

<p>DISTRICT COURT DOUGLAS COUNTY, COLORADO</p> <p>4000 Justice Way, Castle Rock, CO 80109</p>	<p>▲ COURT USE ONLY ▲</p>
<p>In the Interest of</p> <p>LOGAN THOMPSON,</p> <p>Juvenile.</p>	
<p>For the Plaintiff:</p> <p>Deborah Wrenholt, Esq. 18th Judicial District Attorney's Office 4000 Justice Way, Ste. 2525A Castle Rock, CO 80109 Telephone: (303) 814-7100</p> <p>For the Juvenile:</p> <p>Jacqueline Phillips, Esq. Law Office of Dr. Jacque Phillips Esq. 90 84th Ave. Thornton, CO 80260 Telephone: (970) 302-4294</p> <p>Guardian ad Litem:</p> <p>Pamela Wakefield, Esq. WAKEFIELD WAKEFIELD PC 7535 E. Hampden Ave. 503 Denver, CO 80231 Telephone: (303) 753-1229</p>	

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For Colorado Department of Human Services:

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The matter came on for hearing on July 5, 2016, before the HONORABLE BETH ELLIOTT-DUMLER, MAGISTRATE of the District Court, and the following FTR proceedings were had.

I N D E X

WITNESSES FOR THE PEOPLE:

NONE

WITNESSES FOR THE JUVENILE:

NONE

EXHIBITS

IDENTIFIED

ADMITTED

For the Plaintiff:

NONE

For the Juvenile:

NONE

1 **Pre-Trial Conference**

2 **July 5, 2016**

3
4 THE COURT: Logan Thompson. 15 JD 407.

5 MS. WRENHOLT: Deb Wrenholt for the People.

6 MS. PHILLIPS: Jackie Phillips for Logan Thompson.

7 MS. WAKEFIELD: And, Your Honor, Pamela Wakefield
8 appearing as Logan's Guardian ad Litem. He is not present,
9 nor is his mom. At the last hearing the Court did agree that
10 their presence could be waived, since my understanding is is
11 we are here for a return and response from the Attorney
12 General's office.

13 THE COURT: Okay. And did you look at the
14 restoration options?

15 MS. PHILLIPS: So, Your Honor, what happened since
16 the -- we had the last hearing was on May 31st, in which it
17 was decided that Logan could be restored. And so on June 1st,
18 Mom sent an email to Denver FIRST. That's who the DA told Mom
19 to contact. Mom did not hear back from them until June 21st.
20 On June 21st they sent an email to her. They apologized for
21 the lack of response. They said the director is currently out
22 of the country. They said the therapists are students. They
23 said we do not provide specific training for autism, and they
24 said that they have no -- it's as -- as far as funding from
25 the court, that piece is out of our hands.

1 Following that, Mom did write back to them again
2 with some specific questions about availability for
3 appointments. Again about if -- if the -- if the students
4 that would be working with Logan were -- how they were
5 qualified or licensed or had they been fingerprinted,
6 et cetera, and what kind of methods would be used to teach her
7 son. And so they're waiting for that response.

8 A couple other things that did happen since we were
9 last here, Your Honor, there's -- we have another letter of
10 support from a swim instructor. But I think the -- the most
11 important thing is that Logan does now have a medical
12 diagnosis, so Colorado Psychiatry Center did do the autism
13 diagnosis done by an MD. That psychiatrist also called me and
14 let me know that -- that he does have the autism diagnosis and
15 that they would be working with Logan.

16 The other thing that happened is there was an email
17 to the DA from the principal, in which the principal stated
18 that they had evidence that the -- the other student involved
19 in the case had in fact -- is an instigator. It says -- the
20 principal wrote:

21 "We have documentation that the other student has
22 been an instigator towards Logan. Upon parent phone
23 conversation and conferences, the other kid's
24 parents will not recognize nor support any
25 wrongdoing on his part. And the student maintains

1 he has done nothing to provoke Logan."

2 And then I quote from the principal "Our evidence
3 proves otherwise."

4 And then we'll also be -- the other thing that came
5 from the principal was statements indicating that the
6 appropriate services had not been provided for Logan, and as
7 we've -- as we've discussed before, we are gonna -- I talked
8 with Rob Ross, attorney for Douglas County schools, and we
9 will be proceeding with a complaint to Colorado Department of
10 Education, based on those lack of services.

11 MS. WRENHOLT: And Ms. Cook has been dealing with
12 the principal. My understanding was that they had a different
13 conversation, so I'd have to ask her about that. My
14 understanding was that she was saying Logan was still an issue
15 in the school, and they wanted something to be done about the
16 charges.

17 As far as the restoration stuff, I know that
18 Ms. Cook also reached out to Dr. Kyle Lucas, who had been
19 recommended by Dr. Foster. He called her back. He said that
20 he does do restoration. He charges a hundred dollars an hour.
21 He uses a variety of different teaching methods, but he
22 tailors it to each kid. He also engages them in role-playing
23 to talk about the judicial system. And she had his number, so
24 I don't know if that's an option. It is a hundred dollars an
25 hour. I know that the Attorney General's Office is here with

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1 Patrick Fox from the Colorado Department of Human Services.

2 MS. WAKEFIELD: Your Honor, I don't have anything to
3 add. I've been trying to reach the Denver FIRST program. I
4 was using a telephone to leave messages, and so if the
5 director's out of town, then this goes to his voicemail. That
6 explains why he hasn't called back, I guess. But it certainly
7 isn't helping us at all in terms of this case or similarly
8 situated cases. But if they are saying that they don't have
9 any experience in dealing with kids who are on the spectrum,
10 then it's probably not the right restoration service in any
11 event.

12 THE COURT: Okay.

13 MS. PHILLIPS: And -- and just to add if the -- I
14 can -- I'll hand the DA the email that was written to the
15 other DA. This was written to Chelsea.

16 MS. WRENHOLT: Hang on, but Chelsea's gonna have --
17 you'll have to discuss that with her.

18 MS. PHILLIPS: Okay. I was just quoting from --

19 MS. WRENHOLT: Okay.

20 MS. PHILLIPS: -- the information that you had
21 received.

22 THE COURT: Okay. Well, those issues go to the
23 District Attorney's discretion. I don't have authority over
24 those. Can't set it for trial 'cause he's incompetent.

25 MS. PHILLIPS: Exactly.

1 THE COURT: So I don't -- those are not issues I can
2 help you with. Is the Attorney General taking a position on
3 what -- who is supposed to be paying for restoration services?
4 Because we can't find who it is.

5 MS. PERRILL: Hi, Your Honor. Jessica Perrill from
6 the Attorney General's Office on behalf of the Colorado
7 Department of Human Services. So, Your Honor, there are two
8 sort of separate issues here. One is: Who can and should
9 provide the services? And the other is who can and should pay
10 for the services? And we share in your frustration for both
11 of those, frankly. The Department is not funded to pay for
12 outpatient restoration services. It's not in the long bill.
13 It's not one of the line items, and we're really not --

14 THE COURT: But it is a statutory duty.

15 MS. PERRILL: -- I'm sorry?

16 THE COURT: But it is your -- your responsibility by
17 statute, but there's no money?

18 MS. PERRILL: It would be our position that it's
19 not specifically delineated in the restoration portion of the
20 Children's Code. There's a very generalized statutory
21 provision that says the Department should provide services for
22 juveniles in the context of their needs. But restoration
23 services, from our position, is very specific to getting a
24 juvenile restored to be able to stand trial, and that's a
25 different need than the one that we feel we're responsible to

1 provide under the Children's Code. And I can tell you, Your
2 Honor --

3 THE COURT: Just for the record, can you just state
4 that -- the position on what you believe you are responsible
5 for?

6 MS. PERRILL: I mean, I couldn't state every single
7 service. I -- I apologize, Your Honor. The Department is --

8 THE COURT: Well, I'm trying to find -- the statute
9 says "shall." That I shall order the restoration services.

10 MS. PERRILL: I -- I understand. I --

11 THE COURT: And it -- it also says that you're the
12 one to provide the services for juveniles generally. It
13 doesn't specifically say "restoration," but -- so who's --
14 who's supposed to take this on? And -- and the worst -- the
15 worst thing about it is this -- is I'm watching these families
16 with some of the most severely disabled kids that come through
17 here, many of whom can absolutely not afford it. I don't want
18 to kill these families. That's not the right thing to do. It
19 looks like it's -- it falls on your responsibility -- or the
20 Department of Human Services. We're so frustrated with it.
21 It -- we don't know -- we don't know where to look.

22 MS. PERRILL: I -- I -- and I completely share in
23 that frustration, Your Honor. I -- you know --

24 MS. WRENHOLT: Can I say one thing to you?

25 MS. PERRILL: -- one question --

1 MS. WRENHOLT: So, here's the thing that I really
2 get confused about, and even when I was talking to them in the
3 hall, I don't really understand. So they're saying somewhere
4 it has to be ordered "you have to do restoration services."
5 There's nowhere in the statute where it says you have to do
6 the comps eval, and they do restoration services at the State
7 Hospital. That's nowhere in the statute. They do restoration
8 evaluations. That's nowhere in the statute. So how did all
9 that get set up and somehow restoration services outpatient
10 didn't?

11 So -- my position is I think there's money. They're
12 just choosing not to do this, and no one's really ever asked
13 the question why aren't you doing this? I think the Court has
14 the authority to order them to do this. Now, how they set
15 that up, I think that's up to them with their budgeting and
16 all the needs they have. I know that Dr. Foster said he can
17 provide training in this area. He's already contracted with
18 them, but they're doing some of these things anyway.

19 And probably the other conversation we had that was
20 kind of concerning to me. They said, "Well, it's not in the
21 family's best interest." Well, the only other alternative the
22 Court would have in any of these cases, if we really want to
23 restore them, would be to send them inpatient to the State
24 Hospital because that's the least restrictive alternative if
25 they don't provide an outpatient. So I don't really

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1 understand why they do some of these things that are nowhere
2 in the code say they have to do them, but they won't do this
3 one part of it. Because they do the other stuff. They do
4 inpatient restoration. They do the evaluations. It makes no
5 sense to me why you wouldn't do the whole thing when you
6 already do part of it.

7 MS. PERRILL: Your Honor, if I may finish. We are
8 -- the Department of Human Services is funded to run a state
9 hospital, so they're funded for, I think -- Dr. Fox can
10 correct me if I'm wrong -- 20 juvenile beds. And so there's
11 funding for 20 juvenile beds. So when a juvenile's ordered
12 for inpatient restoration services, that funding already
13 exists because it's a line item in the bill that says you have
14 to have 20 beds available for juvenile services. And so that
15 -- that is why we are able to provide inpatient juvenile
16 restoration services, because it's already funded.

17 We did not say, Your Honor, that it wasn't in the
18 Juvenile's best interest. I think one of our points was that
19 -- two things: one, in the adult system, outpatient juvenile
20 restoration services almost never comes up, because the level
21 of crimes are dismissed when they're deemed incompetent, so
22 that's number one. Number two, the Department of Human
23 Services does not pay for outpatient restoration services in
24 the adult system either, because they are not funded for it.

25 And I'm not -- I am not submitting to you that that

1 doesn't mean that there's not an issue and that you are not in
2 a huge -- that this isn't a problem that needs to be
3 addressed. All I'm -- all I'm representing to you, Your
4 Honor, is that the Department is not funded for this
5 particular service. We are not choosing to not provide it.
6 We can -- this is certainly on the list of things to be
7 addressed to deal with very quickly in the next legislative
8 session, and before. But the Department is not choosing to do
9 this out of malice or any other sort of ill intent. It's --
10 it's really just: A) the Department hasn't really been asked
11 to do this in the past, and so this is just coming to -- to
12 the Department's attention; and B) they're not funded for it.
13 And so I recognize that that does not help you at all, but I
14 just wanted to show up today to -- to let you know that that's
15 our position at this point.

16 And I also, Your Honor, have Dr. Patrick Fox here
17 with me. He's the Chief Medical Officer the Department, who
18 could dive even more into some of these issues if you wanted
19 that.

20 THE COURT: Well, it's an impossible situation. I
21 -- I can't follow the statute unless I order somebody to pay
22 for it. So what I'm gonna order is the family to submit a
23 financial affidavit. If I determined that they cannot fund it
24 on their own, I'm gonna order -- I'm gonna continue my order
25 that it has to be paid for, and they -- and they can take it

1 up to the legislature -- or take it up on appeal so I have a
2 clear line of who is supposed to pay for this.

3 Statute says "shall order it," but I'm gonna
4 bankrupt some of these families. We have three of them on the
5 docket today that -- some can pay; some can't. And I don't
6 know exactly who they are, but we are gonna have to sort
7 through it one way or another.

8 MS. WRENHOLT: Your Honor, if -- since we're on the
9 record for Logan Thompson -- I got too many today.

10 THE COURT: I know.

11 MS. WRENHOLT: Do you want me to pass on this
12 information for Dr. Kyle Lucas to them?

13 THE COURT: Uh-huh. Sure.

14 MS. WRENHOLT: I don't know if they have the ability
15 to pay, but if they do, then they have that.

16 MS. PHILLIPS: Yeah. Your Honor, I can tell you
17 this -- this family does not have the ability to pay, and I
18 just -- I know I -- I keep pleading over and over for a
19 dismiss, but I just want to put in context --

20 THE COURT: I -- I don't have the authority. I -- I
21 don't have it --

22 MS. PHILLIPS: -- it's a ten-year-old with autism
23 with a face slap. Are we gonna put all these kids in jail?
24 So we are organizing the autism groups in the State of
25 Colorado. Because this is not -- this is not one case, you

1 know? As you said already --

2 THE COURT: I agree.

3 MS. PHILLIPS: -- so I think it's -- I think it's
4 time just to -- to get these advocacy groups involved so that
5 they can see that, in the State of Colorado, that this is what
6 we're doing to little children in fourth grade with autism,
7 that have characteristics of autism, and now all of a sudden
8 they're in juvenile court. I think it's embarrassing to the
9 State of Colorado that this is what we do to kids in Douglas
10 County, and hopefully it's not happening anywhere else. Is
11 this the only place where we have kids in court -- excuse me
12 -- and I do want to add that I have cases right now. This is
13 all we do, is work with kids with special needs. I have a
14 doctorate in the field. We have cases right now. I have one
15 with a teacher with a broken wrist because of a student with
16 autism. No charges at all. I have another one with a teacher
17 that has her hand in a cast because a student with autism bit
18 her. No charges at all. These cases don't come to court.
19 And the idea that these kids with autism are now going to be
20 in court and charged when other kids bully them -- and that's
21 what this is. It's a bullying case with a power family, and
22 now all of a sudden this little kid -- my God -- we -- you
23 know, we're in court. Over and over this has been devastating
24 to the family. It's devastating to the kid. And it's just a
25 perfect example of injustice in the court. I hope we can find

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1 a solution.

2 THE COURT: I understand your frustration.

3 MS. PHILLIPS: Thank you.

4 THE COURT: But I don't have the power --

5 MS. PHILLIPS: I understand.

6 THE COURT: -- to fix it.

7 MS. WRENHOLT: I do want to make a little bit of a
8 record, because here's the problem. Some of these autistic
9 kids can be very violent. I don't know if you've ever heard
10 of Adam Lanza, but that's what we're trying to avoid.
11 Sometimes there needs to be upfront stuff so that somebody
12 doesn't become violent. There are studies out, unfortunately,
13 that kids who are dual diagnosed with autism and something
14 else can lead to very violent crimes.

15 What we're trying to do is make sure that he doesn't
16 reoffend. And unfortunately, I'm in the position where I have
17 dismissed some cases before in the past, and they're back
18 already with new charges. I have those cases. Some of those
19 people are set today. So it's not okay to just be like,
20 "Well, it's another victim. Oh, well." Because there's -- in
21 every one of these cases, there's somebody who's been
22 assaulted. Another kid, and that kid has rights too.

23 MS. PHILLIPS: Well, we look forward to the trial.

24 THE COURT: There won't be one. I doubt -- I don't
25 believe. Unless I can get restoration services --

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1 MS. PHILLIPS: So in the meantime, Your Honor --

2 THE COURT: -- and I can't seem to get those. And
3 -- and -- and admittedly, there's only two people we can come
4 up with who -- who even have the ability to even try, unless
5 we put 'em in an inpatient hospital, which is not appropriate
6 for these kids. It's something that the legislature needs to
7 help us with immediately. I -- it's a -- it's a very big
8 problem. One I can't solve today.

9 Go ahead and file a financial affidavit so I can
10 look at that and make a determination and make it an order,
11 and let's take it up on appeal and get some law on it and get
12 some attention around it so maybe somebody will solve this
13 problem for us. It doesn't appear that I have a better
14 answer.

15 MS. PHILLIPS: Thank you, Your Honor.

16 MS. WAKEFIELD: Your Honor --

17 MS. WRENHOLT: And then are we -- are we setting for
18 a restoration review then?

19 THE COURT: Yeah.

20 MS. WRENHOLT: But can we set that 90 days out?

21 THE COURT: Yeah. We'll set it for 90 days, which
22 would put us in October. Why don't we shoot for October 6th?

23 MS. PERRILL: And, Your Honor, I assume whatever
24 order you issue, we will get copies of?

25 THE COURT: Absolutely.

1 MS. PERRILL: Okay.

2 THE COURT: I -- I think that we needed to take it
3 up and -- and figure out who's right and who does have the
4 responsibility, and if it's truly -- I -- I don't know what
5 else to do with it, but there needs to be some law in it. It
6 says I have to. It's a "shall." It's not a discretionary
7 order.

8 MS. PERRILL: Your Honor, I would also ask -- I
9 think we're here on three other --

10 THE COURT: Uh-huh.

11 MS. PERRILL: -- two or three other cases.

12 THE COURT: Is everybody okay with that date on this
13 before I leave it?

14 MS. WAKEFIELD: What time, Your Honor?

15 THE COURT: At -- can we do 10-6 at 10:00? Okay.
16 Sorry.

17 MS. PERRILL: Oh, no. I was just going -- going to
18 say that obviously, our position's gonna be the same in those
19 cases, so I --

20 THE COURT: Okay.

21 MS. PERRILL: -- just wondering. I don't know what
22 the -- what the rule or the order is for the docket today,
23 but --

24 THE COURT: Actually, I think one of them is coming
25 up next.

1 MS. PERRILL: Okay.

2 THE COURT: Lucas West. 16 JD 12.

3 MS. PERRILL: Okay.

4 THE COURT: I don't think -- I think the only thing
5 that we could do that would be helpful is -- we'll call Lucas
6 West. 16 JD 12. And if you could just clarify to the best of
7 your ability what you -- what you believe their role is to pay
8 for in terms of services. Your position is just the inpatient
9 hospital -- it's --

10 MS. PERRILL: Are you speaking in general or just
11 with respect to restoration?

12 THE COURT: Well, in general. So what's the
13 difference -- what kinds of things would be included that you
14 agree are their responsibility and why is this -- can you
15 clarify the line you guys are coming up with at all?

16 MS. PERRILL: Yeah. And you know, I think --
17 Patrick, would you be able to -- he might be able to clarify
18 that a little bit more, just 'cause he's more familiar with
19 the services that the Department provides overall.

20 THE COURT: Okay. Hello.

21 DR. FOX: Good morning, Your Honor. Dr. Patrick
22 Fox, Chief Medical Officer for the Department of Human
23 Services. So, with respect to services for juveniles, the --
24 the Department of Human Services provides some services. For
25 those who are Medicaid recipients -- the -- Behavioral Health

1 Organization is responsible for -- for providing treatment
2 services. There are no -- there's no specific language that
3 delineates that the Department of Human Services is to provide
4 outpatient juvenile restoration, and we haven't, to date, had
5 cause to -- to create those services. Were we to do so, we
6 would need to examine where the funding for that would come
7 from, whether it would come from the Department of Human
8 Services requesting money of the legislature, or whether that
9 would come from the judicial department requesting money from
10 the legislature, as happens with inpatient competency evals
11 and restoration evals for adults.

12 THE COURT: So which one? You said two options
13 there. How -- how is it paid for with adult?

14 DR. FOX: For adults?

15 THE COURT: Uh-huh.

16 DR. FOX: For adults, there's a provision in the
17 adult statute in 16-8.5 that says that -- that references
18 judicial's line item that says that annually, judicial will
19 pay for those services. There's not been a change in that fee
20 for a number of years, and it become a topic of discussion
21 this year as to whether or not we should increase the rate
22 that -- that judicial pays for it, but it comes out of the
23 same fees that are provided for second opinion evaluations or
24 ADC funding.

25 THE COURT: Who pays for the competency evals that

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1 we -- we've done competency evals in each of these cases. How
2 did that get paid?

3 DR. FOX: I'm not sure specifically how that's paid,
4 whether it's through the adult -- through the Office of
5 Behavioral Health or the Office of Children, Youth, and
6 Families. I'm not sure.

7 THE COURT: Okay.

8 MS. WRENHOLT: The order -- 'cause the order that
9 was sent out says that the hospital arranges it, and then you
10 guys pay for it. That's how the order reads.

11 THE COURT: For the competency eval?

12 MS. WRENHOLT: For the competency eval.

13 DR. FOX: I can find out from Court Services at
14 Pueblo as to whether or not they -- I know they handle the
15 adult evaluations that come in and make a determination as to
16 who the evaluator will be from the list of evaluators, and I
17 know for juvenile competency evaluations and restorations, if
18 they're inpatient we handle them at the State Hospital on the
19 Adolescent Behavioral Treatment Unit.

20 THE COURT: Okay.

21 MS. WRENHOLT: This -- well, there -- and this is
22 the order the State Hospital has. It says that "the Colorado
23 Department of Human Services is appointed to perform an
24 evaluation of the Defendant." So that's -- you're actually
25 appointed to do that, so I'm assuming you're paying for it,

1 because -- and then the State Hospital arranges it in the
2 juvenile cases.

3 DR. FOX: Right. And we're provided a budget to
4 manage the number of referrals, and then as the number of
5 referrals increase, we go back to the Joint Budget Committee
6 to request money. This past year, we requested an emergency
7 supplemental to address the continued rise in adult
8 evaluations and restorations to the tune of 4.1 million. That
9 was to expand the inpatient restoration program at the
10 Arapahoe County Detention Facility and for us to hire four
11 additional evaluators that could do both inpatient and
12 outpatient, because as the pool of necessary evaluations
13 increases, we need to hire more evaluators. And so that's
14 generally how these are funded.

15 THE COURT: Okay.

16 MS. WRENHOLT: But -- but -- correct me if I'm wrong
17 -- part of that was -- the reason you went back and did that
18 was because of a lawsuit that happened because they weren't
19 getting done fast enough.

20 DR. FOX: Correct.

21 MS. WRENHOLT: Right. I -- it's just -- it's
22 concerning to me that we can't change anything unless orders
23 start to happen, because it feels like we've been in this
24 place for a long time, and nothing's really happened. And
25 it's not just this jurisdiction. I know that this is the

1 first jurisdiction maybe to enter an order, but I meet with
2 the other district attorneys, and every jurisdiction struggles
3 with this problem and has no idea where to turn and what to do
4 on these types of cases.

5 THE COURT: And I've -- I've asked the State Court
6 Administrator's Office to give some guidance on it as well. I
7 can't get anything.

8 MS. WAKEFIELD: And, Your Honor, I put it out, and
9 as did Ms. Striper (phonetic) on the listserv for the
10 Guardians ad Litem, and the only response that we got that I
11 recall, unless Ms. Striper got other ones on her cases, was,
12 you know, this Denver FIRST program, which doesn't seem to be
13 the answer for many of our cases. Otherwise, nothing.

14 DR. FOX: And to be clear, Your Honor, the
15 Department of Human Services is not saying that it will not
16 provide services. It's that as yet it's not clear whether we
17 are the entity responsible for providing those services, and
18 if so, how those services are to be paid for, because --

19 THE COURT: I understand.

20 DR. FOX: -- we don't have money within existing
21 budget, so we would need to request an appropriation of the
22 legislature in order to meet that demand. The Department has
23 representatives on the Mentally Ill Criminal Justice System
24 Task Force to address the issues of juvenile competency.
25 We've heard from concerns by DAs about this issue as well as

1 public defenders or defense attorneys for juveniles. And
2 interestingly, again, concerns about whether or not
3 restoration to competency is specifically what it is that
4 we're interested in or ensuring that the needs of the child --
5 specific need -- treatment needs of the child are met. If --
6 if it's about whether or not the child's treatment needs are
7 being met and the child is receiving Medicaid, then the
8 Department will work with the state Medicaid authority to
9 ensure that that child has access to appropriate mental health
10 services.

11 THE COURT: But even if I were to order -- let's say
12 for our Medicaid families, if -- even if I were to order --
13 like -- you know, our provider in this district is our health
14 network. When they do the billing code to get paid on that,
15 there isn't one for restoration because it's not deemed a
16 service to improve the mental health of the child, correct?

17 DR. FOX: Correct, and I think that gets at the
18 heart of the issue, Your Honor, is that it's not specifically
19 a service that's delivered for the best interests of the
20 child. It's actually restoration service being delivered to
21 meet the judicial branch's interest in -- in restoration for
22 the -- the purposes of justice. Which is also what makes it a
23 little complicated with respect to a -- a direct carryover and
24 applicability to the child -- to the Children's Code, that
25 says that the Department of Human Services is the single state

1 authority to provide services for children and families. We
2 generally interpret that to mean to serve the needs of those
3 children, not the needs of a -- of another party that wishes
4 to have service provided to that individual.

5 THE COURT: For example, and it -- and it only came
6 up, I think, recently because the previous cases I've had with
7 this issue -- they were the same goal. So, for example, a kid
8 with schizophrenia, and I ordered the Department to medicate
9 the schizophrenia, and that will also restore them. There's
10 no conflict; there's no difference. I can get those paid for,
11 because it serves the best interest of the child, and I can
12 order DHS to pay for it, and the -- the purpose is the same.
13 I think this the first time that I've been confronted with
14 something that can't be easily remedied -- with autism.

15 DR. FOX: Correct, Your Honor. And when this first
16 came to light, I reached out to Judy Zerzan, my counterpart
17 Chief Medical Officer at State Medicaid Healthcare Policy and
18 Financing, as well as Lenya Robinson, the Behavioral Health
19 Section Chief, and in speaking with them, what they said was
20 that if the services being delivered are medically necessary,
21 which was -- is the language, then they can be provided. If
22 as a -- as a byproduct of that, the efforts toward restoration
23 are achieved, then so be it, but it can't be solely for the
24 purpose of -- of restoration.

25 And the conversations at the Mentally Ill Criminal

1 Justice System Task Force that we had when we were spending a
2 lot of time deliberating over the juvenile competency statute
3 and ways in which it should -- if it should be modified in
4 ways in which could be modified, there are concerns that --
5 that by making it too similar to the adult language, you're
6 serving a different purpose than what juvenile courts have
7 historically been viewed as serving.

8 So it begins to incorporate retributive elements
9 into the juvenile court process, and if so, I just caution
10 that we see how we've set up our adult court system and that
11 we build a juvenile court system that -- that mirrors that,
12 but that may be more far afield, but it's just a concern that
13 I -- I think we need to highlight.

14 THE COURT: I think it is pointing out -- and I
15 think the more that we can clarify the orders, whatever they
16 may be, why we're running into this issue, I think that would
17 be helpful as everybody moves forward, because I think that's
18 hitting the nail on the head with this group of cases that I
19 have. It's just different than I've had before where those --
20 it is different. And we're going to have to find a way to
21 deal with it or the legislature's going to have to address it,
22 because they're putting us all in a very big bind. I'm
23 mandated to act, and I have really no ability to pull it off.

24 DR. FOX: I agree, Your Honor.

25 THE COURT: So, thank you for your time. What was

1 the third case? So we can just --

2 MS. WRENHOLT: It was --

3 THE COURT: -- it was -- it was Jason Stowbridge,
4 right?

5 MS. WRENHOLT: -- Jason Stowbridge.

6 MS. WAKEFIELD: Stowbridge, West, and then Thompson
7 right on there.

8 THE COURT: Okay. All right. So, if it's okay with
9 you guys, I'm just gonna add to the record -- 16 JD 12, 15 JD
10 424 -- that the record has been made for, really, all three
11 cases instead of making them do it, call the case, and redo it
12 each time. Is everybody okay with that?

13 MS. WAKEFIELD: And, Your Honor, I'm -- I'm fine
14 with that. The issue, though, is -- I know that Jason's mom
15 is here -- was able to hear that, but Lucas and his mom are in
16 the hall in a conference room, because that's really the best
17 place, so I don't know whether or not --

18 MS. PHILLIPS: And, Your Honor, I wasn't present as
19 well (indiscernible).

20 THE COURT: Okay. Well, all right. We'll have to
21 do it the long way. Sorry. Okay.

22 So this matter will be reset. We said 90 days, but
23 I don't -- did I reset that one?

24 MS. WRENHOLT: I thought you reset it already.

25 THE COURT: Oh, I did. I did. Okay.

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MS. WAKEFIELD: October 6th at 10:00.

THE COURT: So, okay. So let's call Lucas West.

(Proceeding concluded at 12:40 p.m.)

CERTIFICATE

1
2
3 I, Julia Takemura Sears, certify that I transcribed
4 this record from the digital recording of the above-entitled
5 matter, which was heard on July 5, 2016, before THE HONORABLE
6 BETH ELLIOTT-DUMLER, in Division 2 of the Douglas County
7 District Court.

8
9 I further certify that the aforementioned transcript
10 is a complete and accurate transcript of the proceedings based
11 upon the audio facilities of these CDs and my ability to
12 understand them. Indiscernibles are due to microphones not
13 working properly, excessive noises or muffled voices.

14
15 Signed this 30th day of July, 2017, in Longmont,
16 Colorado.

17
18 

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