

1           THE COURT: At this point I want to talk about the  
2 restoration status report and the State's request for  
3 parameters.

4           I can tell from the pleadings that both parties have  
5 received that report.

6           I've got to say that in the last ten days,  
7 Mr. Herberg, I've been carefully considering removing you and  
8 the Legal Defender's Office from further representation of  
9 Ms. Phillips in this case, since I received that status  
10 report. I'm going to take one stab at saving the taxpayers  
11 the expense of that.

12           In my entire career as an attorney and Judge, I've  
13 never witnessed such a blatant and intentional interference  
14 with the effort to restore an incompetent defendant, as well  
15 as a direct attack on the entire restoration program.

16           This includes sending your investigator on a mission  
17 to question a program doctor on the process; sustained,  
18 repetitive, almost obsessive visits with Ms. Phillips after I  
19 directed the Defense to limit that, both in an on-the-record  
20 hearing in chambers and in my minute entry. It's totally  
21 inappropriate. It borders on worse than unprofessional. And  
22 it calls into the question of coaching.

23           In addition, you've had staff members going out  
24 there. Maybe you could justify a visit with an incompetent  
25 client, but I don't understand why staff members,

1 investigators, are going out there 12 and 13 times.

2           You requested an outside doctor to be brought in  
3 during the restoration process. You questioned Ms. Phillips  
4 about a conversation with a doctor in the restoration process.  
5 Contrary to Dr. Simpson's advice, you haven't waived your  
6 client's presence for any of the hearings since the stay was  
7 initiated. And when you're called on this, your answer is to  
8 personally attack the doctor. Just as you've attacked and  
9 launched personal attacks throughout this case. It's totally  
10 uncalled for.

11           The last I checked, defamation is not a defense, and  
12 it's certainly not professional. And it will stop. As will  
13 the distortion of the facts in this case.

14           I'm going to order that you're limited to one hour  
15 of visitation with Ms. Phillips every 30 days during the  
16 restoration process. I'm going to set a status conference on  
17 April 16 at 10:00 a.m. to assess progress. This order and  
18 limitation extends to any staff or other employee of the Legal  
19 Defender's Office as well.

20           Counsel, from this day forward we're going to try  
21 this case like grownups, or, massive personnel changes will  
22 occur.

23           You're excused.

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