A. No.

Q. Would you tell the Court where in any test that you had that at the driver school or MVA that discussed going to court to protect your rights as

1 a --

2 MS. CRANE: Your Honor, I'm going to object  
3 to this.

4 MR. NANCE: This is the bottom line. If  
5 we're going to use a driving test and him taking a  
6 test to say that he understood what the procedure was  
7 to contest being named the father of this child, we  
8 must then take that test and put it in focus with what  
9 we're --

10 THE COURT: Well, I don't think that the  
11 purpose of the test was for that reason. The purpose  
12 of the test was just to show the extent to which, if  
13 any, he could speak or understand English. But I'm  
14 going to overrule Ms. Crane's objection.

15 Q. Did you understand the last question?

16 THE INTERPRETER: I haven't put it to him.

17 MR. NANCE: I'll withdraw and restate.

18 Q. Would you tell us where in a book on or in  
19 the test given to you by the driver school or MVA,  
20 there is any discussion of your coming to court and  
21 being able to question whether or not you're the  
22 father of a child?

23 A. No. No. That doesn't say that. It is not  
24 said there.

25 Q. Sir, at home, what language is spoken in your

1 home?

2 A. Well, we speak Spanish in our home.

3 MR. NANCE: I have no further questions.

4 THE COURT: Any recross?

5 MS. CRANE: No, Your Honor.

6 THE COURT: I do have a few questions. Mr.  
7 Rodriguez, you mentioned that your wife was in the  
8 hall when you went to Domestic Relations?

9 THE DEFENDANT: Yes.

10 THE COURT: How far away in distance was she  
11 from where you were?

12 THE DEFENDANT: She was about some 30 feet.

13 THE COURT: Did you ever ask to go out and  
14 speak with her?

15 THE DEFENDANT: No.

16 THE COURT: Did you actually read the form  
17 that has been introduced by your attorney in evidence?  
18 Let me show it to you so he knows which one.

19 MS. CRANE: Would the Court specify a date in  
20 time?

21 THE COURT: Yes. It's Defendant's Exhibit  
22 Number 1. I'm referring to the Domestic Relations  
23 hearing. On the day of the hearing, at the Domestic  
24 Relations court. This one.

25 THE DEFENDANT: I read it. But I did not

1 understand what it said.

2 THE COURT: Did you ever tell anyone in the  
3 Domestic Relations Division that you didn't understand  
4 it?

5 THE DEFENDANT: No. I did not tell them that  
6 I could not understand. She told me to sign it and I  
7 signed it in two places.

8 THE COURT: Did you ask any questions at that  
9 time?

10 THE DEFENDANT: No. I did not ask anything.

11 THE COURT: Why not?

12 THE DEFENDANT: Well, because I did not know  
13 what this have to do -- I knew that she wanted money,  
14 but that was all.

15 THE COURT: Counsel, let me just share with  
16 you what I propose to ask in case you think it's  
17 irrelevant. I'll tell you why I want him to answer  
18 it. I do want to know whether they had sexual  
19 relations because I think that's relevant on what he  
20 knew or would have known as to why he was there.

21 MR. NANCE: I do object to the question, if  
22 Your Honor please, because the question of whether or  
23 not they had sexual contact is separate and apart from  
24 the notice, question and knowledge as to the hearing.  
25 The mere fact that one has had sex or an encounter

1 with someone is separate and apart from whether or not  
2 the person claims or objects to being named as the  
3 father.

4 THE COURT: Well, of course the point is only  
5 that it seems to me the relevance of the question of  
6 whether he really did understand why he was there. He  
7 is claiming that he didn't understand.

8 MR. NANCE: We will stipulate to the Court,  
9 as I did before, is that there may have been  
10 circumstances where they had sex once or twice. Now  
11 the point is, the point is whether that goes to the  
12 question before the Court as to paternity. There are  
13 cases where the woman has had sex with several  
14 persons. That has nothing to do with in fact a  
15 question as to whether or not he automatically  
16 believes he's the father of the child. So in terms of  
17 copulation, it is immaterial to the case and the  
18 question before you. I will tell the Court, as we  
19 pointed out before, is that the State in its  
20 memorandum refers to them living together and the  
21 State admits that that's a falsehood.

22 THE COURT: Well, yes. You mentioned that  
23 before. But for purposes of the hearing, I need  
24 only -- it seems to me, I don't care how frequently.  
25 That is not the issue to me. If he were denying it,

1 any sexual relations at all, that would put a  
2 different light on what he may have understood or not  
3 understood as to why he was there.

4 MR. NANCE: I don't mean to take this to the  
5 basis of the question. A man wanting to get with a  
6 woman is a separate understanding other than legal due  
7 process and what he -- I mean we've heard kids in  
8 third grade saying things in French when they didn't  
9 speak a word of French or understand French.

10 THE COURT: If they had no relations at all,  
11 it would have been, I think it puts a different cast  
12 on --

13 MR. NANCE: I will again stipulate that he  
14 will admit to having sex with her at least once. I  
15 don't think much English or Spanish was discussed.

16 THE COURT: -- whether that may or may not  
17 have taken place whether as to any reason why he would  
18 have understood why he was in court in the Domestic  
19 Relations Division that day. Let me just see if I had  
20 anything else I wanted to ask.

21 Sir, did anybody prevent you from leaving the  
22 hearing with the Domestic Relations people on that day  
23 when you signed the notice?

24 MR. NANCE: Objection to the question.

25 THE COURT: Grounds?



1 MR. NANCE: It implies that he knew that he  
2 could leave.

3 THE COURT: Well, I am going to overrule the  
4 objection.

5 THE DEFENDANT: No one held me.

6 THE COURT: I have nothing else. Does anyone  
7 have any questions or --

8 MR. NANCE: Two quick questions. Three,  
9 really.

10 REDIRECT EXAMINATION

11 BY MR. NANCE:

12 Q. Mr. Rodriguez, your wife was angry with you  
13 when she was in the hall, was she not?

14 A. Yes.

15 Q. And when you came down here together, you  
16 hardly spoke; is that correct?

17 A. Yes.

18 Q. And she came with you to show you where the  
19 courthouse was; is that correct?

20 A. Yes.

21 Q. Now who wrote the checks that were sent in  
22 this case or who made the payments?

23 MS. CRANE: I object. It's just not  
24 relevant. It doesn't matter who made them, who signed  
25 the check.

1 THE COURT: Overruled.

2 A. She did. She made the payments.

3 MR. NANCE: I have no further questions.

4 THE COURT: Any recross?

5 MS. CRANE: Just one.

6 RECROSS-EXAMINATION

7 BY MS. CRANE:

8 Q. Your wife made the payments at your  
9 instruction; isn't that correct?

10 A. She did it because she knows we have to send  
11 money to her to avert problems.

12 Q. She knew that you had to send money; isn't  
13 that correct?

14 A. Yes. She knew after the letters got there.

15 MS. CRANE: No further questions.

16 MR. NANCE: No questions.

17 THE COURT: All right, sir. You can step  
18 down.

19 JOSEPH SELBY,

20 a witness, called by the defendant, was duly sworn and  
21 testified as follows:

22 THE CLERK: Give me your name and assignment.

23 THE WITNESS: Joseph Selby, Administrator.

24 Domestic Relations Division, Circuit Court for  
25 Baltimore City.



1 is part of whether it's there for an understanding to  
2 do it and especially, in light of this case and  
3 circumstances of this case.

4 THE COURT: Well, I guess my sense about this  
5 case is that the Court ought to allow you some  
6 latitude to make the record you think is necessary to  
7 be made in case, there's an appellate decision to be  
8 made in this case. I suppose, frankly, just from the  
9 research that I have done since we last met, I even  
10 understand what this due process issue is all about.  
11 With all due, so to speak, respect, Mr. Nance, if you  
12 think there is a viable issue there, I'll try to let  
13 you make the record.

14 MR. NANCE: Thank you.

15 Q. Sir, would you tell us how many employees are  
16 employed by the Domestic Relations Division?

17 A. 31.

18 Q. And how many of them deal directly with  
19 client, the client community or putative fathers?

20 A. If you are asking me how many examiners we  
21 have --

22 Q. Yes, sir. If that's the term of art used for  
23 the job title, yes, sir.

24 A. If the question is the number of people who  
25 handle the paternity establishment process, there are

1 four.

2 Q. There are four. Would you tell the Court how  
3 many cases were received and held before those four  
4 examiners in the year 1989 total?

5 A. Referrals, approximately 11,000. Held  
6 probably 7,000 hearings within its establishment of  
7 the proximity of 5,000 lawyers.

8 Q. So help me. Does that mean that there are a  
9 total of 18,000 cases?

10 A. No.

11 Q. Total of 11,000 referrals.

12 A. 11,000 referrals. That is, people being  
13 referred to us.

14 Q. And how many of them are resolved by the four  
15 persons?

16 MS. CRANE: Asked and answered.

17 THE COURT: 5,000 have orders established?

18 THE WITNESS: Approximately.

19 THE COURT: I want to make sure that we  
20 understand.

21 Q. Now that under the 11,000, what does that  
22 average out that each examiner hears in a year?

23 A. We really don't do it as an average. If we  
24 have 5,000 orders with four people generally hearing  
25 in the year 1989, there were probably five people

1 hearing because the administrator does hear cases on  
2 occasion and --

3 Q. You're the administrator. So you hear some  
4 as well?

5 A. Yes.

6 Q. How many of the examiners are  
7 Spanish-speaking personnel?

8 A. None.

9 Q. How many were Spanish-speaking personnel in  
10 1989?

11 A. None.

12 Q. How many times in 1989 were Spanish-speaking  
13 people involved in your Domestic Relations Division,  
14 if you can tell us?

15 A. I cannot answer.

16 Q. Is there any information or statistics at all  
17 as to Spanish-speaking persons?

18 A. No.

19 Q. Would you tell the Court what mechanism of  
20 the Spanish language or literature for  
21 Spanish-speaking persons are available in the Domestic  
22 Relations Division?

23 A. We don't have any. If there is someone who  
24 does not speak English and we are made aware of it, we  
25 have interpreter service that is provided for them.

1 Q. That is what is expected; is that correct?

2 A. Yes.

3 Q. Have you ever found a person in the Domestic  
4 Relations Division to be lacking in instruction from  
5 you in following it to a T?

6 A. No.

7 Q. For any reason?

8 A. No.

9 Q. You never dismissed any personnel?

10 A. No.

11 Q. And so the same four persons or five persons  
12 that are there now are the same persons that were  
13 there then?

14 A. Yes.

15 THE COURT: You mean March of 1989?

16 THE WITNESS: There were four then.

17 Q. Now sir, are you aware as a Domestic  
18 Relations Division, through you as a director, aware  
19 of the client community in Baltimore City that is  
20 Spanish-speaking?

21 A. Yes.

22 Q. Would you tell the Court what numbers or  
23 percentages in Baltimore is Spanish-speaking?

24 A. I don't know.

25 MS. CRANE: I object. I'm sorry. His answer

1 was I don't know.

2 THE COURT: How can he know that?

3 MR. NANCE: Well, I'll deal with it in  
4 argument. I'm not trying to make an argument at --

5 THE COURT: You haven't laid any foundation  
6 that would lead him to be able to know the answer to  
7 that question.

8 MR. NANCE: I'll go to the next question.

9 Q. Does your Domestic Relations Division attempt  
10 beforehand to have knowledge of the client community  
11 and its language background and potential for language  
12 difficulty?

13 A. The only way we were involved in this, we  
14 know that if we have someone who does not speak the  
15 English language, that there are interpreter services  
16 available. If it is requested, we can provide it if  
17 we know it. If we are aware that it's needed, we  
18 provide it at the time of the hearing for those people  
19 who do not bring an interpreter with them. If we know  
20 that it is needed, we provide it in time for the  
21 hearing.

22 Q. If you know in advance.

23 THE COURT: What if you don't know?

24 THE WITNESS: If we don't know, it's  
25 postponed until another hearing is scheduled and



1 interpreter service made.

2 Q. How many times in 1989 was an interpreter  
3 requested by the Domestic Relations Division, if you  
4 know?

5 A. Probably seven times.

6 Q. Seven times?

7 A. And I'm going here specifically on vouchers  
8 for payment of interpreter service.

9 Q. Would you tell us the date of those since it  
10 is only seven?

11 MS. CRANE: I object, Your Honor.

12 THE COURT: What difference does it make?

13 MR. NANCE: It may deal with frequency and by  
14 whom.

15 A. August 18th was a payment date of 1989.  
16 August 2nd --

17 MS. CRANE: Your Honor, I object.

18 A. July 24th.

19 MS. CRANE: It's just time consuming.

20 THE COURT: But I'm going to overrule it.

21 MR. NANCE: It's only seven.

22 A. August 2nd. I said July 24, 1989, August 16,  
23 1989, and 4-7-89, March 1, 1990, January 12, 1990.

24 Q. So of '88, '89 and '90 --

25 A. '89 and '90.

1 Q. -- there are seven requests?

2 A. Yes.

3 Q. And in '89, none of them were prior to July  
4 of '89 that you referred to; is that correct?

5 A. I don't see one for anything other than the  
6 earliest one was July.

7 MR. NANCE: I have no further questions.

8 THE COURT: Cross-examination.

9 MS. CRANE: Just one question.

10 CROSS-EXAMINATION

11 BY MS. CRANE:

12 Q. Mr. Selby, is it not true that the purpose of  
13 the Domestic Relations Division is to serve the  
14 public?

15 A. Yes.

16 MS. CRANE: I have no further questions.

17 THE COURT: I just have one question. When  
18 you say there are 5,000 orders established, did that  
19 include contested cases where people come to court  
20 because they won't consent to paternity?

21 THE WITNESS: It includes orders passed by  
22 the court plus the Domestic Relations Division.

23 THE COURT: If those were the agreements and  
24 they never come to court and if it includes where they  
25 disputed the paternity, where they came to court at

1 trial, how many would they be?

2 THE WITNESS: About 3600 plus consent  
3 agreements and about 1200 court orders.

4 THE COURT: And the court orders would  
5 include trials or where they've had a blood test and  
6 they aren't ruled on, so to speak?

7 THE WITNESS: That's correct.

8 THE COURT: How many people actually or do  
9 you even keep statistics like this, Mr. Selby? 1200  
10 court orders, of those numbers how many are the result  
11 of an actual trial where they --

12 THE WITNESS: That's difficult to say because  
13 you get consents on date of trial.

14 THE COURT: And they would be counted as your  
15 court-ordered ones?

16 THE WITNESS: Yes. They would go in the  
17 court order.

18 THE COURT: Okay. Anything else, counsel, of  
19 this witness?

20 MR. NANCE: I do very briefly.

21 REDIRECT EXAMINATION

22 BY MR. NANCE:

23 Q. You were asked what is the purpose of your  
24 division. Would you tell us who you are to report to  
25 as director?

1 A. The clerk of the court, Mrs. Sandra Banks.

2 Q. As part of the court system?

3 A. Yes.

4 Q. And if there is confusion as to what to do,  
5 who do you or your four examiners report to or ask  
6 questions of?

7 A. Can I ask when you ask what to do?

8 Q. In terms of if there is a legal dispute or  
9 question. In fact, you contact the State's Attorney's  
10 Office; is that right?

11 A. We would seek advice.

12 Q. And that is the regular routine of your  
13 office and your examiners; is that correct?

14 A. Yes.

15 Q. And your examiners followed the directions of  
16 the State's Attorney's Office as to referrals in a  
17 case; is that correct?

18 A. Sometimes. They don't always follow the  
19 directions of the State's Attorney.

20 Q. But they don't contact me or a private  
21 attorney?

22 A. No.

23 MR. NANCE: No further questions.

24 THE COURT: Thank you, Mr. Selby. You are  
25 excused.

1 MR. NANCE: Your Honor, the movant has no  
2 further evidence at this time.

3 THE COURT: You said your witness would be  
4 quick. So why don't we --

5 MS. CRANE: Your Honor, I'm going to take  
6 these witnesses out of turn. So that if we have to go  
7 on, you know, it won't be that much of a problem. I'm  
8 going to call first Paul Merryman from the Driver's  
9 License Examiner.

10 PAUL MERRYMAN,  
11 a witness, called by the plaintiff, was duly sworn and  
12 testified as follows:

13 THE CLERK: Your name and your position, sir?

14 THE WITNESS: My name is Paul T. Merryman.  
15 I'm a driver's license examiner. I'm employed with  
16 the Motor Vehicle Administration with the Baltimore  
17 City branch office.

18 THE COURT: Driver's license examiner; is  
19 that correct?

20 THE WITNESS: Yes, ma'am.

21 DIRECT EXAMINATION

22 BY MS. CRANE:

23 Q. Mr. Merryman, you brought with you today  
24 these booklets; is that correct, sir?

25 A. Yes.

1 THE COURT: Why don't you refer to them by  
2 exhibit number?

3 Q. Plaintiff's Exhibit Numbers 1, 2 and 3.

4 MR. NANCE: Your Honor, we have to ask the  
5 witness to speak up so that the two parties and my  
6 client can hear.

7 THE COURT: Try to keep your voice up, sir.

8 THE WITNESS: Certainly.

9 Q. And can you tell us are these booklets the  
10 actual test booklets that were used by Mr. Rodriguez?

11 MR. NANCE: Objection. Leading.

12 Q. Can you tell us what these booklets are?

13 A. They are the commercial driver's license test  
14 booklets that are used to administer commercial  
15 driver's license.

16 THE COURT: Commercial driver's license test  
17 booklets?

18 THE WITNESS: Yes, ma'am. That are used to  
19 administer the commercial driver's license test.

20 Q. Are these booklets ever given out to  
21 individuals?

22 A. No, ma'am. Other than at the time of the  
23 test.

24 Q. And what language are they written in?

25 A. English only.

1 Q. Just to give an example for the record of the  
2 type of question, I've just opened to page 1 and can  
3 you just read question number 4, please?

4 A. When coupling a tractor to a semi-trailer and  
5 back-up, what should you hook up before backing under?

6 Q. And give the answers or choices.

7 A. A, the electrical service cable. B, the  
8 emergency and service airlines. C, the ground cable.  
9 D, nothing, back up and lock the fifth wheel.

10 Q. So this is the type of question in the book?

11 A. That's correct.

12 MS. CRANE: And I'm going to ask that these  
13 books be admitted into evidence.

14 MR. NANCE: Objection. A foundation has not  
15 been --

16 Q. Are these books the same books that Mr.  
17 Rodriguez would have used?

18 A. On the answer sheet that's given out to the  
19 applicant, the form booklet is listed. We have two  
20 types of test. Type A and Type B test. Mr. Rodriguez  
21 was given Form B of a general knowledge test, Form A  
22 test booklet of combination test and Form B of the air  
23 brake test.

24 Q. And those are the booklets we have today; is  
25 that correct?

1           that correct?

2           A.     Could I look at the booklets to make sure  
3           before I answer, please?

4           MR. NANCE:  While that is being done, I would  
5           note for the record our objection to his testimony.  
6           The same objection.

7           THE COURT:  I don't know.  What's the  
8           objection?

9           MR. NANCE:  I object to this as relevance as  
10          to what occurred in the hearing examiner's office on  
11          March 3rd of '89.

12          THE COURT:  As far as the ability to  
13          understand, read and write English, I'm proceeding for  
14          the relevance of that question, not because it shows  
15          what happened in the Domestic Relations Division.  But  
16          because it has relevance to his ability to communicate  
17          in English.

18          THE WITNESS:  Those are the booklets, that's  
19          correct, the gentleman was given.

20          THE COURT:  And what date was it, sir, that  
21          he was given those booklets?

22          THE WITNESS:  He took the general knowledge  
23          test on February 20th of 1990.  He took the air brake  
24          test on February 21st of 1990.  And he took the  
25          combination test on February 22nd of 1990.



1 THE COURT: And so you're an actual examiner.  
2 That means you are the person who administers the  
3 test?

4 THE WITNESS: Yes, ma'am. If I may, my  
5 initials are at the top to the answer sheets. That I  
6 actually grade the test themselves.

7 THE COURT: You graded two of the tests that  
8 Mr. Rodriguez had?

9 THE WITNESS: Yes.

10 THE COURT: For the record, sir, which one  
11 did you grade?

12 THE WITNESS: General knowledge.

13 THE COURT: There's a little yellow sticker.

14 THE WITNESS: Plaintiff's Exhibit 4 and  
15 Plaintiff's Exhibit 6.

16 THE COURT: Okay. And you said you're a  
17 driver's license examiner. How many such employees  
18 are there in your office?

19 THE WITNESS: We have 14 examiners, including  
20 the lieutenant examiner in charge and his sergeant.

21 THE COURT: And in the course of your duties  
22 as a driver's license examiner, are you familiar with  
23 the particular tests that are given for general  
24 knowledge, combination vehicles and air brakes?

25 THE WITNESS: Yes.

1 THE COURT: Are these to get commercial  
2 driver's licenses?

3 THE WITNESS: Yes.

4 THE COURT: And once they have been marked as  
5 Plaintiff's Exhibit 1, 2 and 3, it's your testimony  
6 there are two types of tests, which you can look at  
7 are the exact tests that were administered?

8 THE WITNESS: They might not be the exact  
9 booklet. They are the same test in the books.

10 THE COURT: In other words, multiple copies  
11 of the same thing?

12 THE WITNESS: Yes.

13 THE COURT: And you use these all the time?

14 THE WITNESS: Yes.

15 THE COURT: The commercial driver's license  
16 test that was given, a new test isn't made up every  
17 time a person wants to take the test.

18 THE WITNESS: Yes. That's why you guard them  
19 so carefully. There are only limited copies. They  
20 are secured and the answer sheets are blank answer  
21 sheets. But the test booklets themselves are under  
22 heavy security.

23 THE COURT: Is it your job to keep these in  
24 the ordinary course of your business?

25 MR. NANCE: We'll stipulate to all that.

1 THE COURT: You are agreeing to the  
2 admissibility of these documents?

3 MR. NANCE: Other than relevance.

4 THE COURT: Other than relevance, do you have  
5 any objection?

6 MR. NANCE: As to him being able to testify  
7 to --

8 THE COURT: Overruled. They will be  
9 received.

10 Q. And this indicates that Mr. Rodriguez passed  
11 all of this?

12 MR. NANCE: Objection to leading him.

13 Q. Did Mr. Rodriguez pass?

14 THE COURT: What are the results?

15 THE WITNESS: Passing grade is 80% on all the  
16 tests. Mr. Rodriguez scored an 86 on Plaintiff's  
17 Exhibit 4 and 88% on Plaintiff's Exhibit 6 and 95 on  
18 Plaintiff's Exhibit 5.

19 THE COURT: And what's the type grade you can  
20 get?

21 THE WITNESS: 100%.

22 MS. CRANE: I ask that these be admitted.

23 MR. NANCE: Same objection.

24 THE COURT: I think other than that  
25 objection, they will be admitted.

1 MS. CRANE: I have no further questions.

2 CROSS-EXAMINATION

3 BY MR. NANCE:

4 Q. Can you tell us whether or not you checked to  
5 see how many times Mr. Rodriguez took those tests?

6 A. I don't have his original application with  
7 me. So I really can't say for sure.

8 Q. If I told you Mr. Rodriguez had to take those  
9 tests three times before passing, you cannot dispute  
10 that?

11 A. No, sir.

12 THE COURT: Is it unusual for people to take  
13 the test more than one time?

14 THE WITNESS: No, sir.

15 Q. And in fact --

16 THE COURT: It's not unusual?

17 THE WITNESS: It's not unusual.

18 Q. In fact, what is usual is the opposite, is  
19 that people do take the test several times to pass?

20 A. No, sir. I have no statistics to prove as to  
21 who takes how many tests.

22 Q. That would apply not only to commercial test,  
23 but the regular test?

24 A. Yes, sir.

25 Q. And in fact, there are people that have

1 passed the test that appear to you not being able to  
2 speak English to you; isn't that right?

3 A. No, sir. Because one of the requirements of  
4 taking the Maryland driver's license test, you must be  
5 able to read and interpret signs and directions of the  
6 English language.

7 Q. You just said something else. I said speak  
8 English to you versus being able to interpret signs?

9 A. Signs and directions, sir.

10 Q. Have you in your career ever tested someone  
11 that had difficulties speaking English to you?

12 A. Yes.

13 Q. That's what my question is. Now you said  
14 there are two of the same type tests?

15 A. Yes.

16 Q. So on Day 1, you may have given A and Day 2,  
17 you may have given B?

18 A. Yes.

19 Q. And it's like the regular driving test.  
20 There's a booklet to study from; is that right?

21 A. Yes. That's correct, sir.

22 Q. You don't try to throw trick questions. The  
23 booklet is to explain things and a lot of the  
24 questions are really taken almost out of the book or  
25 vice versa; isn't that right?

1           A.    The questions of context are taken out of the  
2           book.

3           Q.    So if someone took the book home and  
4           practiced on it for several months and it's  
5           interpreted to them, it is possible for them to come  
6           in and recognize the question simply by the formation  
7           of the question; isn't that right?

8           A.    Most questions aren't taken verbatim from the  
9           book.

10          Q.    Isn't it true, sir, that you said that the  
11          questions are taken from the book?

12          A.    The information the question deals with is  
13          taken from the book. The questions themselves are not  
14          listed in the book.

15          Q.    When you say not verbatim, I'll ask you the  
16          trick question so we understand each other. That is  
17          that in fact that Question Number 4 in there, there  
18          are how many variations of 4 between questions on Book  
19          A and questions on Book B? How many variations would  
20          that be?

21          A.    Just two.

22          Q.    Okay. So if somebody took the test three  
23          times may have seen that question in its entirety on  
24          both times; is that right?

25          A.    Yes, sir.

1 Q. So if he's able to study, he can know that  
2 the subject matter is almost identical from the book  
3 to the question; isn't that right?

4 A. Yes, sir.

5 THE COURT: Do you get to see what you did  
6 wrong or right on your test results?

7 THE WITNESS: The answer sheets are the only  
8 things we show back to the applicant because the  
9 security with the test booklets themselves, they're  
10 signed out to the applicant and then when they are  
11 brought back in, they are brought back and put back in  
12 the file cabinet while the test is graded unless  
13 there's a question about a particular question that's  
14 on the test. The only thing we give the applicant is  
15 the final score.

16 THE COURT: So they don't know which one of  
17 those questions they got right and which ones they got  
18 wrong?

19 MR. NANCE: Objection. That isn't what he  
20 said.

21 COURT: That's what I'm saying or asking.

22 THE WITNESS: Unless there's a discrepancy.

23 THE COURT: So in absence of the question  
24 though, all they know is their score?

25 THE WITNESS: That's correct.

1 Q. But again is that the subject is taken from  
2 the book and there are two variations of each  
3 question?

4 A. At least.

5 MR. NANCE: I have no further questions.

6 THE COURT: Any redirect?

7 MS. CRANE: No, Your Honor.

8 THE COURT: Thank you very much. You are  
9 excused.

10 MR. NANCE: I have one quick one.

11 THE COURT: Okay.

12 Q. Sir, did you have any contact with Mr.  
13 Rodriguez in March 1989?

14 A. March 1989? Not to my knowledge.

15 MR. NANCE: No further questions.

16 THE COURT: Thank you, sir. You are excused.

17 MS. CRANE: I'd like to call now -- I'm going  
18 to call now --

19 THE COURT: I don't think we're going to call  
20 anybody. I've got to go. I have a V.O.P. person who  
21 was just picked up on an F.T.A. We're going to have  
22 to deal with that. Counsel, I just want you to know I  
23 predicted once I realized I had to be in federal court  
24 that we wouldn't finish any way. So I apologize.

25 MS. CRANE: Can we reschedule the next day



1 now?

2 THE COURT: Yes. Let me get my calendar.

3 MS. CRANE: Ms. Arrington is going to the  
4 hospital for surgery July 7th. So after that, she  
5 will be unable to be here for quite a while. So I  
6 would ask that something be scheduled prior to that.

7 MR. NANCE: June 14th or 15th sticks up in my  
8 mind.

9 THE COURT: I have a termination case on that  
10 date. How about possibly Tuesday, June 12th? Do you  
11 want to see if we can do it June 12th?

12 MR. NANCE: I think she's going into the  
13 hospital.

14 MS. CRANE: June the 7th, she's going into  
15 the hospital. June 7th for testing. Then she will  
16 have surgery sometime after that. She has a hospital  
17 test on June the 7th and then she will probably go in  
18 for surgery. I would ask --

19 MR. NANCE: Can we ask her -- do you know  
20 when the operation is going to be?

21 THE COURT: I'm sorry, counsel. I'm looking  
22 at this V.O.P. a minute. What did you say?

23 MR. NANCE: I don't mean to suggest to be  
24 insensitive. Whether or not she knows the date of the  
25 operation. I think she stated she is going in for

1 tests. But I don't think she is saying that  
2 whites-out all of those days.

3 THE COURT: Tuesdays are probably the safest.  
4 Every day has been booked with another case. I can't  
5 fit them in anymore. I mean they give me full dockets  
6 every day.

7 MR. NANCE: Tuesday.

8 MS. CRANE: June 11th?

9 THE COURT: Tuesday, June 12th. Why don't we  
10 try for that? I need you to understand if I have a  
11 termination case, it is going to come first.

12 MS. CRANE: I really feel that my witnesses  
13 are not going to be of any long duration.

14 THE COURT: We are almost done. I'm sorry we  
15 can't finish it, but that's why I had called and asked  
16 if you want to set it for that time. Let's say June  
17 12th. Mr. Nance doesn't have his calendar. What  
18 time? Let's make it 10.

19 MS. CRANE: June 12th will be fine. I'm  
20 requesting to ask the clerk if she could serve my  
21 witnesses for June the 12th.

22 (The proceedings concluded.)

23 -o0o-

24


25

REPORTER'S CERTIFICATE

I, Lisa K. Bankins, an Official Court Reporter of the Circuit Court for Baltimore City, do hereby certify that I stenographically recorded the proceedings at the Circuit Court for Baltimore City, in the matter of Arrington vs. Rodriguez, on June 1, 1990.

I further certify that the foregoing pages constitute the official transcript as transcribed by me from my stenographic notes to the within typewritten matter in a complete and accurate manner.

In witness whereof, I have hereunto subscribed my name this 2nd day of November, 1990.

  
Lisa K. Bankins  
Official Court Reporter



\$ 80.00

FILED OCT 19 1990

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FRANCINA ARRINGTON  
PETITIONER  
VS.  
JOSE RODRIGUEZ  
DEFENDANT

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* IND. NO.

\* \* \* \* \*

MAY 24, 1990

BEFORE:

THE HONORABLE JUDGE HOLLANDER

APPEARANCES:

SONDRA CRAIN, ESQUIRE, ASSISTANT STATE'S ATTORNEY,  
FOR THE STATE OF MARYLAND

ALFRED NANCE, ESQUIRE, ASSISTANT PUBLIC DEFENDER, ON  
BEHALF OF THE DEFENDANT, JOSE RODRIGUEZ

KENNETH NORRIS  
OFFICIAL COURT REPORTER

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P R O C E E D I N G S

THE COURT: THIS IS THE MATTER OF THE STATE OF MARYLAND VERSUS JOSE RODRIGUEZ, UNDER CASE NUMBERS P P 3765821 -- SORRY, THAT'S THE WRONG ONE.

MS. CRAIN: FOR THE RECORD, IT IS FRANCINA ARRINGTON VERSUS JOSE RODRIGUEZ.

THE COURT: FRANCINA ARRINGTON VERSUS JOSE RODRIGUEZ, P D 70 DASH 119070.

WHO WANTS TO GO FIRST?

THIS IS YOUR MOTION, MR. NANCE.

MR. NANCE: IF YOUR HONOR PLEASE, WE'RE HERE ON THE MOTION TO STRIKE THE ENROLLED DECREE IN THIS MATTER.

YOUR HONOR, WE HAVE RAISED THE ISSUE THAT MY CLIENT -- LET ME BEFORE GOING ON, LET THE RECORD REFLECT AN INTERPRETER IS PRESENT, MR. RUIZ, AND DEFENDANT IS PRESENT AT THE TRIAL TABLE.

WE ARE MOVING, IF YOU WILL, TO STRIKE THE EXISTING CONCENT PATERNITY DECREE THAT WAS ENROLLED IN THIS COURT IF YOUR HONOR PLEASE.

THAT ON MARCH 31ST, 1989, THIS COURT ISSUED A CONCENT PATERNITY DECREE ESTABLISHING DEFENDANT AS THE FATHER OF ONE NICOLE INRIQUE RODRIGUEZ BORN TO ONE FRANCINA ARRINGTON ON AUGUST 8TH, 1987.

IF YOUR HONOR PLEASE, THE EVIDENCE WILL SHOW MR. RODRIGUEZ IS OF SPANISH SPEAKING BACKGROUND WITH LITTLE OR NO

1 KNOWLEDGE OF THE PAPERS PRESENTED TO THE COURT, THEREFORE HE  
2 HAD NO NOTICE OR KNOWLEDGE OF THE PROCEEDINGS AND THEREFORE WE  
3 ASK IT BE STRUCK BY, IN FACT, BECAUSE OF FRAUD, MISTAKE OR  
4 IRREGULARITY PURSUANT TO THE OPERATIVE RULE.

5 WE ADVISE THE COURT BECAUSE OF MR. RODRIQUEZ'S  
6 BACKGROUND THAT THE PERSON OR PERSONS WORKING IN THE DIVISION  
7 DID NOT TAKE THE NECESSARY TIME, EFFORT OR APPROPRIATE STEPS  
8 TO INSURE THAT HE DID KNOW WHAT WAS GOING ON HERE.

9 WE DRAW THE COURT'S ATTENTION TO THE PAPER WORK  
10 WHICH IS IN THE COURT FILE ITSELF AND THE COURT WILL NOTE WHAT  
11 IS SUPPOSED TO BE A NOTIFICATION OF RIGHTS, HAS A WRITING  
12 WHICH SEEMS TO BE JOSE'S NAME WHICH IS SUPPOSEDLY GIVING HIM  
13 NOTICE OF THE PROCEEDINGS.

14 IT ALSO HAS WRITING OF THE SAME TYPE.

15 WE WILL, IF YOUR HONOR PLEASE, INDICATE THAT THE  
16 CIRCUMSTANCES -- AND I HAVE HAD AN OPPORTUNITY TO READ STATE'S  
17 MEMORANDUM SUBMITTED -- THE STATE, TO UNDERSTAND OUR  
18 CONTENTION OF THE CIRCUMSTANCES, PUTTING IT MILDLY, THE  
19 QUESTION IS WHETHER THE PERSON KNOWINGLY WAIVED SUCH RIGHTS.

20 THE STATE RELIED ON SOME OF THE THINGS WHICH HAVE NO  
21 BEARING. WE DRAW THE COURT'S ATTENTION TO THE LAST PART OF  
22 OUR MEMORANDUM, MORE SPECIFICALLY THE QUOTE FROM STANLEY  
23 VERSUS ILLINOIS.

24 WHAT IS HELD HERE IS THAT THERE IS A MECHANISM THAT  
25 IS IN PROGRESS. EVIDENCE WILL SHOW THE NUMBER OF QUESTIONS AS



1 TO WHETHER TO KEEP IT OUT OF THE ASSIGNED CASE OR MOVE IT ON  
2 IS THE PROCEDURE. WE DON'T KNOW WHETHER OR NOT THE STATE IN  
3 THE NORMAL OPERATION IS TO BE ATTACKED. AND THE INDIVIDUALS  
4 THEMSELVES HAVE CERTAIN RIGHTS AND WE MUST LOOK AT THAT TO  
5 MAKE OUR DETERMINATION. WE'RE TALKING PURE DUE PROCESS IN  
6 THIS INSTANCE.

7 THE COURT: THE PROBLEM I HAVE WITH THE LOGIC OF  
8 THAT IS IT WOULD SEEM, ALTHOUGH THE BURDEN OF PATERNITY MAY BE  
9 HEAVY, IT IS CLEARLY NOT A CRIMINAL CASE SO IT WOULD SEEM TO  
10 ME --

11 MR. NANCE: I'M NOT SURE IF THAT IS SO CLEAR.

12 THE COURT: I'M TRYING TO FIND OUT IF WE AGREE THE  
13 ANALYSIS FIRST HAS TO COME UNDER THE QUESTION OF FRAUD,  
14 MISTAKE OR IRREGULARITY AND IF IT DOES, IS IT FAILURE TO HAVE,  
15 ASSUMING THAT WE COULD ESTABLISH THIS NOW, HE DID NOT CONVERSE  
16 OR READ ENGLISH IN THE WAY THAT WOULD ENABLE HIM TO UNDERSTAND  
17 FULLY WHAT WAS GOING ON, ASSUMING YOU PROVE THAT -- I DON'T  
18 KNOW IF YOU CAN -- BUT ASSUMING YOU CAN, IS THIS THE FRAUD,  
19 MISTAKE OR IRREGULARITY AS COMTEMPLATED BY THE RULES?

20 MR. NANCE: I THINK THE FRAUD, MISTAKE OR  
21 IRREGULARITY IS CLEARLY IN THAT AND THE PROCEDURE BASED UPON  
22 WHERE THE PERSON HAD NO NOTICE OF THAT WHICH HE IS THERE FOR  
23 OR KNOWLEDGE OF IT.

24 I DO SUGGEST THAT IT COMES UNDER THE RULE OF FRAUD,  
25 MISTAKE OR IRREGULARITY.

1 THE BURDEN IS ON HIM TO BRING BACK BEFORE THE COURT  
2 THAT CONTENTION AND PUT INFORMATION BEFORE IT FOR THAT DECREE  
3 TO BE STRUCK AND I SUGGEST WHAT WE'RE DEALING WITH HERE IS THE  
4 THRESHOLD IS BEFORE THE COURT AND SO MET WITH THAT WHICH WE  
5 CONTEND AND THAT IS HE DID NOT HAVE SUFFICIENT KNOWLEDGE OR  
6 NOTICE OF THE PROCEDURES SO THAT THE PROCEDURE SHOULD NOT BE  
7 EFFECTIVE AND THEREFORE THE DECREE SHOULD BE STRUCK.

8 THE COURT: COUNSEL, DO I HAVE A CRIMINAL MATTER  
9 FROM THIS MORNING THAT WE DIDN'T RESOLVE? I THINK WE CAN MOVE  
10 ON THAT QUICKLY. CAN I ASK YOU TO BARE WITH US AND LET ME GET  
11 THESE PEOPLE ON THEIR WAY?

12 (WHEREUPON, THERE WAS A RECESS OF THE PROCEEDINGS.)

13 THE COURT: YOU MAY RESPOND.

14 MS. CRAIN: YOUR HONOR, IF I MAY --

15 THE COURT: WANT TO IDENTIFY YOURSELF?

16 MS. CRAIN: FOR THE RECORD, SONDR A CRAIN, ASSISTANT  
17 STATE'S ATTORNEY.

18 I JUST WANTED TO CLARIFY A COUPLE OF POINTS THAT MR.  
19 NANCE MADE.

20 FIRST OF ALL, IN RESPONSE TO VARIOUS POINTS THAT HE  
21 HAS MADE IN HIS MEMORANDUM, I WOULD LIKE TO RESERVE THE RIGHT  
22 TO RESPOND TO THAT MEMORANDUM IN WRITING IN AS MUCH AS I  
23 RECEIVED IT TODAY AT 10:30. I BARELY HAD TIME TO LOOK AT IT  
24 IN AS MUCH AS THAT WAS MY LUNCH -- I HAD JUST ARRIVED FROM  
25 LUNCH WHEN I WAS TOLD THAT IT HAD BEEN PLACED WITH MY

1 SECRETARY, SO THAT I WOULD WANT TO CERTAINLY MAKE THAT KNOWN  
2 FOR THE RECORD.

3 SECONDLY I WANTED TO FIND OUT THAT IT IS PURSUANT TO  
4 THE LEGISLATIVE ARTICLE THAT STATE'S ATTORNEY OFFICE IS TO  
5 REPRESENT INDIVIDUALS IN PATERNITY MATTERS AND THAT THEY ARE  
6 ARE CIVIL LITIGATION, NOT CRIMINAL LITIGATION AND THAT THE  
7 CORRECT CAPTION FOR THIS CASE IS AS IT APPEARS ON THIS  
8 MEMORANDUM, FRANCINA ARRINGTON VERSUS JOSE RODRIGUEZ.

9 IF YOU WISH ME TO CONTINUE TO RESPOND?

10 THE COURT: IS THAT ALL RIGHT, MR. NANCE?

11 MR. NANCE: I HAVE NO PROBLEMS.

12 THE COURT: GO AHEAD.

13 MS. CRAIN: THE DOMESTIC RELATIONS DIVISION IS NOT  
14 AFFILIATED WITH THE STATE'S ATTORNEY'S OFFICE. IT IS AN ARM  
15 OF THE CIRCUIT COURT. IT IS THEIR FUNCTION TO SERVE THE  
16 PUBLIC. THEY DON'T GET NOTCHES ON THEIR BELTS FOR GETTING  
17 PEOPLE TO CLAIM THEY ARE FATHERS OF CHILDREN. THEY ARE A  
18 PUBLIC SERVICE AGENCY AND THEY WANT TO DO RIGHT BY ALL PEOPLE  
19 THAT APPEAR BEFORE THEM.

20 THE RECORD WILL SHOW IN THIS PARTICULAR CASE THAT  
21 THE HEARING ANALYST WAS A WOMAN OF THIRTEEN YEARS EXPERIENCE,  
22 A VERY MILD MANNERED, SOFT SPOKEN WOMAN WHO IS AWARE AS IS THE  
23 ENTIRE DIVISION IS AWARE, THAT IF THERE IS OF ANY PROCESS OR  
24 PROBLEMS WITHIN THE PROCESS THAT REQUIRES THEIR STOPPING, THEY  
25 EITHER CALL AN ASSISTANT STATE'S ATTORNEY, THEY HAVE

1 INTERPRETERS AVAILABLE AND THERE WOULD HAVE EVIDENTLY BEEN  
2 NOTHING TO LEAD HER TO BELIEVE THAT THAT WAS NECESSARY.

3 MR. SIMBY (SIC), THE DIRECTOR OF THE DOMESTIC  
4 RELATIONS DIVISION, IS HERE TODAY.

5 MR. NANCE: AT MY SUMMONS.

6 MS. CRAIN: SUMMONSED BY MR. NANCE, EXCUSE ME, AND  
7 CERTAINLY WE LOOK FORWARD TO HIS SHEDDING A GREAT DEAL OF  
8 LIGHT ON THE PROCEDURE INVOLVED.

9 THERE IS A TREMENDOUS AMOUNT OF CARE TAKEN TO ADVISE  
10 PEOPLE OF THEIR RIGHT BOTH BY THE DOMESTIC RELATIONS DIVISION  
11 AND BY THE STATE'S ATTORNEY'S OFFICE AND WE LOOK AT IT VERY  
12 SERIOUSLY EVEN THOUGH WE HAVE QUOTED A PENNSYLVANIA CASE IN  
13 WHICH WE FEEL THAT IT IS NOT A CRIMINAL MATTER AND SO THE  
14 RIGHTS DO NOT HAVE TO BE GIVEN AS AUTHORITATIVELY OR AS  
15 CAREFULLY AS IN A CRIMINAL PROCEDURE.

16 NEVERTHELESS, WE DO THAT VERY CAREFULLY AND YOU'LL  
17 HEAR FROM MR. SIMBY. NOT ONLY IS THIS PAPER GIVEN TO SOMEONE  
18 BUT THEIR RIGHTS ARE EXPLAINED VERBALLY TO THAT PERSON.

19 IT IS ALSO IN THE STATUTE IF SOMEBODY IS LEGALLY  
20 DISABLED, IT IS THE -- THE ONUS IS ON THEM TO INDICATE THAT  
21 AND IF THEY DO SO THE PROVISIONS WILL BE MADE. THAT'S NOT TO  
22 SAY THAT IF MS. BLANDON IN HER EXPERIENCE HAD FELT THERE WAS  
23 ANY PROBLEM WHATSOEVER, SHE WOULD NOT HAVE TAKEN STEPS TO  
24 INSURE HIS UNDERSTANDING.

25 SO WE ON THAT ISSUE, WE ARE ABLE TO COMBAT ANY

1 ALLEGATIONS ALONG THOSE LINES AND WE'LL HAVE PEOPLE HERE WHO  
2 WILL FURTHER SHED LIGHT ON THE FACT THAT WE BELIEVE MR.  
3 RODRIGUEZ IS ABLE TO SPEAK ENGLISH AND HAS DONE SO IN A  
4 TECHNICAL WAY.

5 FURTHER, THAT IS A SECONDARY MATTER AS FAR AS WE'RE  
6 CONCERNED BECAUSE WE WANT TO REITERATE THAT WE BELIEVE  
7 SINCERELY AND FIRMLY THAT THIS IS AN ENROLLED DECREE, THERE IS  
8 A FINALITY OF JUDGEMENT, THAT MR. RODRIGUEZ HAD THIRTY DAYS IN  
9 WHICH TO VOICE HIS CONFUSION. IF HE LEFT HERE AND HE SAID NO  
10 COMPRENDO, HE WOULD NOT HAVE SENT IN THE MONEY FOR CHILD  
11 SUPPORT WHICH HE DID ON A SOMEWHAT REGULAR BASIS. HE WOULD  
12 NOT HAVE COMMUNICATED WITH THE BUREAU OF SUPPORT ENFORCEMENT  
13 IN THAT REGARD AND HE WOULD HAVE IMMEDIATELY GONE TO SOMEONE  
14 AND SAID WHAT CAN I DO AND HE WOULD HAVE WOUND UP WITH MR.  
15 NANCE WAY BACK THEN IN MARCH OF 1989.

16 IT WOULDN'T HAVE TAKEN OVER A YEAR FOR HIM TO HAVE  
17 REALIZED THAT HE DID NOT UNDERSTAND.

18 SO WE BELIEVE THAT THERE WAS NO FRAUD, NO MISTAKE  
19 AND NO IRREGULARITY.

20 THE COURT: YOU THINK THAT THAT IS THE ANALYSIS THEN  
21 BECAUSE THAT'S WHAT I WANT TO MAKE SURE WE ARE ON AGREEMENT  
22 WITH.

23 MS. CRAIN: I'M ABSOLUTELY IN AGREEMENT WITH YOUR  
24 HONOR ON THAT ISSUE. THAT IS NOT TO SAY I'M NOT PREPARED TO  
25 TACKLE THESE OTHER MATTERS THAT MR. NANCE COULD PUT FORWARD IN

1 REGARD TO THE UNDERSTANDING OF HIS CLIENT. I'M ABLE TO COMBAT  
2 THE SITUATION ON ANY LEVEL.

3 THE COURT: IS THERE ANYBODY FROM THE BUREAU WHO HAS  
4 COMMUNICATED WITH MR. RODRIGUEZ WHO WILL TESTIFY AS TO HIS  
5 ABILITY TO SPEAK AND/OR COMPREHEND ENGLISH OR READ IT?

6 MS. CRAIN: YES.

7 THE COURT: OBVIOUSLY I REALIZE WE HAVE AN  
8 INTERPRETER HERE NOW BUT TO SOME EXTENT THAT IS ALMOST A  
9 BOOTSTRAPPING THING. THE POINT IS EVEN AT THE OUTSET, THE  
10 THRESHOLD QUESTION IS YOU DON'T GET ANYWHERE, MR. NANCE,  
11 UNLESS ASSUMING PROCEDURALLY THERE ARE DIFFERENT OPTIONS WE  
12 HAVE BUT YOUR WHOLE ARGUMENT FAILS UNLESS YOU CAN ESTABLISH  
13 THAT HE DIDN'T UNDERSTAND.

14 MR. NANCE: OUR CONTENTION, NUMBER ONE, SO THAT WE  
15 UNDERSTAND EACH OTHER, THE PENNSYLVANIA CASE IS NOT ANALOGOUS  
16 AND IS NOT IN ANY WAY CONNECTED WITH THIS OR SIMILAR TO THIS.  
17 THE GENTLEMAN IN THE PENNSYLVANIA CASE NEVER DENIED BEING THE  
18 FATHER UNLIKE THIS CASE WHERE THE MOTION SAYS HE IS IN FACT  
19 SAYING HE IS NOT THE FATHER, SO YOU CAN'T SAY IT IS ANALOGOUS  
20 OR, IN FACT, SHOULD COVER THIS CASE.

21 THE SECOND POINT IS THAT WHAT IS MISSING HERE IS  
22 THAT WE HAVE MADE THE MOTION AND WE HAVE, BASED UPON THAT  
23 WHICH IS BEFORE YOU IN THE MOTION, MET THE THRESHOLD FOR THE  
24 FRAUD, MISTAKE AND IRREGULARITY, THEREFORE TESTIMONY SHOULD BE  
25 TAKEN.

1 THE COURT: I'M NOT CLEAR ABOUT THAT. I DID SHARE  
2 WITH YOU LAST TIME IT SOUNDED SOMEWHAT SIMILAR TO JUDGE  
3 ROMBRO'S DECISION AND I THINK YOU'RE ALL FAMILIAR WITH THAT  
4 CASE AND THE ONE IN WHICH JUDGE ROMBRO RULED WAS REALLY IN  
5 SOME WAYS IF YOU THINK COMPELLING IS THE RIGHT WORD, I DON'T  
6 KNOW, BUT THERE, OF COURSE, EVEN AFTER YEARS OF APPEARING AND  
7 LEAVING OR HAVING BEEN DETERMINED TO BE THE FATHER  
8 VOLUNTARILY, THE INDIVIDUAL DID HAVE A BLOOD TEST AND THE  
9 PERSON WAS RULED OUT AS ACTUALLY BEING THE FATHER.

10 YOU'RE NOT IN THAT POSTURE IN THIS CASE.

11 MS. CRAIN: CLEARLY THAT IS NOT THIS CASE AT ALL.

12 IN FACT, THE EVIDENCE WILL SHOW THAT THE PAYMENTS  
13 WERE MADE AT THE INSTRUCTIONS OF COUNSEL AND PAYMENTS WERE  
14 MADE BY HIS, IN FACT, WIFE SO THAT HE WOULDN'T GO TO JAIL.

15 THE COURT: ALL RIGHT.

16 THAT PART DOESN'T TROUBLE ME AS MUCH BUT I GUESS MY  
17 POINT IS THIS IN JUDGE ROMBRO'S CASE IT WAS TO THE EXTENT THAT  
18 YOU COULD RELY ON THESE TESTS WHICH HAVE BEEN FOUND TO BE  
19 SCIENTIFICALLY TRUSTWORTHY, THE PERSON IN JUDGE ROMBRO'S CASE,  
20 MR. ROBINSON, WAS RULED OUT AS THE FATHER.

21 MR. NANCE: REMEMBER THAT THAT CASE --

22 THE COURT: IN THAT CASE HE WAS FOUND TO BE  
23 SCIENTIFICALLY ELIMINATED BY JUDGE ROMBRO, BUT JUDGE ROMBRO  
24 STILL SAID YEARS DOWN THE ROAD THE JUDGEMENT COULD NOT BE SET  
25 ASIDE ON THE GROUNDS OF FRAUD, MISTAKE OR IRREGULARITY.

1 MR. NANCE: NUMBER ONE, JUDGE ROMBRO'S DECISION IS  
2 NOT BINDING ON THIS COURT.

3 THE COURT: I READ IT --

4 MR. NANCE: I READ IT IN THE PAPER. THE DIFFERENCE  
5 IS THAT CASE WENT ON FOR YEARS WITH THAT PERSON SAYING I'M THE  
6 FATHER. THAT CASE IS SIMILAR TO THE PENNSYLVANIA CASE WHERE  
7 WE HAVE NEVER DURING THOSE YEARS, IN FACT, SAID I'M NOT THE  
8 FATHER. WHAT HE IS DOING IS AFTER TEN, FIFTEEN, EIGHTEEN  
9 YEARS IN THAT PARTICULAR CASE, IS RAISING THE QUESTION. IN  
10 THIS PARTICULAR CASE, IT WAS IN MARCH OF 89 WHEN THE CASE WAS  
11 IN. IN MARCH OF 89, WITHIN A SHORT PERIOD OF TIME SINCE THEN,  
12 HE HAS OBTAINED COUNSEL AND BROUGHT IT BACK INTO COURT IN  
13 RELATIVELY QUICKNESS OF TIME AFTER BEING MADE AWARE OF THE  
14 PROCEDURE TO DO SO.

15 THE COURT: IT IS A HEAVY BURDEN YOU HAVE, MR.  
16 NANCE, BECAUSE WHETHER IT IS TEN YEARS OR TEN MONTHS, I THINK  
17 THAT WE ALL WOULD AGREE THAT THERE IS THIS NOTION OF THE  
18 FINALITY OF LITIGATION. AT SOME POINT IT DOES HAVE TO COME TO  
19 AN END AND IN THIS CASE HE ISN'T EVEN IN THE POSTURE AS THE  
20 LITIGANT SUCH AS JUDGE ROMBRO'S CASE TO SHOW HE IS NOT THE  
21 FATHER.

22 MR. NANCE: THE COURT MAY RECALL, SO THE RECORD IS  
23 CLEAR, THAT MR. RODRIGUEZ THROUGH COUNSEL HAS MADE IT VERY  
24 CLEAR THAT HE IS WILLING TO TAKE A BLOOD TEST AND DESIRES TO  
25 DO SO.



1                   WHEN THIS CASE WAS ORIGINALLY SCHEDULED, THE STATE  
2 TOLD YOU IT WOULD TELL MS. ARRINGTON NOT TO COMPLY OR AGREE TO  
3 AND SUBMIT TO A BLOOD TEST IN THIS CASE SO THAT MAKES IT EVEN  
4 WORSE.

5                   THE COURT: I CAN UNDERSTAND THEIR REASONING BECAUSE  
6 THEY WOULD BE OPENING A PANDORA'S BOX IF EVERY CASE GOT AN  
7 OPPORTUNITY TO BE REVISITED AFTER SOMEONE CONSENTS TO  
8 PATERNITY.

9                   MR. NANCE: BUT HAVE WE FORGOTTEN THAT DUE PROCESS  
10 AND NOTICE AND KNOWLEDGE OF PROCEEDINGS IS FUNDAMENTAL TO A  
11 UNITED STATES COURT AND IF ALL WE'RE DOING IS PRETENDING TO  
12 GIVE DUE PROCESS AND KNOWLEDGE TO OUR CITIZENRY OF THIS UNITED  
13 STATES, WE HAVE THROWN OUT THE 14TH AND 15TH AMENDMENTS OF THE  
14 UNITED STATES CONSTITUTION AND ADEQUATE PARTS OF THE STATE  
15 CONSTITUTION.

16                   CLEARLY THE LADY SIGNING THE CONTRACT IN THE LIVING  
17 ROOM WHO HAS LITTLE OR NO KNOWLEDGE SAYING YOU CAN COME TO MY  
18 HOUSE ANY TIME I'M BEHIND AND TAKE MY FURNITURE, THAT NOTICE  
19 AND KNOWLEDGE IS NO LESS IMPORTANT WHICH IN THIS CASE ALL  
20 YOU'VE DONE IS TAKEN MY NAME FROM ME SAYING I'M THE FATHER  
21 FOREVER, THAT IS THE POINT. FOR THE STATE TO SAY OTHERWISE IS  
22 NOT UNDERSTANDING THIS CASE BECAUSE, IN FACT, ALTHOUGH MS.  
23 BLANDON DOES NOT WORK FOR THE STATE'S ATTORNEY'S OFFICE, SHE  
24 FUNCTIONS AS A PART OF A STATE AGENCY AND THERE IS, IN FACT,  
25 STATE ACTION.

1 THE INCUMBANCY IS YES, WE DO HAVE A BURDEN TO COME  
2 BEFORE THE COURT TO MAKE THRESHOLD ARGUMENTS THAT PUTS IT IN  
3 THE LIGHT TO HEAR IT AND I THINK WE'VE DONE IT. IF IT IS  
4 INCOMBANT UPON US TO PUT OTHER INFORMATION BEFORE IT, THE  
5 ANSWER IS YES.

6 THE COURT: THE FIRST QUESTION IS WHETHER YOU CAN  
7 ESTABLISH HE WAS SO POORLY CONVERSANT IN ENGLISH THAT IT  
8 GETS --

9 MR. NANCE: THE COURT DOCUMENT MAKES IT CLEAR.

10 THE COURT: WHERE? I DON'T THINK IT MAKES IT CLEAR.  
11 HE SIGNED THE WRONG THINGS IN THE WRONG SPOTS IN THE WRONG  
12 TIME?

13 MR. NANCE: NOT WITH THE HELP OF AN EXPERT OF  
14 THIRTEEN YEARS YOU DON'T. THAT'S THE POINT. IF THIS EXPERT  
15 IS HELPING HIM TO UNDERSTAND SO CLEARLY, THEN WHEN YOU GET  
16 DOWN TO THE NITTY/GRITTY OF THE LINE BEING SIGNED, ALL WE'RE  
17 SEEING IS HE IS SIGNING HERE, MARKS ARE THERE AND NOT  
18 SCRATCHED OUT.

19 THE COURT: HE HAS THE INITIALS, THOUGH.

20 MR. NANCE: THERE IS INITIALS WHERE SOMEBODY SAID  
21 PUT J R THERE. THE QUESTION IS DOES HE UNDERSTAND WHAT HE IS  
22 PUTTING HIS INITIALS BY.

23 THE COURT: THE FACT THERE IS A SIGNATURE ON THE  
24 LINE DOESN'T MEAN THAT MUCH TO ME. THERE IS A SIGNATURE ON  
25 THE RIGHT LINE AND IT IS COMMON KNOWLEDGE PEOPLE CAN

1 INADVERTENTLY SIGN THE WRONG LINE.

2 MR. NANCE: WE ARE SUGGESTING TO THE COURT THAT THIS  
3 IS AN ELEMENT OF CONFUSION AT THE TIME OF WHEN STATE'S  
4 CONTENTION IS THAT HE HAD KNOWLEDGE.

5 THE COURT: THAT IS WHY AT THE OUTSET I WOULD HAVE  
6 TO BE SATISFIED BEFORE IT GOES ANY FURTHER THAT HE DIDN'T  
7 UNDERSTAND WHAT WAS GOING ON. SOME EVIDENCE OUGHT TO BE TAKEN  
8 ON THAT QUESTION.

9 MR. NANCE: THE POINT IS PROCEDURALLY IS ONE IS  
10 WHETHER OR NOT THE CONTEXT AND MOTION BEFORE YOU MEETS THE  
11 THRESHOLD AND I THINK THE ANSWER IS YES. I THINK THE COURT IS  
12 THEN OBLIGATED TO TAKE TESTIMONY AND MAKE A DECISION BASED  
13 UPON THE EVIDENCE AND MOTIONS BEFORE IT.

14 THE COURT: I CAN'T SAY THAT IT -- THE THRESHOLD  
15 QUESTION TO ME IF THERE IS ANY THRESHOLD QUESTION IS CAN YOU  
16 ESTABLISH THAT HE REALLY DIDN'T UNDERSTAND WHAT WAS GOING ON  
17 AND IF SO WHAT WOULD BE THE NEXT QUESTION, BUT THE FIRST THING  
18 SEEMS TO ME YOU HAVE THE BURDEN OF SHOWING HE DIDN'T  
19 UNDERSTAND ENGLISH.

20 MR. NANCE: WHAT I'M SAYING IS, AND OF COURSE THE  
21 COURT HAS GONE A STEP FURTHER, I AM NOT SAYING, NOR WILL I  
22 EVER SAY, HE DOESN'T UNDERSTAND CERTAIN ENGLISH PHRASES OR  
23 WORDS, I'M SAYING HE DOESN'T UNDERSTAND ENGLISH SUFFICIENTLY  
24 ENOUGH TO HAVE KNOWLEDGE OF THAT PROCEEDING AND THESE  
25 PROCEDURES AND IT WAS NOT MADE KNOWN TO HIM IN SUFFICIENCY FOR

1 HIM TO UNDERSTAND.

2 THE COURT MAY OR MAY NOT KNOW MY WIFE IS CHINESE. I  
3 CAN BRING A HUNDRED CHINESE PEOPLE WHO HAVE PASSED THEIR  
4 DRIVER'S TESTS. THEY CAN'T SPEAK A WORD OF ENGLISH OTHER THAN  
5 TO COUNT MONEY IN A STORE. THAT IS ENGLISH. YOU CAN GO TO  
6 NEW YORK AND CATCH A CAB AND ALL THE GUY KNOWS IS THE STREET  
7 NAME. BEYOND THAT, PAY HIS FEE.

8 WHAT WE'RE DEALING WITH HERE IS THAT THE BURDEN  
9 STILL IS ON A PROCEDURE TO MAKE IT SO PROTECTED THAT THAT  
10 WHICH WE DO, ESPECIALLY IN A NON/COURT SETTING WHERE THE COURT  
11 IS NOT THERE AND A PROCEDURE IS SUCH THAT THEY DON'T FEEL THEY  
12 ARE REALLY PROTECTING HIS RIGHTS BUT THEY ARE SAYING WE'RE  
13 DOING SOMETHING.

14 IF SHE SAYS BECAUSE THIS NICE LADY WITH THIS NICE  
15 BACKGROUND AND Demeanor AND IS THERE FOR THIRTEEN YEARS IS  
16 LIKE SAYING EVERY DOCTOR THERE IS WOULD NOT COMMIT  
17 MALPRACTICE. OBVIOUSLY THAT IS ABSURD.

18 THE COURT: MA'AM?

19 MS. CRAIN: YOUR HONOR, THERE IS NO REASON FOR ME TO  
20 TRY TO EVEN RESPOND TO THIS LITANY. IF MR. NANCE HAS PEOPLE  
21 THAT ARE GOING TO SHOW THAT MR. RODRIGUEZ CANNOT UNDERSTAND  
22 ENGLISH, LET HIM DO SO. I STILL SAY THAT THE BASIS OF THIS IS  
23 THAT THERE IS NO FRAUD, MISTAKE OR IRREGULARITY. I'M GOING TO  
24 GO BACK TO THAT. I FEEL THAT WHEN HE COUNTERACTED SOMETHING  
25 THAT I HAD SAID ABOUT THESE PAYMENTS BEING MADE IN REGARDS TO

1 THE UNDERSTANDING ISSUE, IF WE GET TO THAT, HE SAID HIS LAWYER  
2 ADVISED HIM TO MAKE THE PAYMENTS. THESE PAYMENTS BEGAN IN  
3 APRIL OF 1989. IF HE WENT TO A LAWYER IN APRIL OF 1989, WHY  
4 DID IT TAKE HIM OVER A YEAR TO GET TO THIS POSTURE?

5 SO I FEEL THERE IS SOME CONFUSION WITH THAT, WITH  
6 THAT RESPONSE TO THAT PARTICULAR ARGUMENT THAT I HAD GIVEN.

7 WE HAVE PEOPLE HERE NOT JUST TO SHOW HE HAS A  
8 DRIVER'S LICENSE OR WHAT HAVE YOU, WE FEEL THAT BY THE SAME  
9 TOKEN WE CAN SHOW THAT THIS MAN UNDERSTANDS ENGLISH CLEARLY  
10 AND WE CAN ALSO SHOW THAT WE DO PROVIDE DUE PROCESS AND ARE  
11 VERY CAREFUL TO DO SO THROUGH THE DOMESTIC RELATIONS DIVISION  
12 AND THE STATE'S ATTORNEY'S OFFICE.

13 THE COURT: THE WAY I ANALYZE IT, THAT IS THE  
14 THRESHOLD FUNDAMENTAL QUESTION. IF HE CAN UNDERSTAND ENGLISH  
15 SUFFICIENT ENOUGH TO PROCEED, YOU DON'T GET ANYWHERE FROM YOUR  
16 PERSPECTIVE, MR. NANCE. UNLESS YOU CAN SHOW THAT, YOU DON'T  
17 GET TO ALL THE OTHER ARGUMENTS YOU HAVE, THEY WOULD FALL, SO  
18 THAT IS WHERE WE HAVE TO BEGIN.

19 WE HAVE TO HAVE EVIDENCE ON THE QUESTION OF WHETHER  
20 OR NOT HE SPEAKS ENGLISH SUFFICIENTLY THAT HE COULD HAVE KNOWN  
21 OR IF HE DIDN'T KNOW HE HAD A DUTY, KNEW ENOUGH TO ASK.

22 MR. NANCE: I THINK YOU'RE SETTING THE PROCEDURE.  
23 WHAT I'M SAYING TO THE COURT IS I THINK THE QUESTION THAT WE  
24 HAVE RAISED MEETS THE THRESHOLD FOR THE COURT TO TAKE  
25 TESTIMONY ON THE ISSUE AND FOR THE COURT TO MAKE A FINDING.

6

1           WHETHER OR NOT WE'RE SAYING THE SAME THING BOTHERS  
2 ME BECAUSE WHAT I'M REALLY ASKING THE COURT AND INQUIRING AT  
3 LEAST IF THE COURT IS SAYING YOU SEPARATE IT FROM THE  
4 PROCEDRAL ASPECT, MAKING SURE HE KNOWS THAT IS WHAT OCCURRED,  
5 THEN I DON'T THINK THE COURT CAN DO THAT. I THINK ONCE IF A  
6 PERSON DOES NOT SPEAK SUFFICIENT ENGLISH TO UNDERSTAND THIS,  
7 THAT IS ENOUGH WITHIN THE RULES FOR FRAUD, MISTAKE OR  
8 IRREGULARITY. IF THE COURT FINDS THE EVIDENCE TO SUPPORT  
9 THAT, THEN THE COURT SHOULD STRIKE THE DECREE AND IT BE PUT  
10 BACK INTO THE PROCEDURE. THAT'S WHAT WE'RE SAYING.

11           THE COURT: I DON'T THINK THE FACT THAT -- YOU'RE  
12 MAKING A PROFFER SO TO SPEAK NOW?

13           MR. NANCE: I'M PREPARED FOR A HEARING.

14           THE COURT: WHAT I'M SAYING IS THE HEARING AT THIS  
15 STAGE SHOULD BE ADDRESSING THE QUESTION, IT SEEMS TO ME, OF  
16 WHETHER YOU CAN MEET WHAT I CHARACTERIZE AS YOUR INITIAL  
17 BURDEN. THE LINCHPIN OF YOUR ARGUMENT IS HE CANNOT UNDERSTAND  
18 ENGLISH AND THEREFORE ANYTHING HE SIGNED WOULD HAVE BEEN  
19 INVALID.

20           MR. NANCE: WE'RE READY.

21           THE COURT: THEREFORE LET ME EXCUSE YOU TO STEP BACK  
22 AND WE'LL TAKE THE NEXT CASE.

23           (WHEREUPON, THERE WAS A RECESS OF THE PROCEEDINGS.)

24           THE CLERK: THIS IS THE CONTINUING CASE OF NUMBER P  
25 D 70 DASH 119070, FRANCINA ARRINGTON VERSUS JOSE RODRIGUEZ.

1 THE CLERK: RAISE YOUR RIGHT HAND, PLEASE.

2 WHEREUPON,

3 JOSE RODRIGUEZ

4 A WITNESS OF LAWFUL AGE, AFTER FIRST BEING DULY SWORN TO TELL  
5 THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH,  
6 TESTIFIED AS FOLLOWS:

7 THE CLERK: BE SEATED, SIR.

8 GIVE ME YOUR NAME AND HOME ADDRESS, PLEASE.

9 THE WITNESS: MY NAME IS JOSE RODRIGUEZ, J O S E,  
10 RODRIGUEZ, R O D R I G U E Z. I LIVE AT 660, DOMBARTON  
11 AVENUE.

12 DIRECT EXAMINATION:

13 BY MR. NANCE:

14 Q. MR. RODRIGUEZ, I WILL ASK QUESTIONS OF YOU AND THE  
15 INTERPRETER, MR. RUIZ, WILL TELL YOU IN SPANISH WHAT THAT IS  
16 AS WELL AS QUESTIONS OR STATEMENTS BY THE JUDGE.

17 YOU'RE ANSWERING MY QUESTIONS BUT YOU'RE SPEAKING SO  
18 THAT THE JUDGE WILL UNDERSTAND WHAT IS BEING SAID TO YOU AND  
19 WHAT YOUR ANSWERS ARE, DO YOU UNDERSTAND THAT?

20 A. YES.

21 Q. ALTHOUGH YOU'RE SPEAKING THROUGH AN INTERPRETER, YOU  
22 HAVE TO SPEAK UP SO THAT THE JUDGE HEARS YOUR ANSWERS, DO YOU  
23 UNDERSTAND THAT?

24 A. YES.

25 Q. SO PLEASE SPEAK UP LOUD.

1 MR. RODRIGUEZ, WOULD YOU TELL US YOUR DATE OF BIRTH,  
2 PLEASE?

3 A. DECEMBER THE 28TH OF 1938.

4 Q. WHERE WERE YOU BORN?

5 A. I WAS BORN IN SANTO DOMINGO.

6 Q. IN WHAT COUNTRY IS THAT, SIR?

7 A. IN THE DOMINICAN REPUBLIC.

8 Q. AND WOULD YOU TELL THE COURT WHAT IS THE NATIVE  
9 LANGUAGE OF THE DOMINICAN REPUBLIC?

10 A. SPANISH.

11 Q. AND HOW LONG DID YOU LIVE IN THE DOMINICAN REPUBLIC?

12 A. WELL I LIVED IN THE DOMINICAN REPUBLIC UP UNTIL 72.  
13 NO, NO, CORRECTION, IT'S 65.

14 Q. HOW FAR DID YOU GO IN SCHOOL?

15 A. FIFTH OR 6TH GRADE.

16 Q. WHEN YOU MOVED FROM THE DOMINICAN REPUBLIC, WHERE  
17 DID YOU MOVE TO?

18 A. TO VENEZUALA.

19 Q. AND YOU LIVED IN VENEZUALA FROM 72 UNTIL WHEN, SIR?

20 A. FROM 66 TO 72 I WAS IN VENEZUALA.

21 Q. AND WHAT IS THE LANGUAGE SPOKEN IN VENEZUALA?

22 A. ALSO SPANISH.

23 Q. AND WHEN YOU MOVED FROM VENEZUALA, WHERE DID YOU  
24 MOVE TO?

25 A. TO NEW YORK.



1 Q. WHERE DID YOU LIVE IN NEW YORK, SIR?

2 A. IN MANHATTAN.

3 Q. WHAT TYPE OF WORK DID YOU DO, SIR?

4 A. MECHANIC.

5 Q. DID YOU GET ANY MORE EDUCATION OR SCHOOLING AFTER

6 THE DOMINICAN REPUBLIC?

7 A. NO, I DID NOT STUDY.

8 Q. WILL YOU TELL THE COURT WHAT LANGUAGE WAS SPOKEN

9 AROUND YOU WHERE YOU WERE IN MANHATTAN?

10 A. ALSO SPANISH.

11 Q. HOW DID THAT -- WHAT DO YOU MEAN, ISN'T ENGLISH

12 SPOKEN IN THE UNITED STATES?

13 A. WELL, YES, ENGLISH IS SPOKEN BUT IN THE AREA WHERE I

14 WAS LIVING, EVERYONE WAS SPEAKING SPANISH. ALSO THE

15 SUPERVISORS OF THE SHOP WHERE I WAS WORKING, THEY SPEAK

16 SPANISH.

17 Q. WHEN YOU MOVED TO NEW YORK, DID YOU MOVE THERE WITH

18 ANYONE?

19 A. WITH MY WIFE.

20 Q. IS THAT THE LADY BEHIND ME?

21 A. YES.

22 Q. WHAT IS HER NAME?

23 A. MARINA RODRIGUEZ.

24 THE COURT: WHAT YEAR DID HE GET MARRIED TO MARINA

25 RODRIGUEZ?

1 THE WITNESS: IN 1971.

2 THE COURT: WHERE WAS SHE BORN?

3 THE WITNESS: SHE WAS BORN IN THE STATE CALLED  
4 GARICO IN VENEZUALA.

5 BY MR. NANCE:

6 Q. AND YOUR WIFE'S NATURAL LANGUAGE IS SPANISH AS WELL?

7 A. YES.

8 Q. BUT YOUR WIFE HAS MORE ENGLISH TRAINING OR EDUCATION  
9 THAN YOU?

10 A. YES.

11 Q. WHEN MAIL COMES TO THE HOUSE ADDRESSED TO YOU  
12 WRITTEN IN ENGLISH, WHAT DO YOU DO WITH THE MAIL?

13 A. SHE READS IT AND TELLS ME WHAT IT CONTAINS.

14 Q. WHAT LANGUAGE DOES SHE INTERPRET IT TO YOU IN?

15 A. SHE DOES IT TO ME IN SPANISH.

16 Q. WHO HANDLES THE CORRESPONDENCE FOR YOU, THAT IS THE  
17 WRITING IF YOU HAVE TO WRITE SOMETHING?

18 A. SHE DOES ALL OF IT.

19 Q. WHO WRITES THE CHECKS FOR YOU?

20 A. SHE DOES IT.

21 Q. NOW, IN MARCH OF 1989, YOU RECEIVED A LETTER  
22 DIRECTING YOU TO COME TO THE COURT HOUSE, DOMESTIC RELATIONS  
23 DIVISION?

24 A. YES.

25 Q. WERE YOU PRESENT WITH ONE FRANCINA ARRINGTON?

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A. YES.

THE COURT: WAIT, BACK UP A MINUTE.

ABOUT THE LETTER DIRECTING HIM TO COME TO THE COURTHOUSE, HOW DID HE KNOW IT DIRECTED HIM TO COME TO THE COURTHOUSE?

THE WITNESS: SHE TOLD ME.

BY MR. NANCE:

Q. WHO IS SHE?

A. MY WIFE.

MS. CRAIN: HE SAID WIFE. HE KNOWS WHAT THE WORD WIFE IS.

THE COURT: THE RECORD SHOULD REFLECT THAT HE UNDERSTOOD THE QUESTION IN ENGLISH AND RESPONDED PRIOR TO INTERPRETATION HAVING BEEN MADE, IF THAT IS A FAIR CHARACTERIZATION.

MS. CRAIN: HE SAID, WITH ALL DUE RESPECT FOR THE COURT, THE INTERPRETER SAID THE WORD ESPOSA AND HE SAID MY WIFE. HE DID SAY MY WIFE IN ENGLISH BUT ESPOSA CAME FROM THE INTERPRETER WHICH IS HIS WIFE, SO I DON'T WANT THE COURT TO MISINTERPRET THE LAUGHTER THAT COMES FROM A LOYOLA GRADUATE.

THE COURT: WHO WAS THE LOYOLA GRADUATE?

MS. CRAIN: HIM.

THE COURT: ALL RIGHT.

MR. NANCE: NO PROBLEM.

BY MR. NANCE:

1 THE COURT: COULD YOU REPEAT WHAT YOU ASKED HIM?  
2 BY MR. NANCE:

3 Q. DO YOU KNOW WHY SHE SAID TO SIGN ON BOTH LINES? THE  
4 ANSWER WAS NO.

5 IF YOUR HONOR PLEASE, I WOULD INTRODUCE THIS AS  
6 DEFENDANT'S EXHIBIT NUMBER ONE.

7 LET THE RECORD REFLECT IT'S ENTITLED NOTIFICATION OF  
8 RIGHTS WHICH IS A COPY OF THAT WHICH OF IS IN THE COURT FILE.

9 THE COURT: ARE YOU SAYING, SIR, THAT THIS LADY WHO  
10 TOLD YOU TO SIGN ON BOTH LINES, YOU UNDERSTOOD WHAT SHE WAS  
11 TELLING YOU TO DO?

12 THE WITNESS: I SPEAK A LITTLE ENGLISH, NOT MUCH.

13 BY MR. NANCE:

14 Q. DO YOU RECALL WHAT SHE EXPLAINED TO YOU WHEN SHE  
15 SAID SIGN ON BOTH LINES?

16 A. I DO NOT REMEMBER -- I DID NOT UNDERSTAND VERY WELL  
17 WHAT SHE TOLD ME.

18 Q. DID YOU UNDERSTAND THE SUBJECT THAT SHE WAS TALKING  
19 ABOUT?

20 A. WELL SHE WAS TELLING ME THAT I HAD TO GIVE MONEY TO  
21 THE ONE THAT SHE SAYS IS MY DAUGHTER.

22 Q. DO YOU AGREE THAT THE CHILD IS YOUR DAUGHTER?

23 MS. CRAIN: OBJECTION.

24 THE COURT: GROUNDS?

25 THE WITNESS: I AM NOT --

1 Q. AFTER YOU -- WHEN YOU CAME TO THE COURTHOUSE AFTER  
2 RECEIVING THIS INFORMATION FROM YOUR WIFE, WAS THERE ANOTHER  
3 LADY IN THE ROOM?

4 A. YES, THERE WAS ANOTHER LADY.

5 MR. NANCE: I ASK THIS BE MARKED AS MOVANT'S EXHIBIT  
6 NUMBER ONE ON THE MOTION.

7 THE COURT: OKAY.

8 BY MR. NANCE:

9 Q. SHOWING YOU THIS PAPER THAT'S MARKED DEFENDANT'S  
10 EXHIBIT NUMBER ONE

11 (WHEREUPON, THE ATTORNEY FOR THE DEFENDANT INTRODUCED  
12 INTO EVIDENCE DEFENSE EXHIBIT NUMBER 1)

13 BY MR. NANCE:

14 Q. I SHOW YOU THESE TWO LINES. DO YOU SEE THE  
15 SIGNATURE ON EACH ONE OF THOSE LINES?

16 A. YES.

17 Q. I ASK YOU WHOSE SIGNATURES IS THAT?

18 A. THEY ARE MINE.

19 Q. CAN YOU TELL THE COURT WHY YOUR SIGNATURE IS ON BOTH  
20 LINES OR DO YOU KNOW?

21 A. YES, BECAUSE SHE TOLD ME TO SIGN ON BOTH LINES.

22 Q. WHO IS SHE?

23 A. THE LADY THAT WAS THERE. I DO NOT KNOW HER.

24 Q. DO YOU KNOW WHY YOU WERE TO SIGN ON BOTH LINES?

25 A. NO.

1 MR. NANCE: CAN WE HAVE THE ANSWER?

2 THE COURT: SHE'S OBJECTING TO THE QUESTION.

3 MR. NANCE: CAN WE TELL HIM HE HAS TO STOP A SECOND,  
4 THAT HE HAS TO LISTEN TO THE OBJECTION?

5 THE COURT: YES.

6 MR. NANCE: PLEASE TELL HIM THAT THE ATTORNEY MADE  
7 AN OBJECTION AND WE HAVE TO WAIT.

8 MS. CRAIN: I THINK YOUR HONOR THE REASON I OBJECT  
9 IS BECAUSE IN ORDER TO GET TO THAT PARTICULAR ISSUE, WE ARE  
10 HERE SIMPLY TO DETERMINE WHETHER ANY OF HIS -- ANY OTHER ISSUE  
11 HAS BEEN -- WHETHER THIS MAN CAN SPEAK ENGLISH. FURTHERMORE,  
12 IN ORDER TO IMPEACH A DECREE FOR FRAUD, THE DECEPTION MUST BE  
13 CLEARLY ESTABLISHED BY PROOF BEFORE THE PROPRIETY OF THE  
14 DECREE CAN BE INVESTIGATED SO AS FAR AS I'M CONCERNED, IF  
15 WE'RE ALLEGING FRAUD OR WHATEVER, WE'RE ALLEGING, FOR THIS  
16 HEARING THAT HAS TO BE ESTABLISHED BEFORE WE CAN GET TO ACTUAL  
17 PROPRIETY OF WHETHER THE DECREE --

18 MR. NANCE: I THINK IT ONLY GOES TO THE POINT THAT  
19 MS. CRAIN DOESN'T UNDERSTAND.

20 MS. CRAIN: MRS. CRAIN.

21 MR. NANCE: I SAID MS. BUT I'LL USE MRS. IF YOU  
22 WISH.

23 MS. CRAIN: I WOULD PROFFER IT.

24 MR. NANCE: I'M TRYING.

25 THE COURT: CONDUCT YOURSELF, COUNSEL, A LITTLE MORE

1 RESPECTFULLY.

2 MR. NANCE: MRS. CRAIN STILL DOESN'T UNDERSTAND THE  
3 ARGUMENT THAT THERE ARE THREE POINTS TO THE CHAPTER WHICH THEY  
4 CITE OUT OF THE DIGEST WHICH SAYS FRAUD, MISTAKE AND  
5 IRREGULARITY AND THE NOT KNOWING PARTY IS THE FRAUD, MISTAKE  
6 AND IRREGULARITY AND WE'RE ARGUING THAT AS A PRELIMINARY  
7 MATTER, WE OUGHT TO HAVE TO SHOW THERE WAS A GOOD FAITH BASIS  
8 FOR THE MOTION AS WELL WHICH IS PART OF WHAT THE WITNESS IS ON  
9 THE STAND FOR.

10 THE COURT: FOR THE PURPOSE OF THIS, I'M GOING TO  
11 ALLOW HIM TO ANSWER THE QUESTION.

12 THE QUESTION WAS DOES HE THINK HE WAS THE FATHER OF  
13 THE CHILD AS I RECALL THE QUESTION.

14 THE WITNESS: NO, I DON'T.

15 THE COURT: THE REASON, INCIDENTLY, AMONG OTHER  
16 THINGS, I THINK IT IS IMPORTANT TO ANSWER THAT QUESTION, I  
17 THINK IT IS RELEVANT TO WHAT ANYTHING HE EITHER KNEW OR SHOULD  
18 HAVE KNOWN OR THOUGHT OR SHOULD HAVE THOUGHT WHEN HE WAS AT  
19 THE DOMESTIC RELATIONS DIVISION.

20 I JUST WANTED TO FOLLOW UP FOR A MINUTE THEN I'LL  
21 STOP.

22 WHY MR. RODRIGUEZ DID YOU THINK YOU WERE BEING  
23 CALLED TO THE DOMESTIC RELATIONS OFFICE?

24 THE WITNESS: I DON'T KNOW. I DID NOT KNOW.

25 THE COURT: DID YOU KNOW THAT YOU WERE BEING

1 ACCUSED, IF YOU WILL, OF BEING THE FATHER OF A LITTLE GIRL?

2 THE WITNESS: NO, I DID NOT KNOW. I DID NOT KNOW I  
3 WAS BEING ACCUSED.

4 THE COURT: DID YOU KNOW MS. ARRINGTON?

5 THE WITNESS: YES, I --

6 MR. NANCE: WE'LL STIPULATE HE KNOWS MS. ARRINGTON.  
7 THERE IS NO QUESTION THAT THEY KNOW EACH OTHER.

8 THE COURT: WELL, I GUESS COUNSEL --

9 MR. NANCE: IT IS NOT IN THE MAGNITUDE THE  
10 MEMORANDUM SUGGESTS FROM THE STATE BUT THEY DO KNOW EACH  
11 OTHER.

12 THE COURT: I GUESS IT IS ALL RELEVANT TO ME AS TO  
13 WHAT HE MIGHT HAVE THOUGHT AND WHEN HE WOULD HAVE THOUGHT IT,  
14 THE SAME WAY I ALLOWED YOU TO SAY HE DIDN'T THINK HE WAS THE  
15 FATHER, IT IS IMPORTANT AS TO WHETHER OR NOT THEY HAD A  
16 RELATIONSHIP.

17 MIGHT HAVE HAD AN IMPACT ON WHETHER HE KNEW WHAT WAS  
18 GOING ON.

19 MR. NANCE: WHEN I SAY NOT TO THE MAGNITUDE AS  
20 STATED IN STATE'S MEMORANDUM, STATE'S MEMORANDUM SAID THEY  
21 LIVED TOGETHER. THAT IS CLEARLY NOT THE CASE AT ALL. IF THE  
22 STATE IS INQUIRING THAT WHETHER OR NOT THERE MAY HAVE BEEN A  
23 BASIS TO SUGGEST THAT THEY DID, I THINK THE WORD I'LL USE IN  
24 ENGLISH IS COMPLY. THERE MAY BE SOME BASIS TO ASSERT A  
25 FOUNDATION MAY ARISE THEREFROM.



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THE COURT: I GOT THAT ONE.

MR. RODRIGUEZ, DID YOU KNOW MS. ARRINGTON HAD A  
BABY?

THE WITNESS: YES, I KNEW.

THE COURT: HAD YOU EVER HAD ANY CONVERSATIONS WITH  
HER IN WHICH SHE TOLD YOU YOU WERE THE FATHER OF THAT BABY?

THE WITNESS: SHE HAD TOLD ME YES.

THE COURT: AND WHEN IS THE FIRST TIME SHE EVER TOLD  
YOU THAT APPROXIMATELY, THAT IS IF YOU CAN REMEMBER?

THE WITNESS: I DO NOT REMEMBER EXACTLY THE TIME BUT  
IT WAS A FEW DAYS AFTER THE CHILD WAS BORN.

THE COURT: WAS IT BEFORE YOU WENT THAT DAY ON MARCH  
3RD OF 89, DID YOU KNOW BEFORE MARCH 3RD OF 89 THAT SHE  
THOUGHT YOU WERE THE FATHER OF THE CHILD?

MR. NANCE: I HAVE TO OBJECT TO THE WORD THOUGHT.

THE COURT: WELL --

MR. NANCE: WHAT SHE ALLEGED.

THE COURT: WHAT SHE THOUGHT, NOT THAT IT IS TRUE  
BUT IT IS IMPORTANT ON THE NOTICE ISSUE.

MR. NANCE: I DON'T DISAGREE WITH THAT, IT IS THE  
QUESTION BASED ON HER THOUGHTS. JUST A TECHNICAL OBJECTION.

THE COURT: LET ME REPHRASE IT.

DID YOU KNOW, SIR, PRIOR TO MARCH 3RD, 1989 THAT  
THAT MS. ARRINGTON BELIEVED YOU WERE THE FATHER OF HER CHILD?

THE WITNESS: DO I -- YOU HAVE TO REPEAT IT AGAIN.

1 HOW WAS IT? REPEAT THE QUESTION?

2 THE COURT: DID YOU KNOW, SIR, BEFORE MARCH 3RD OF  
3 1989 THAT MS. ARRINGTON BELIEVED YOU WERE THE FATHER OF HER  
4 CHILD? IN OTHER WORDS, BEFORE YOU WENT TO THE DOMESTIC  
5 RELATIONS DIVISION --

6 THE WITNESS: SHE TOLD ME BUT I DID NOT BELIEVE IT.

7 THE COURT: BUT SHE HAD TOLD HIM. COUNSEL, LET'S  
8 THINK ABOUT -- WE'RE NOT GOING TO FINISH IN ANY EVENT SO I  
9 DIDN'T MEAN TO TAKE OVER YOUR CASE, MR. NANCE.

10 MR. NANCE: I DIDN'T THINK YOU WERE TAKING OVER MY  
11 CASE, JUDGE.

12 THE COURT: IT IS INTERESTING. WE'RE NOT GOING TO  
13 FINISH. LET'S THINK ABOUT WHEN WE CAN RESUME.

14 MR. NANCE: CAN I ASK ONE QUESTION SO I WON'T LOSE  
15 THAT POINT AND I'LL DO WHATEVER YOU WANT.

16 BY MR. NANCE:

17 Q. MR. RODRIGUEZ, AT THE TIME YOU CAME TO THE DOMESTIC  
18 RELATIONS DIVISION, WAS THERE ANYONE THERE SPEAKING IN  
19 SPANISH?

20 A. NO.

21 MR. NANCE: WHATEVER YOU WANT TO DO.

22 THE COURT: I WISH WE COULD STAY ALL NIGHT BUT  
23 UNFORTUNATELY THE COMMITMENT I HAVE CAN'T PERMIT IT.

24 MR. NANCE: YOU'RE THE SECOND COURT THAT SAID THANK  
25 YOU VERY MUCH FOR KEEPING ME AROUND. I'M EXCITED ABOUT IT.

1 THE COURT: COUNSEL, WE CAN RESUME JUNE THE FIRST,  
2 1990 AT TWO O'CLOCK. I DON'T KNOW IF WE'LL FINISH BUT WE'LL  
3 TRY.

4 MR. NANCE: THAT'S VERY IMPORTANT TO CLARIFY THAT.  
5 I HAVE TO -- THE INTERPRETER ADVISES ME HE HAS TO CHECK  
6 SOMETHING BUT AT THE MOMENT IT IS TENTATIVELY ALL RIGHT.

7 THE COURT: YES.

8 MR. NANCE: I DON'T KNOW IF SHE WANTS THE WIFE TO BE  
9 THE INTERPRETER. THERE ARE ONLY TWO INTERPRETERS IN THE  
10 SYSTEM.

11 MS. CRAIN: YOUR HONOR, I WON'T OBJECT TO THAT. THE  
12 FIRST IS A DAY THAT IS MY VACATION DAY WHICH I AM COMING IN  
13 FOR SO I WOULD REALLY APPRECIATE MR. NANCE'S EARLIEST RESPONSE  
14 ON THAT BECAUSE I DO HAVE PLANS, PERSONAL PLANS, THAT I HAVE  
15 ALREADY MADE AND THAT I WOULD BE WILLING TO HAVE COUNSEL DO  
16 THAT.

17 MR. NANCE: JUST I WILL GET BACK TO THE COURT AND  
18 MS. CRAIN, I DON'T SEE ANY REASON TO DRAG THIS OUT.

19 (WHEREUPON, THERE WAS A RECESS OF THE PROCEEDINGS.)  
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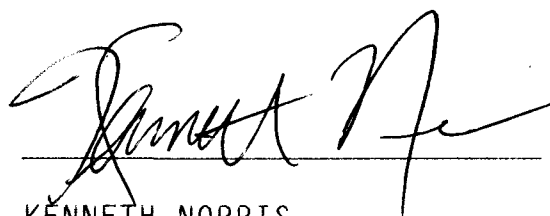
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REPORTER'S CERTIFICATE

I KENNETH NORRIS, AN OFFICIAL REPORTER OF THE CIRCUIT COURT FOR BALTIMORE CITY, DO HEREBY CERTIFY THAT I RECORDED STENOGRAPHICALLY THE PROCEEDINGS IN THE MATTER OF THE FRANCINA ARRINGTON VERSUS JOSE RODRIGUEZ IN THE CIRCUIT COURT FOR BALTIMORE CITY ON MAY 24, 1990.

I FURTHER CERTIFY THAT THE AFOREGOING PAGES CONSTITUTE THE OFFICIAL TRANSCRIPT TRANSCRIBED FROM MY STENOGRAPHIC NOTES TO THE WITHIN COMPUTERIZED TRANSCRIPT IN A COMPLETE AND ACCURATE MANNER.

IN WITNESS WHEREOF I HAVE HEREUNTO SUBSCRIBED MY NAME THIS 17TH OF OCTOBER, 1990.



KENNETH NORRIS

OFFICIAL COURT REPORTER

*Ray*

**Subject:** Re: MSA SC 5458-82-152

**From:** Jennifer Hafner <jenh@mdsa.net>

**Date:** Wed, 17 Feb 2010 15:06:50 -0500

**To:** Doris Byrne <dorisb@mdsa.net>, Sheila Simms <sheilas@mdsa.net>, Ray Connor <rayc@mdsa.net>

**CC:** Edward Papenfuse <edp@msa.md.gov>

I have added the following case to this work order.

BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Johnson (or Johnson-Bey), 1987, Box 11 Case No. 28701917 [MSA T3372-853, CW/2/20/26]



Jennifer Hafner wrote:

Below are additional cases which need to be pulled and scanned for Judge Hollander's request.

	<i>images</i>	<u>137</u>	119070-1
*MSA SC 5458-82-152*	<i>images</i>	<u>164</u>	" -2
	<i>images</i>	<u>292</u>	" -3

\*Dates:\* 2010/02/17

\*Description:\* Case numbers received from J. Hollander -



BALTIMORE CITY CIRCUIT COURT (Paternity Papers) Arrington v. Rodriguez, 1989, Box 169 Case No. 119070 [MSA T3351-923, CW/16/31/25]

File should be named msa\_sc5458\_82\_152\_[full case number]-#### *→ 3 Files*

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Rolnik v. Union Labor Life Ins. Co., 1987, Case No. 87313071

Case is split between 2 boxes:

Box 387 [MSA T2691-2026, HF/8/35/8]

Box 388 [MSA T2691-2027, HF/8/35/9]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack Co., Box 128 Case No. 88102069 [MSA T2691-2232, HF/11/30/3]

See also for "brick binders":

Box 527 [MSA T2691-2631, HF/11/38/18]

Box 528 [MSA T2691-2632, HF/11/38/19]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Attorney Grievance Commission v. Yacono, 1992, Box 1953 Case No. 92024055 [MSA T2691-4591, OR/12/14/65]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Feldmann v. Coleman, 1993, Box 391 Case No. 93203022 [MSA T2691-5466, OR/22/08/037]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Jefferson v. Ford Motor Credit Corp., 1993, Box 470 Case No. 93251040 [MSA T2691-5545, OR/22/10/20]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack Co. and Blum, Yumkas, Mailman, 1993, Box 518 Case No. 93285087 [MSA T2691-5593, OR/22/11/20]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Booth v. Board of Appeals, 1993, Box 589 Case No. 93330026 [MSA T2691-5665, OR/22/12/45]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Scott v. Dept. of Public Safety, 1993, Box 603 Case No. 93342002 [MSA T2691-5679, OR/22/13/11]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Stubbins v. Md. Parole Comm'n., 1993, Box 616 Case No. 93354003 [MSA T2691-5692, OR/22/13/24]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Fitch v. DeJong, 1994, Box 109 Case No. 94077005 [MSA T2691-5817, OR/28/9/2]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Bowden, 1987, Box 142 Case No. 18721501 [MSA T3372-984, CW/2/23/13]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

*BCC* PUT 10-21-?  
AGENT C. JOHNSON

BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Redmond, 1988,  
Box 191 Case No. 48828071 [MSA T3372-1282, HF/11/23/43]  
File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Parker, 1990  
Box 100 Case Nos. 290213034,35 [MSA T3372-1476, OR/16/16/8]  
Box 104 Case Nos. 290221060,61 [MSA T3372-1480, OR/16/16/12]  
File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Criminal Transcripts) State v. Monk, 1991,  
Box 78 Case No. 591277019 [MSA T3657-403, OR/17/11/21]  
File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CRIMINAL COURT (Transcripts) Eraina Pretty, 1978, Box 43  
Case Nos. 57811846, 57811847, 57811848, 57811858, 57811859, 57811860 [MSA  
T496-3990, OR/18/22/41]  
File should be named msa\_sc5458\_82\_152\_[full case number]-####