

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM BERKELEY COUNTY  
Family Court

Family Court Case No. 2019-DR-08-1653

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Ryan E. Terrell,

Petitioner,

v.

Bryan R. Terrell,

Respondent.

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RETURN TO PETITIONER'S MOTION FOR RECONSIDERATION AND  
AMENDMENT OF JUDGMENT OR GRANT FURTHER RELIEF FROM  
JUDGMENT AND RESPONDENT'S MOTION TO DISMISS

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Jenny Leigh Quattlebaum  
Keely M. Carter  
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(843) 284-6529  
Attorneys for Respondent

**RECEIVED**

**Oct 05 2020**

**SC Court of Appeals**

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## STATEMENT OF ISSUES ON APPEAL

- I. ARE THERE GROUNDS FOR A MOTION FOR RECONSIDERATION?
- II. ARE PETITIONER'S ALLEGATIONS OF WIRETAPPING PLAUSIBLE?

## STATEMENT OF THE CASE

On August 5, 2020, Richard G. Whiting, Esq., on behalf of his client, Ryan E. Terrell ("Petitioner"), filed a Motion to Suppress Recorded Communications against Bryan R. Terrell ("Respondent") pursuant to South Carolina Code of Laws Section 17-30-110. S.C. Code 17-30-110 (2013) alleging that Respondent had unlawfully obtained intercepted communications. Respondent disputed this false allegation and sought to have the Motion to Suppress Recorded Communications dismissed by filing a Return to Petitioner's Motion to Suppress on August 14, 2020. On September 22, 2020, the South Carolina Court of Appeals issued an Order finding that Respondent did not intentionally intercept Petitioner's text messages and therefore denying Petitioner's Motion to Suppress. Petitioner has since filed a Motion for Reconsideration and Amendment of Judgment or Grant Further Relief from Judgment on September 25, 2020. Respondent now responds with a Motion to Dismiss Petitioner's Motion for Reconsideration.

## FACTS

In her Motion to Reconsider, Petitioner purports that Respondent "intercepted" messages sent to the child's iPhone as there was one inbound message that had not been read. This argument is insufficient. The inbound message was sent to the child's iPhone from Petitioner at 00:04:48 UTC which is approximately 9:04:48pm ECT. This message is what alerted Respondent to messages on the child's phone. As the child was in bed, due to it being a school night, the iPhone was placed in the kitchen on the charger. Respondent heard the child's phone ping with a message

notification. Respondent was concerned why Petitioner was messaging the children at that hour. Out of concern, Respondent, as the child's parent and guardian, opened the child's iPhone, which had no passcode on it. In the messages, Respondent quickly saw stored inappropriate messages that should not be on the child's phone – inappropriate communications between Petitioner and her husband, communications between former paramours of Petitioner, and communications between other adults whom a thirteen year old should not be privy to. This inappropriate content resulted in Respondent confiscating the iPhone from the child in order to protect him. Respondent then hired a forensic analyst to place the inappropriate content onto a portal and then properly clear the inappropriate content on the child's iPhone at the request of Petitioner's counsel. The portal was quickly dispersed to both counsel for Petitioner and counsel for Respondent. Both parties have had access to the portal for well over a year and have had ample opportunity to examine the portal by themselves or their retained experts

## ARGUMENT

### I. DUE TO THE LACK OF NEW EVIDENCE, PETITIONER LACKS THE NECESSARY GROUNDS TO SUBMIT THIS MOTION FOR RECONSIDERATION

A court may amend findings of fact and conclusions of law or alter or amend a judgment upon the discovery of new evidence or fraud or misconduct by the opposing party. SCRCR Rules 59 and 60. Any new evidence must have been undiscoverable after the exercise of due diligence. SCRCR Rule 60(b)(2).

In the present action, Petitioner filed this Motion for Reconsideration relying on South Carolina Rules of Civil Procedure 59(b) and 60(b)(2). However, there is no new evidence presented by counsel for Petitioner within their Motion for Reconsideration. Petitioner continues to rely on the same facts submitted and ruled on in the first Motion. Petitioner had the

opportunity to and has hired an expert. Additionally, Petitioner has had access to the portal for well over a year's time. During this time, Petitioner could have hired her own forensic analyst to examine the portal and the data on the iPhone. However, Petitioner and counsel for Petitioner, failed to exercise their due diligence in the matter and therefore waived the right to file a motion to reconsider on this matter on the grounds of newly discovered evidence.

Here, Petitioner merely expands on the prior motion with an affidavit which is presently refuted in Respondent's expert's affidavit attached hereto due to the impossibility of the actions which Petitioner is proposing. No new evidence has been submitted, the primary issue still revolves around the iPhone and the content on the iPhone, which has already been ruled upon.

As Petitioner's Motion contains no new evidence, the Motion should be dismissed and the prior Order of the Court should be affirmed.

II. THE PURPORTED ALLEGATIONS OF WIRETAPPING ARE "VIRTUALLY IMPOSSIBLE" PER CASE LAW RELIED UPON IN THE COURT'S PRIOR RULING ON THIS MATTER

The issue is whether it is even possible for Respondent to have wiretapped or intercepted the communications on the parties' minor child's iPhone.

Per case law relied on by the South Carolina Court of Appeals in the prior ruling on this same matter, reading one's text message communications after they have been sent and received is "insufficient to demonstrate intentional interception." *Sunbelt Rentals Inc. v. Victor*, 43 F.Supp. 3d 1026 (Dist. Ct., ND California 2014).

In *Sunbelt*, an employee was given an iPhone owned by his employer. *Sunbelt Rentals Inc. v. Victor*. The employee had his iPhone linked to his personal iCloud account and upon leaving employment with that employer to begin a new job, the employee received another iPhone from

his new employer. *Id.* This iPhone was also connected to his personal iCloud account and the employee inadvertently failed to log out of his Apple account on the prior iPhone, resulting in the text messages being on both iPhones. *Id.* As a result, the former employer was left privy to the information stored on the iCloud on the employee's former iPhone. *Id.* The Court in this matter relied on several cases including *Sanders v. Robert Bosch Corp.* in which the Court ruled that an inadvertent interception of messages is insufficient to constitute wiretapping as the interception must be intentional by the one gathering the information. *Sanders v. Robert Bosch Corp.*, 38 F.3d 736, 742-43 (4<sup>th</sup> Cir. 1994). Importantly, the *Sunbelt* opinion relied on *United States v. Steiger*, which states the time frame in which an interception of communication, particularly communication via text messages, may occur is extremely limited. *United States v. Steiger*, 318 F.3d 1039, 1050 (11<sup>th</sup> Cir. 2003). Therefore, without the use of routing software, interception of text message communications is "virtually impossible." *Id.*

Presently, the main issue being brought – once again – to this Court's attention is the issue of wiretapping. Petitioner is alleging that Respondent wiretapped Petitioner's iPhone in order to have access to Petitioner's communications. This is blatantly false, as demonstrated in the affidavit attached hereto provided by Respondent's expert the senior manager of Dixon Hughes Goodman, LLP Jeremy Gilbert, GCFE, GASF, EnCE, CPA. **Exhibit A.** Per the pleadings and affidavits provided by Petitioner in the current ongoing litigation in the Berkeley County Family Court, Petitioner gave the parties' thirteen-year-old child her iPhone without first wiping or clearing the data off the iPhone or taking any responsible preventative measures to secure the material on the iPhone. As the communications between the parties' son and Petitioner will show, Petitioner expected the thirteen-year-old child to clear her phone and log out of her iCloud account on his

own. The parties' child was exposed to Petitioner's inappropriate messages due to Petitioner's own nonchalant actions when she handed over an iPhone, unwiped, to her minor child. It would be impossible to allege wiretapping as the messages incoming to the iPhone intended for Petitioner ended on April 26, 2020 and the message the child received on the night of April 29, 2020 was from Petitioner to the parties' son. As the father and guardian of the son, the father was permitted to view the messages on his child's iPhone sent to the child, especially given the hour the message was sent.

Respondent would submit that, as the above demonstrates, the present case fits squarely within the facts and ruling set forth in *Sunbelt Rentals, Inc. v. Victor* and as such would show onto this Court the impossibility of the matter which Petitioner is alleging.

#### CONCLUSION

For these reasons and such further reasons as may appear at any hearing to be set on the matter, Respondent hereby moves for this honorable Court to dismiss Petitioner's Motion for Reconsideration and affirm the Order of this Court from September 22, 2020 to enable Respondent's introduction of the materials into the pending Berkeley County Family Court action. Respondent would also request any other action, rulings, and other relief as may be appropriate in this matter, including, but not limited to, an award of attorneys' fees, expert fees, costs, and expenses associated with this action.

Counsel for Respondent affirms to this Court that she has, by copy of this Motion, notified opposing counsel, the Guardian *ad Litem*, and the Court below of this reply Motion.

Respondent would move for an Order of this Court confirming the September 22, 2020 Order of this Court and permitting the use of the lawfully obtained material and any other related

evidence in the lower court. Respondent believes the information should be limited to only the parties to the action, counsel for the parties, the Guardian *ad Litem*, therapist for the parties and their children, experts involved in the matter, and the presiding judge.

For the reasons stated, this Court should dismiss Petitioner's Motion for Reconsideration.

Respectfully submitted,

October 5, 2020

A handwritten signature in blue ink, appearing to read 'Keely M. Carter', is written over a horizontal line.

Keely M. Carter Bar No. 104426  
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Attorneys for Respondent

# EXHIBIT A



certain statement in these affidavits are inconsistent with the results of my analysis of data found on the iPhone XR I was asked to examine.

5. The cellular telephone in question was delivered to me for analysis on May 1<sup>st</sup>, 2019 and returned to the Plaintiff on the same day. Relevant change of custody forms signed by me and the Plaintiff are attached as Exhibit B. As communicated to me by the Plaintiff, the phone was used by his minor son, referred to herein as HT. Exhibit C is the signed authorization form for collection and analysis of this device by HT's father, the Plaintiff.

6. The phone was an iPhone XR with the serial number C8PXGCARKXKW. The Subscriber Identity Module ("SIM card") within the phone has an Integrated Circuit Card Identifier ("ICCID") of 89014103278370742804 with the phone number +1(843) 990-0292. This iPhone XR will be referred to as "iPhone XR" throughout the rest of this affidavit.

**Defendant provided HT access to iPhone XR without wiping data**

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7. The affidavit of the Defendant dated November 2019 provides a timeline of events related to the iPhone XR. In this timeline, the Defendant acquired a new iPhone prior to April 29, 2019. According to this affidavit, "HT then asked if he could get the [iPhone XR]." <sup>1</sup>

8. According to the affidavit, the Defendant had not yet wiped or reset the phone, based on advice received from an AT&T store employee. <sup>2</sup>

9. The defendant indicates in her affidavit that HT retrieved the iPhone XR on April 30, 2019, but my examination of the phone, including messages between Defendant and

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<sup>1</sup> Affidavit of Ryan E. Terrell, dated November 2019, paragraph 9

<sup>2</sup> Affidavit of Ryan E. Terrell, dated November 2019, paragraph 10

HT indicate HT took possession of the phone on or before April 29, 2019. Exhibit D is a portion of a conversation between Defendant and HT in which HT indicates he has already set up the iPhone XR for his use as of April 29, 2019 at 20:42 UTC, or 4:42 PM EDT.

10. In this conversation, HT sends to the Defendant, “Also I got everything working except it still has your photos which is really annoying.” The Defendant responds, “Ok we can delete those. It should have done it with the reset.” This message from HT is a clear indication that the iPhone XR was not reset or wiped.

11. The Defendant indicates in her affidavit that “[she] instructed [HT] to reset the phone in question as we had before.”<sup>3</sup> Based on my examination of the iPhone XR, including the conversation between HT and Defendant discussed above, in my opinion, the iPhone XR was not wiped or reset between the time the Defendant acquired a new iPhone and the time the iPhone XR was delivered to me for examination.

#### **Affidavit of Steven M. Abrams, JD, MS**

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12. In the “Affidavit of Steven M. Abrams, JD, MS” dated September 23, 2020, Mr. Abrams makes several statements that are inconsistent with my analysis of the iPhone XR.

13. Mr. Abrams states multiple times that my examination of the Defendant’s communications located on the iPhone XR was based on Defendant’s data I “undeleted”<sup>4</sup> and on “recovering the deleted material of Defendant.”<sup>5</sup> This is not true. The Defendant’s

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<sup>3</sup> Affidavit of Ryan E. Terrell, dated November 2019, paragraph 10

<sup>4</sup> Affidavit of Steven M. Abrams, JD, MS paragraphs 5, 10, 11

<sup>5</sup> Affidavit of Steven M. Abrams, JD, MS paragraph 8

communications were located on the iPhone XR during the May 1<sup>st</sup> collection without any recovery, either manually or through the use of specialized software.

14. To confirm my primary cell phone examination software, Cellebrite Physical Analyzer, had not silently recovered, or undeleted, relevant data, I also examined the messages database (SMS.db) in Forensic Browser for SQLite 3.3.0. Forensic Browser for SQLite allows me to examine the raw messages database, without any modification or interpretation by the software. The Defendant's communications in this database were not deleted, so no "recovery" or "undeletion" was necessary.

15. This is consistent with my prior experience examining devices running iOS 12 and later. The iPhone XR was running iOS 12.2 at the time of examination. Starting with iOS 12, Apple made deleted messages (iMessage, SMS, and MMS messages) unavailable to the extraction methods used by me for this examination.

16. In paragraph 6 of Mr. Abrams' Affidavit he states that the Defendant took "affirmative measures that she believed would remove her material from the phone and would terminate access to her iCloud from the phone." This is inconsistent with the Defendant's own statements. As mentioned above, according to the Defendant's affidavit, "[she] had not yet reset the phone."<sup>6</sup> She, instead, instructed HT to reset the iPhone XR but was later informed by HT that her data was still on the iPhone XR. The Defendant did not take "affirmative measures that she believed would remove her material."

17. In paragraph 8 of Mr. Abrams' affidavit he states, "...the main focus of the examination was clearly recovering the deleted material of defendant and searching for specific electronic conversations of Defendant." Mr. Abrams is partially correct. The

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<sup>6</sup> Affidavit of Ryan E. Terrell, dated November 2019, paragraph 10

incorrect portion of the statement is that the Defendant's messages were recovered. Mr. Abrams is correct in stating that the main focus was the Defendant's conversations on the iPhone XR. The Plaintiff had informed me at the beginning of my examination that he noticed some of the Defendant's texts on the iPhone XR which were inappropriate for HT to view, and this was the primary reason for bringing it to me.

18. In paragraph 13 of Mr. Abrams' affidavit he states that he could not find the screenshots attached within an email conversation I had with the Plaintiff. As stated in my e-mail to the Plaintiff and his attorney, which was provided to Defendant's counsel in my subpoena response on September 14, 2020 and read by Mr. Abrams, these screenshots were part of a text conversation between the Defendant and Drew and were found on pages 4086 and 4087 of the first report I uploaded to DHG's portal site and provided in my subpoena response of September 14, 2020. The e-mails related to these screenshots, which include the instructions for how to find them in the reports are attached as Exhibit E.

19. Mr. Abrams then refers to PreviewWellImage.tiff and infers meaning in the existence of this file that is not supported by the artifacts I examined. PreviewWellImage.tiff is clearly not the images that both the Plaintiff and I were referring to. By comparing the 3 images in Exhibit F which were the screenshots the Plaintiff and I were discussing and PreviewWellImage.tiff in Exhibit G shows that they are not the same, nor are they even similar.

20. Mr. Abrams uses this PreviewWellImage.tiff to attempt to show that the Plaintiff, or someone other than HT, accessed the iPhone XR, took a screenshot and sent it to another phone. The iPhone XR does not record who was interacting with the device when a screenshot was taken, and to the best of my knowledge, Mr. Abrams was not present to witness

the event when this file was created at 4:50 PM on April 29, 2019. Significantly, HT and Defendant were in the middle of a conversation about a Bitmoji request when PreviewWellImage.tiff was created. At approximately 4:47 PM EDT on April 29, 2019, HT sent the message “Alright” to Defendant. At 4:50 PM, the file in question was created, then at approximately 4:52 PM, Defendant sent “I didn’t see it” to HT, and HT responded, “Because I was asking if you would or not” less than one minute later. If Mr. Abrams’ conjecture about PreviewWellImage.tiff were true, the hypothetical person who is supposed to have searched for relevant content, taken a screenshot, and sent it to another device would have had to do so in the span of only five minutes. Exhibit D contains the relevant section of the conversation between Defendant and HT.

21. Exhibit G contains PreviewWellImage.tiff. I have provided multiple sizes of the same image to help view it more clearly. While not perfectly clear I have been able to decipher large portions:

Person 1:

“[...] year’s Players Troupe with MTC. This is information about it. She was begging to do it last year but we agreed to just [illegible] She would need to make rehearsals prior to show dates and be available for shows. She has maintained a strong interest in her involvement with MTC and has two good friends participating in this. She is auditioning for Players. She has worked hard and is very excited about it. so wish her luck!”

Person 2:

“No pushback from me. You just didn’t follow the agreement...”

As seen in the communications above, the “MTC” in the contents of PreviewWellImage.tiff has nothing to do with a “Motion to Compel,” as is claimed by Mr. Abrams. I searched the iPhone XR for other references to “MTC.” What I found was Musical Theater Company, a children’s theater company located in Mount Pleasant, SC.

22. Mr. Abrams states in paragraph 11 that I provided the Defendant's HIPAA protected materials. My understanding in regard to HIPAA is that protections extend only to patients' medical information when in the possession of a covered entity, such as a healthcare provider, not when medical information is left by or in possession of the patient themselves.

23. Mr. Abrams states in paragraph 12 that an interception of the Defendant's electronic communications was made on May 1<sup>st</sup>, 2019. I was given authorization to collect the iPhone XR by HT's father and legal guardian, as seen in Exhibit C. The characterization of this as an intercepted message ignores the fact that I had authorization from the intended recipient of the communication, through his guardian and father, to analyze the contents of the iPhone XR. In addition, this single unread message has no content, and a picture sent by Defendant one second before this message was sent was received and marked as read.

#### **Allegation of downloading Defendant's iCloud account**

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24. There is no evidence on the iPhone XR or presented in Mr. Abrams' affidavit that the Plaintiff, or anyone else, took any steps to download the contents of the Defendant's iCloud account after the Defendant stopped using the iPhone XR, as is alleged by the Defendant in paragraph 16 of Defendant's affidavit dated February 19, 2020.

25. Taking into account the statements made in the Defendant's November 2019 affidavit, the discovery of Defendant's photos on the phone by HT shortly after HT began using the phone, and the lack of evidence of wiping on the iPhone XR, in my opinion, the iPhone XR was never wiped by HT or anyone else, and no download from iCloud was performed or was necessary to obtain access to the data discovered on the iPhone XR. Instead, HT signed in using his own Apple ID, replacing Defendant's sign in. This does not result in

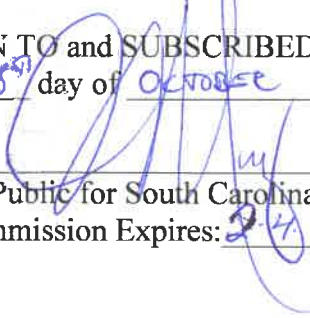
the deletion of existing data such as messages or photos. As a result of Defendant's failure to wipe the iPhone XR before providing HT access to it, HT had access to Defendant's data.

26. I am over the age of twenty-one (21) years old and am competent to testify to the matters stated herein. I have read the foregoing paragraphs and stated under penalty of perjury that all matters stated therein are correct and true and are based on my own personal knowledge and belief, except those alleged on information and belief as to those, I believe them to be true and accurate.

Further affiant says not.

  
\_\_\_\_\_  
Jeremy Gilbert, GCFE, GASF, EnCE, CPA

SWORN TO and SUBSCRIBED before me  
This 5<sup>th</sup> day of OCTOBER, 2020

  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: 2-4-2021

## Exhibit A

# Jeremy J. Gilbert, GCFE, GASF, EnCE, CPA

### Education

The Citadel July 2008  
Master of Business Administration

Charleston Southern University May 2005  
B.S. in Business Administration, accounting emphasis and economics minor  
Summa Cum Laude

### Professional Experience

Dixon Hughes Goodman LLP Charleston, SC August 2005 through present  
Director, Digital Forensics, IT Advisory

### Certifications, Licenses, and Associations

Certified Public Accountant, South Carolina license number 7808, May 26, 2009  
Certified Public Accountant, North Carolina license number 40560, July 25, 2016  
GIAC Certified Forensic Examiner, December 2014  
GIAC Advanced Smartphone Forensics, September 2016  
EnCase Certified Examiner, April 23, 2012  
Certified Fraud Examiner, October 19, 2009  
Master Analyst in Financial Forensics, November 16, 2011  
Certified in Financial Forensics  
Certified Information Technology Professional  
Private Investigator, South Carolina license number RD185467  
Member: American Institute of Certified Public Accountants  
Member: South Carolina Association of Certified Public Accountants  
Member: Association of Certified Fraud Examiners  
Member: National Association of Certified Valuators and Analysts  
Member: South Carolina Association of Legal Investigators

### Computer Forensics Education

#### Guidance Software training:


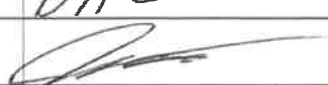
Computer Forensics I and II, EnCE Prep Course, and Advanced Internet Examinations

#### Other live training:

Cellebrite UFED Logical and Physical Certification course  
2013 and 2014 Computer and Enterprise Investigations Conference  
2013 Mobile Forensics World and Techno Security Conference  
SANS FOR 408 – Windows Forensic Analysis  
SANS FOR 508 – Advanced Digital Forensics, Incident Response, and Threat Hunting  
SANS FOR 585 – Advanced Smartphone Forensics  
X-Ways Forensics

# DHG

DIXON HUGHES GOODMAN LLP

<b>Date/Time of Transfer:</b>	5 / 1 / 2019	11:30
<b>Method of Transfer:</b>	Hand	
<b>Project ID:</b>	1286114 - Terrell	
<b>Description of Item(s) Transferred:</b>  (Model and Serial Number)	iPhone XR with passcode card	
	C8PXGCARXKW	
	_____	
	_____	
	_____	
	_____	
<b>Custody of Equipment Relinquished by:</b>	Print Name:	BRYAN TERRELL
	Organization:	
	Signature:	
	Date:	5-1-19
<b>Custody of Equipment Accepted by:</b>	Print Name:	Jenany Gilbert
	Organization:	DHG
	Signature:	
	Date:	5/1/2019



<b>Date/Time of Transfer:</b>	<u>05 / 01 / 2019</u> <u>16 :03</u>	
<b>Method of Transfer:</b>	hand	
<b>Project ID:</b>	1286114 - Terrell	
<b>Description of Item(s) Transferred:</b>  <b>(Model and Serial Number)</b>	iPhone XR	
	C8PX6CARKXKW	
<b>Custody of Equipment Relinquished by:</b>	Print Name:	Jeremy Gilbert
	Organization:	DHG
	Signature:	
	Date:	5/1/19
<b>Custody of Equipment Accepted by:</b>	Print Name:	BRYAN TERRELL
	Organization:	
	Signature:	
	Date:	5-1-19



DIXON HUGHES GOODMAN LLP

Project ID or Client Name: 1286114 - Terrell

*guardian of* CERTIFICATION/AUTHORIZATION

THE UNDERSIGNED HEREBY CERTIFIES TO DIXON HUGHES GOODMAN LLP ("DHG") THAT HE/SHE IS THE OWNER OF THE DEVICE(S) IDENTIFIED BELOW THE SIGNATURE LINE OF THIS CERTIFICATION/AUTHORIZATION AND INITIALED OPPOSITE THERETO BY THE SIGNATORY TO THIS CERTIFICATION/AUTHORIZATION, AND HEREBY GRANTS AND AUTHORIZES ACCESS TO THE DEVICE(S) TO DHG FOR THE PURPOSES OF EXAMINATION OF THE DEVICE(S) AND ANY INFORMATION STORED THEREIN. THE UNDERSIGNED SHALL HOLD DHG HARMLESS AND SHALL INDEMNIFY DHG FROM AND AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, DAMAGES, COSTS AND EXPENSES, (INCLUDING REASONABLE ATTORNEYS' FEES) WHETHER KNOWN OR UNKNOWN ARISING OR RESULTING FROM OR IN ANY WAY RELATED TO THE ACCESS TO THE DEVICE BY DHG HEREIN GRANTED AND AUTHORIZED OR ANY MISREPRESENTATION BY THE UNDERSIGNED WITH RESPECT TO HIS/HER OWNERSHIP AND USE OF THE DEVICE.

By: *[Signature]*

Date: 5-1-19

Device Description	Initial
<i>iPhone Xr</i>	<i>[Initials]</i>
<i>C8PXCARXKW</i>	



# Extraction Report - Apple iPhone Logical

## Participants



+18439900292



+18434423295  
Mama\*

## Conversation - Instant Messages (17)

+18434423295 Mama

Phone up? Where are you?

Status: Read

Read: 2019-04-29 20:42:47(UTC+0)

2019-04-29 20:42:43(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x205F723 (Table: message, handle, chat, Size: 50249728 bytes)

+18439900292

Yes at Blake's

Status: Sent

Delivered: 2019-04-29 20:42:58(UTC+0)

2019-04-29 20:42:58(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x205F54A (Table: message, chat, Size: 50249728 bytes)

+18434423295 Mama

Did you get my message about the t shirt?

Status: Read

Read: 2019-04-29 20:43:00(UTC+0)

2019-04-29 20:43:00(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x205F387 (Table: message, handle, chat, Size: 50249728 bytes)

Exhibit D

+18439900292  
No  
Status: Sent  
Delivered: 2019-04-29 20:43:13(UTC+0)  
2019-04-29 20:43:14(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2060FE4 (Table: message, chat, Size: 50249728 bytes)

+18434423295 Mama  
Ok. I sent you a message asking you to get Della's t shirt for her field trip if you are back at home  
Status: Read  
Read: 2019-04-29 20:43:31(UTC+0)  
2019-04-29 20:43:30(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2060E3D (Table: message, handle, chat, Size: 50249728 bytes)

+18439900292  
Also I got everything working except it still has your photos which is really annoying.  
Status: Sent  
Delivered: 2019-04-29 20:43:55(UTC+0)  
2019-04-29 20:43:54(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2060BC7 (Table: message, chat, Size: 50249728 bytes)

+18434423295 Mama  
Ok we can delete those. It should have done it with the reset  
Status: Read  
Read: 2019-04-29 20:45:37(UTC+0)  
2019-04-29 20:45:37(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2060975 (Table: message, handle, chat, Size: 50249728 bytes)

+18439900292  
Hold on can you accept a request for bitmoji.  
Status: Sent  
Delivered: 2019-04-29 20:45:46(UTC+0)  
2019-04-29 20:45:46(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2060751 (Table: message, chat, Size: 50249728 bytes)

+18439900292  
Can you?  
Status: Sent  
Delivered: 2019-04-29 20:46:28(UTC+0)  
2019-04-29 20:46:28(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2060550 (Table: message, chat, Size: 50249728 bytes)

Exhibit D

+18434423295 Mama

I didn't see it

Status: Read

Read: 2019-04-29 20:53:04(UTC+0)

2019-04-29 20:52:57(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x20601E8 (Table: message, handle, chat, Size: 50249728 bytes)

+18439900292

Alright

Status: Sent

Delivered: 2019-04-29 20:47:08(UTC+0)

2019-04-29 20:47:08(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2060399 (Table: message, chat, Size: 50249728 bytes)

+18439900292

Because I was asking if you would or not.

Status: Sent

Delivered: 2019-04-29 20:53:22(UTC+0)

2019-04-29 20:53:20(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2061FE4 (Table: message, chat, Size: 50249728 bytes)

+18439900292

I'll send it now

Status: Sent

Delivered: 2019-04-29 20:53:32(UTC+0)

2019-04-29 20:53:31(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2061DEB (Table: message, chat, Size: 50249728 bytes)

+18434423295 Mama

Ok. You can send it

Status: Read

Read: 2019-04-29 20:53:33(UTC+0)

2019-04-29 20:53:32(UTC+0)

Source Extraction:  
Logical (1)  
Source Info:  
iPhone/mobile/Library/SMS/sms.db : 0x2061C24 (Table: message, handle, chat, Size: 50249728 bytes)

## Exhibit D

+18439900292

Nevermind not working right now

Status: Sent

Delivered: 2019-04-29 20:56:23(UTC+0)

2019-04-29 20:56:02(UTC+0)

Source Extraction:

Logical (1)

Source Info:

iPhone/mobile/Library/SMS/sms.db : 0x2061A55 (Table: message, chat, Size: 50249728 bytes)

+18434423295 Mama

I love you. I wish I could be there for your concert!

Status: Read

Read: 2019-04-29 23:54:35(UTC+0)

2019-04-29 23:45:06(UTC+0)

Source Extraction:

Logical (1)

Source Info:

iPhone/mobile/Library/SMS/sms.db : 0x2061874 (Table: message, handle, chat, Size: 50249728 bytes)

+18439900292

It was awesome wish you could be here too!

Status: Sent

Delivered: 2019-04-29 23:54:52(UTC+0)

2019-04-29 23:54:52(UTC+0)

Source Extraction:

Logical (1)

Source Info:

iPhone/mobile/Library/SMS/sms.db : 0x2061661 (Table: message, chat, Size: 50249728 bytes)

## Exhibit E

### Gilbert, Jeremy

---

**From:** Bryan Terrell <bryan\_terrell\_mt@hotmail.com>  
**Sent:** Monday, May 13, 2019 14:34  
**To:** Gilbert, Jeremy  
**Cc:** Mary Murray  
**Subject:** Re: Items not found on phone copy

\*\*\*\* EXTERNAL EMAIL \*\*\*\*

Hi Jeremy, and thanks for getting back with me. Screen shots of the conversation are attached. Any help you can give would be much appreciated.

Best regards,

Bryan

On May 13, 2019, at 11:09 AM, Gilbert, Jeremy <[Jeremy.Gilbert@dhg.com](mailto:Jeremy.Gilbert@dhg.com)> wrote:

Bryan,

I found the chats with Kay and a few chats with 512 numbers. I've uploaded those to the same portal site we used earlier.

I was not able to locate any chats with Jo Hethcox or even a contact named Jo Hethcox or Jo anything. The only mention of Jo Hethcox on the phone is Drew's mom sending Drew a mailing address: "Send to: St. Phillips Church, Attn: Jo Hethcox, 142 Church St., Charleston, SC 29401." Do you have a screenshot of this conversation with Jo? That could provide some search terms to use to find it.

Jeremy Gilbert, GCFE, GASF, EnCE, CPA  
Senior Manager | IT Advisory  
Dixon Hughes Goodman LLP  
D 843.727.3251  
P 843.722.6443  
Incident Response Hotline: 844.696.2488 (toll-free)  
<http://dhg.com/digital-forensics>  
[jeremy.gilbert@dhg.com](mailto:jeremy.gilbert@dhg.com)  
525 E Bay St, Suite 100, Charleston, SC 29403

**From:** Bryan Terrell <bryan\_terrell\_mt@hotmail.com>  
**Sent:** Friday, May 10, 2019 13:25  
**To:** Gilbert, Jeremy <[Jeremy.Gilbert@dhg.com](mailto:Jeremy.Gilbert@dhg.com)>  
**Cc:** Mary Murray <[mimurray@lawyershmp.com](mailto:mimurray@lawyershmp.com)>  
**Subject:** Items not found on phone copy

\*\*\*\* EXTERNAL EMAIL \*\*\*\*

## Exhibit E

Hi Jeremy,

While reviewing the phone PDF that you sent me last week, I have not found several text (chat) threads that were on my son's phone. Perhaps they are somewhere in the PDF, but not individually bookmarked? I know they existed, because my wife and I both viewed them on the phone, and I have screen shots of at least one of them. I sincerely hope you can help me locate these, because they are relevant to our problems.

I am looking for the following text threads:

Jo Hethcox (listed as "Jo" in the text thread)

Kay Rose (phone number 843-870-9257, possibly listed as "Kay" in the text thread)

A thread with an unknown adult male from a 512 area code (Austin, Texas)

Please let me know if you can locate this data.

Many thanks,

Bryan Terrell

---

**Confidentiality Notice:** This e-mail is intended only for the addressee named above. It contains information that is privileged, confidential or otherwise protected from use and disclosure. If you are not the intended recipient, you are hereby notified that any review, disclosure, copying, or dissemination of this transmission, or taking of any action in reliance on its contents, or other use is strictly prohibited. If you have received this transmission in error, please reply to the sender listed above immediately and permanently delete this message from your inbox. Thank you for your cooperation.

Exhibit E

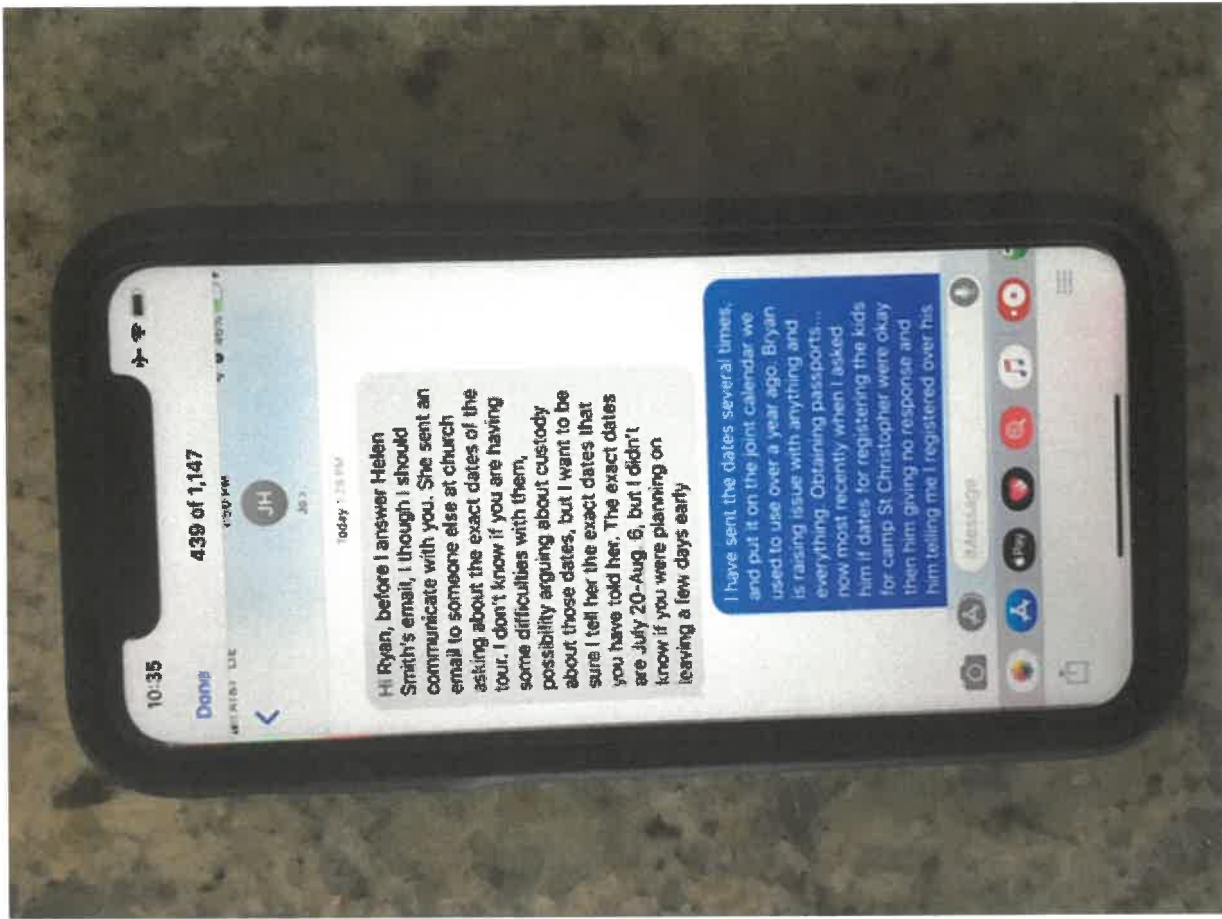


Exhibit E

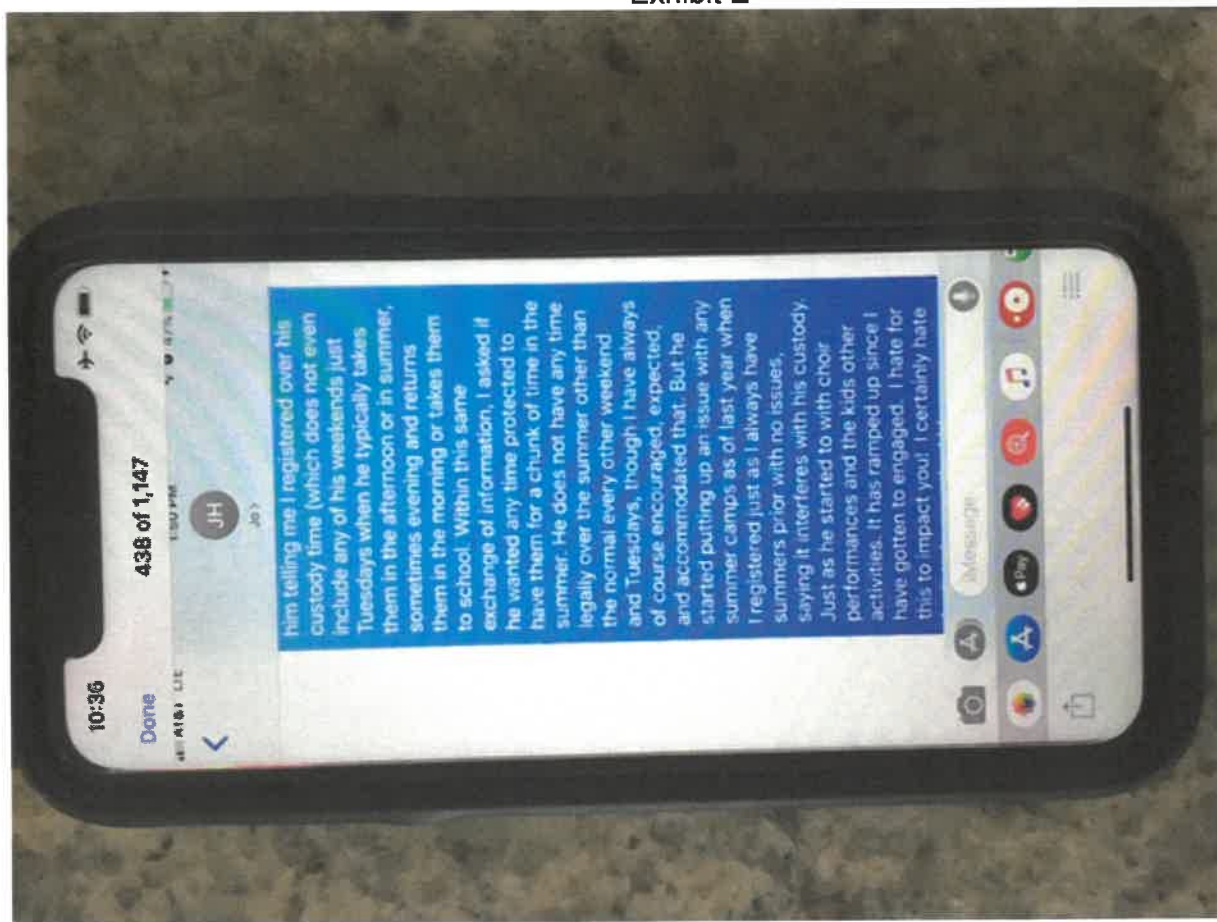


Exhibit E



the normal every other weekend and Tuesdays, though I have always of course encouraged, expected, and accommodated that. But he started putting up an issue with any summer camps as of last year when I registered just as I always have summers prior with no issues, saying it interferes with his custody. Just as he started to with choir performances and the kids other activities. It has ramped up since I have gotten to engaged. I hate for this to impact you! I certainly hate for it to impact the kids. We may in fact plan to leave a day or two prior (travel TO Canterbury is 7/21, right?) but overall planning on those dates. Those dates would impact two weekends of his, which again, I have already offered for him to have a chunk of time—or more, as I always have!—that is not “his” but he is demanding that he get to choose dates he wishes.

## Exhibit E

### Gilbert, Jeremy

---

**From:** Gilbert, Jeremy  
**Sent:** Monday, May 13, 2019 16:25  
**To:** Bryan Terrell  
**Cc:** Mary Murray  
**Subject:** RE: Items not found on phone copy

Bryan,

I see the source of the confusion now. The pictures you sent me are pictures of screenshots of a chat from a different phone. You're viewing them through the messages app because the screenshots are attachments to a chat, but there is no evidence of a chat with Jo on your son's phone. I can tell these screenshots were not taken using your son's iPhone Xr because of the position of UI elements in the screenshot. Most notable is the position of the clock in the screenshot. Notice it's in the center. On an iPhone Xr, the notch in the display doesn't allow for the clock to be located in the center, so it's on the left side. In these screenshots, the 1:50PM time is shown in the center of the screen, so the screenshot was taken using an iPhone 8 or older.

These screenshots are included in the big chat between Ryan and Drew. If you look at the first PDF report we sent, you'll see these screenshots on pages 4086 and 4087.

We uploaded only the chats that appeared relevant based on our conversation on May 1<sup>st</sup> to save you the effort of reviewing irrelevant messages. If you would like to review all the messages, I have created PDF reports with all Chats, all SMS, and all MMS messages. These reports are large, so it will take about an hour to finish uploading to the portal.

Jeremy Gilbert, GCFE, GASF, EnCE, CPA  
Senior Manager | IT Advisory  
Dixon Hughes Goodman LLP  
D 843.727.3251  
P 843.722.6443  
Incident Response Hotline: 844.696.2488 (toll-free)  
<http://dhg.com/digital-forensics>  
[jeremy.gilbert@dhg.com](mailto:jeremy.gilbert@dhg.com)  
525 E Bay St, Suite 100, Charleston, SC 29403

**From:** Bryan Terrell <bryan\_terrell\_mt@hotmail.com>  
**Sent:** Monday, May 13, 2019 15:08  
**To:** Gilbert, Jeremy <Jeremy.Gilbert@dhg.com>  
**Cc:** Mary Murray <mjmurray@lawyershmp.com>  
**Subject:** Re: Items not found on phone copy

\*\*\*\* EXTERNAL EMAIL \*\*\*\*

Hi Jeremy,

The screenshots are pictures that I took of my son's phone the same afternoon that I picked the phone up from your office. This means the conversation must have still been on the phone when I dropped it at your office.

I am alarmed that this and the other conversations were not included in the PDF file. How can this be, if we copied all chats?

## Exhibit E

Sent from my iPhone

On May 13, 2019, at 3:01 PM, Gilbert, Jeremy <[Jeremy.Gilbert@dhg.com](mailto:Jeremy.Gilbert@dhg.com)> wrote:

Thank you for the pictures. What you have are screenshots of a conversation that has been deleted. I don't have any fragments of the original conversation. I did find one additional screenshot in addition to the three you attached. They are found on the same portal site we've been using.

Please note these screenshots were taken on January 17, 2019, so the "today" in the screenshots most likely refers to January 17, 2019.

Jeremy Gilbert, GCFE, GASF, EnCE, CPA  
Senior Manager | IT Advisory  
Dixon Hughes Goodman LLP  
D 843.727.3251  
P 843.722.6443  
Incident Response Hotline: 844.696.2488 (toll-free)  
<http://dhg.com/digital-forensics>  
[jeremy.gilbert@dhg.com](mailto:jeremy.gilbert@dhg.com)  
525 E Bay St, Suite 100, Charleston, SC 29403

**From:** Bryan Terrell <[bryan\\_terrell\\_mt@hotmail.com](mailto:bryan_terrell_mt@hotmail.com)>  
**Sent:** Monday, May 13, 2019 14:34  
**To:** Gilbert, Jeremy <[Jeremy.Gilbert@dhg.com](mailto:Jeremy.Gilbert@dhg.com)>  
**Cc:** Mary Murray <[mjmurray@lawyershmp.com](mailto:mjmurray@lawyershmp.com)>  
**Subject:** Re: Items not found on phone copy

**\*\*\*\* EXTERNAL EMAIL \*\*\*\***

Hi Jeremy, and thanks for getting back with me. Screen shots of the conversation are attached. Any help you can give would be much appreciated.

Best regards,

Bryan

On May 13, 2019, at 11:09 AM, Gilbert, Jeremy <[Jeremy.Gilbert@dhg.com](mailto:Jeremy.Gilbert@dhg.com)> wrote:

Bryan,  
I found the chats with Kay and a few chats with 512 numbers. I've uploaded those to the same portal site we used earlier.

I was not able to locate any chats with Jo Hethcox or even a contact named Jo Hethcox or Jo anything. The only mention of Jo Hethcox on the phone is Drew's mom sending Drew a mailing address: "Send to: St. Phillips Church, Attn: Jo Hethcox, 142 Church St.,

## Exhibit E

Charleston, SC 29401." Do you have a screenshot of this conversation with Jo? That could provide some search terms to use to find it.

Jeremy Gilbert, GCFE, GASF, EnCE, CPA  
Senior Manager | IT Advisory  
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[jeremy.gilbert@dhg.com](mailto:jeremy.gilbert@dhg.com)  
525 E Bay St, Suite 100, Charleston, SC 29403

**From:** Bryan Terrell <[bryan\\_terrell\\_mt@hotmail.com](mailto:bryan_terrell_mt@hotmail.com)>  
**Sent:** Friday, May 10, 2019 13:25  
**To:** Gilbert, Jeremy <[Jeremy.Gilbert@dhg.com](mailto:Jeremy.Gilbert@dhg.com)>  
**Cc:** Mary Murray <[mjmurray@lawyershmp.com](mailto:mjmurray@lawyershmp.com)>  
**Subject:** Items not found on phone copy

**\*\*\*\* EXTERNAL EMAIL \*\*\*\***

Hi Jeremy,

While reviewing the phone PDF that you sent me last week, I have not found several text (chat) threads that were on my son's phone. Perhaps they are somewhere in the PDF, but not individually bookmarked? I know they existed, because my wife and I both viewed them on the phone, and I have screen shots of at least one of them. I sincerely hope you can help me locate these, because they are relevant to our problems.

I am looking for the following text threads:

Jo Hethcox (listed as "Jo" in the text thread)  
Kay Rose (phone number 843-870-9257, possibly listed as "Kay" in the text thread)  
A thread with an unknown adult male from a 512 area code (Austin, Texas)

Please let me know if you can locate this data.

Many thanks,

Bryan Terrell

---

**Confidentiality Notice:** This e-mail is intended only for the addressee named above. It contains information that is privileged, confidential or otherwise protected from use and disclosure. If you are not the intended recipient, you are hereby notified that any review, disclosure, copying, or dissemination of this transmission, or taking of any action in reliance on its contents, or other use is strictly prohibited. If you have received this transmission in error, please reply to the sender listed above immediately and permanently delete this message from your inbox. Thank you for your cooperation.

<image001.jpg><image002.jpg><image003.jpg>

Exhibit F

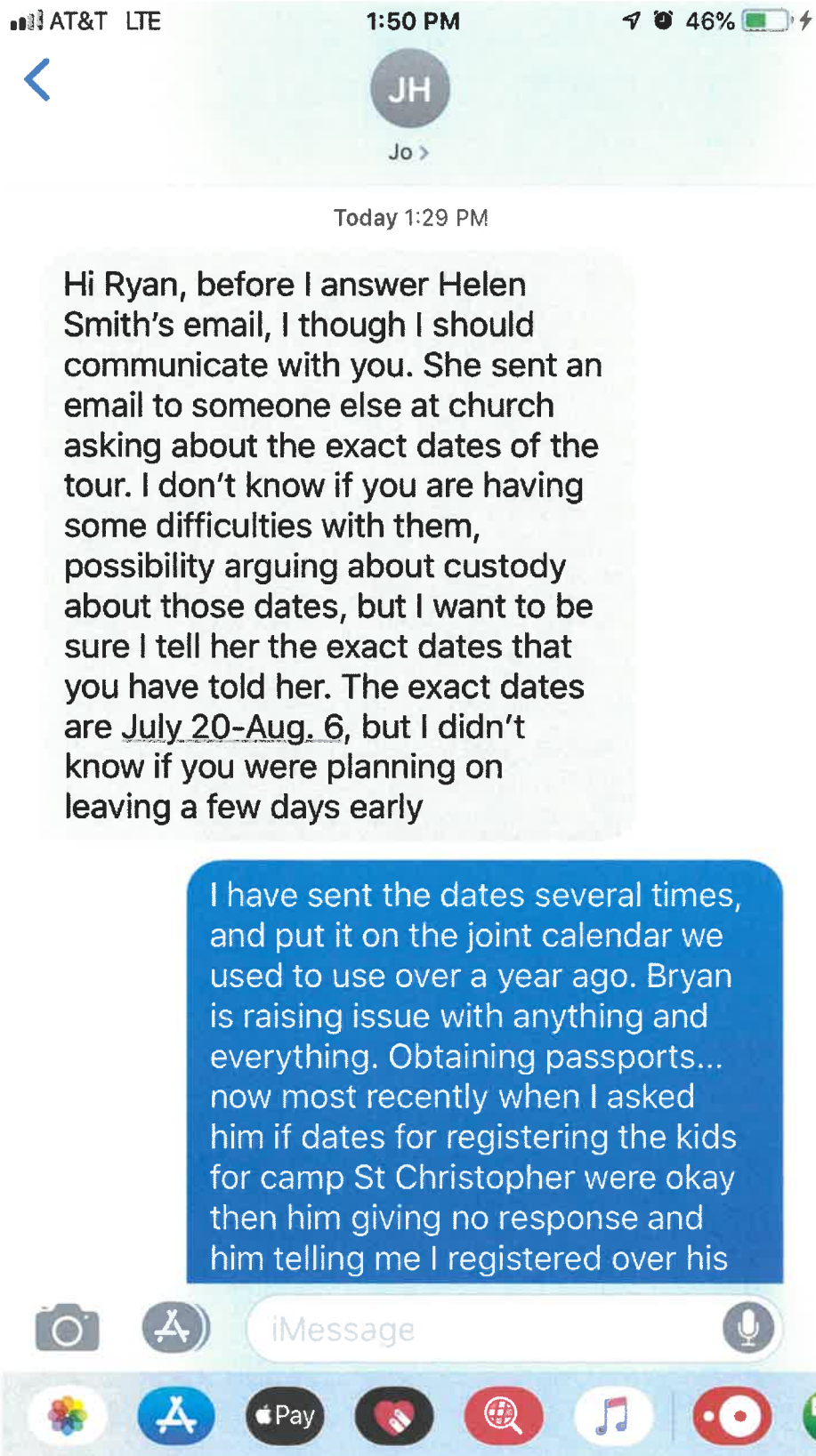


Exhibit F

AT&T LTE 1:50 PM 47%



Jo >

him telling me I registered over his custody time (which does not even include any of his weekends just Tuesdays when he typically takes them in the afternoon or in summer, sometimes evening and returns them in the morning or takes them to school. Within this same exchange of information, I asked if he wanted any time protected to have them for a chunk of time in the summer. He does not have any time legally over the summer other than the normal every other weekend and Tuesdays, though I have always of course encouraged, expected, and accommodated that. But he started putting up an issue with any summer camps as of last year when I registered just as I always have summers prior with no issues, saying it interferes with his custody. Just as he started to with choir performances and the kids other activities. It has ramped up since I have gotten to engaged. I hate for this to impact you! I certainly hate



iMessage



Exhibit F

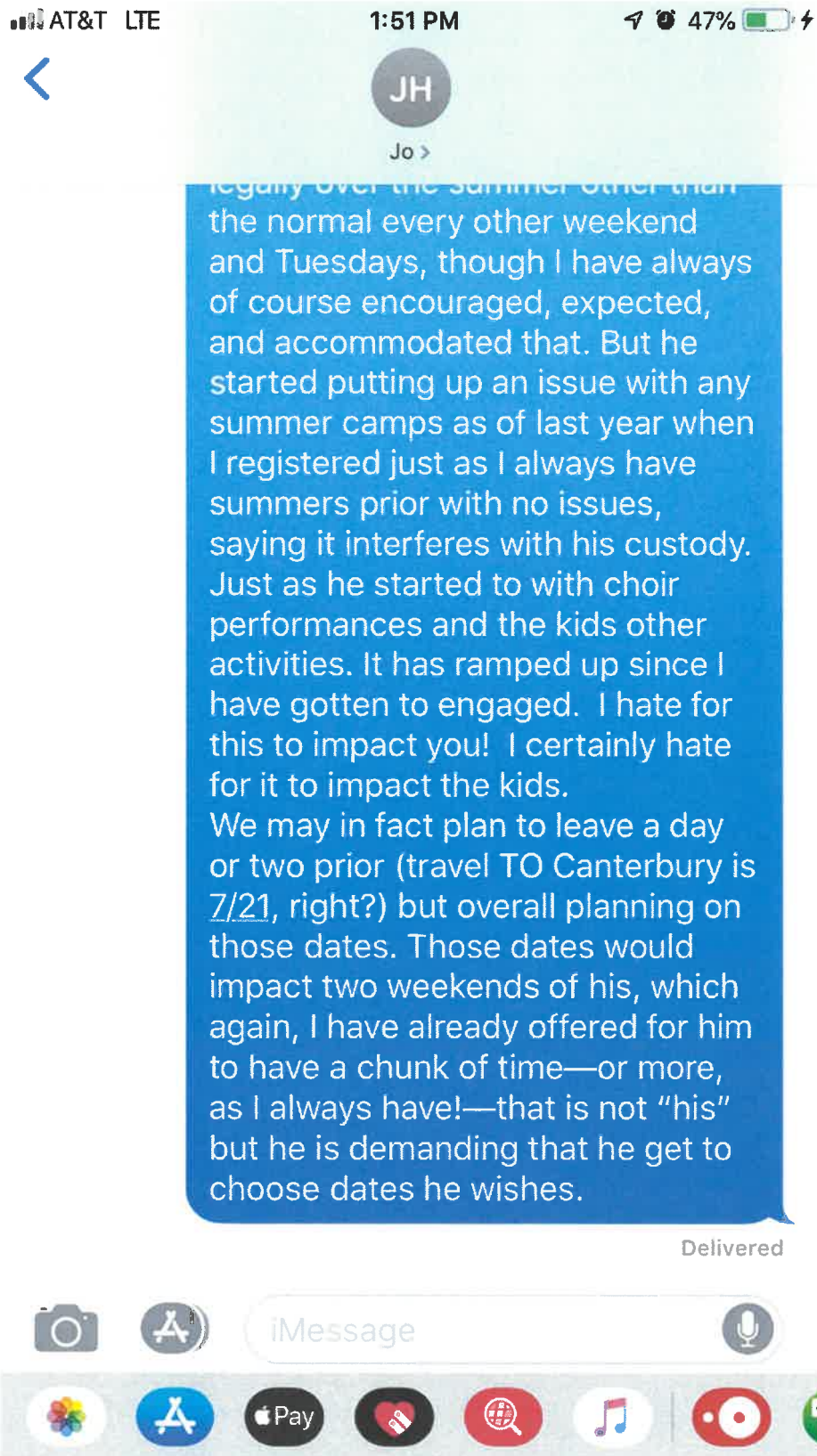


Exhibit G

PreviewWellImage.tiff  
original size

year's Players Troupe with MTC. This is information about it. She was begging to do it last year but we agreed to just do the summer play and other classes due to the commitment level and pushback from you on involvement in their commitments. She would need to make reservations prior to show dates and be available for shows. She has maintained a strong interest in her involvement with MTC and has two good friends participating in this. She is auditioning for Players. She has worked hard and is very excited about it, so wish her luck!

No pushback from me. You just didn't follow the agreement.

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No pushback from me. You just didn't follow the agreement.



56 Folly Road Blvd.  
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843-284-6529

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Keely M. Carter  
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Licensed in SC

October 5, 2020

**VIA EMAIL AND U.S. MAIL**

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Re: Bryan R. Terrell v. Ryan E. Terrell  
Family Court Case No.: 2019-DR-08-1653


Dear Counsel,

Enclosed, please find Respondent's Return to Petitioner's Motion for Reconsideration and Amendment of Judgment or Grant Further Relief from Judgment and Respondent's Motion to Dismiss.

With kind regards, I remain on behalf of

HINCHEY, MURRAY & PAGLIARINI, LLC,

Sincerely,

  
Keely M. Carter  
Associate Attorney

Enclosures

cc: Bryan Terrell (via email)

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY  
Family Court

Family Court Case No. 2019-DR-08-1653

Ryan E. Terrell

Petitioner,

v.

Bryan R. Terrell,

Respondent.

**RECEIVED**  
**Oct 05 2020**  
**SC Court of Appeals**

**PROOF OF SERVICE**

I certify that I have served the foregoing Return to Petitioner's Motion for Reconsideration and Amendment of Judgment or Grant Further Relief from Judgment and Respondent's Motion to Dismiss (with attachments) via email and via U.S. Postal Service on October 5, 2020, to the following addresses:

Richard G. Whiting, Esquire  
Post Office Box 7877  
Columbia, South Carolina 29202  
[Dick.whiting@whitinglawsc.com](mailto:Dick.whiting@whitinglawsc.com)

Lori D. Stoney, Esquire  
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Maria Averill, Esquire  
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The Honorable Leah Guerry Dupree  
Post Office Box 219  
Monks Corner, South Carolina 29461  
[Leah.Dupree@berkeleycountysc.gov](mailto:Leah.Dupree@berkeleycountysc.gov)

October 5, 2020



Keely M. Carter Bar No. 104426

Mary J. Murray

Jenny Leigh Quattlebaum

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Keely M. Carter  
E-Mail: [keely@lawyershmp.com](mailto:keely@lawyershmp.com)  
Licensed in SC

October 5, 2020

**VIA EMAIL**

The Honorable Jenny Abbot Kitchings  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29211  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

**RECEIVED**  
**Oct 05 2020**  
**SC Court of Appeals**

Re: Bryan R. Terrell v. Ryan E. Terrell  
Family Court Case No.: 2019-DR-08-1653

Dear Ms. Kitchings,

Enclosed, please find Respondent's Return to Petitioner's Motion for Reconsideration and Amendment of Judgment or Grant Further Relief from Judgment and Respondent's Motion to Dismiss. By copy of this correspondence via email, I am also serving copies of this return on attorneys for Petitioner, the Guardian ad Litem, the trial court.

If anything else is needed, please do not hesitate to contact my office.

With kind regards, I remain on behalf of

HINCHEY, MURRAY & PAGLIARINI, LLC,

Sincerely,

  
Keely M. Carter  
Associate Attorney

Enclosures

cc: Dick Whiting, Esquire, Attorney for Petitioner (via email)  
F.P. Segars-Andrews, Esquire Attorney for Petitioner (via email)  
Lori D. Stoney, Esquire, Attorney for Petitioner (via email)  
Maria Averill, Esquire, Guardia ad Litem (via email)  
Berkeley County Clerk of Court (via email)