

To the Honorable Committee:

I am Eli H. Newberger, a physician licensed to practice in the State of Massachusetts, Assistant Professor of Pediatrics, Harvard Medical School, and Adjunct in Pediatrics, Children's Hospital Boston. The expertise that I bring to this matter derives from my three decades of practice and research as a pediatrician at Children's Hospital Boston, where I organized its first child protection team in September 1970 and served as its medical director for 3 decades, and my subsequent professional experience.

I also founded and directed the principal out-patient clinic for victims of abuse and neglect at Children's Hospital, the Family Development Clinic, from November 1972, to December 1999. In this interval, we received approximately 500 referrals for assessments of the validity of disclosures and examination artifacts suggesting child physical and sexual abuse from family and criminal courts across New England. I continue to serve as a physician expert, selecting important cases in which children's physical and emotional survival are at high risk. I have been qualified over 150 times as an expert witness on pediatrics, child abuse, child sexual abuse, and domestic violence. In most of these cases, Guardians ad Litem (GAL's) are appointed, and juvenile and family court judges preside. I have had ample opportunity to observe the work both of GAL's and family court judges and am familiar with the contemporary standards that govern their work.

Apart from my current teaching at Harvard Medical School, I am often called on to teach on child abuse and child sexual abuse at local and national

conferences. For example, on September 8, 2008, I presented a keynote address entitled "Foundations of Healthy Child Development, and Risks and Impacts of Traumatic Experience" at the U.S Department of Justice Symposium on Improving Judicial Responses to Child Sexual Abuse, in College Park, MD. I have served on the faculty of many similar conferences on judicial education as well as conferences convened to inform GAL's about pediatrics, child abuse and child sexual abuse.

Never previously have I felt compelled to express my professional opinions about a prospective judicial appointment. I am moved to do so here because of a pattern of egregious behavior that have implications for Atty. Murphy's appointment to the bench. They go to her temperament, sense of fairness, honesty, respect for appropriate process, and knowledge of child development and child abuse.

I was involved for over a year in a single case in which Atty. Murphy was appointed as a young boy's Guardian ad Litem. It was necessary for me to appear in Court four times, in three of which I was asked to give testimony. In the courtroom and in the waiting area, I had many opportunities to observe Atty. Murphy's deportment, and I have reviewed many documents in which she expressed her opinions and recommendations.

The child whom Atty. Murphy was assigned to represent suffered grievously from her lack of diligent attention to his best interests; her constant ignoring of his pediatric record and medical symptoms; her unremitting hostility to his mother; her bias favoring his father; her collusion with the father's attorney; her misunderstanding and misinterpretation of the child's physical and behavioral symptoms of abuse and self-destructive behavior; and her

dishonest representations both of the child's history and of his mother's efforts to care for him, provide him with appropriate medical and psychiatric care, and to protect him from abuse.

Briefly summarized, the case in which Atty. Murphy was appointed as the boy's GAL involves multiple examples of inappropriate and abusive behavior by his father, including obsessive massaging of his thighs and genitals, physical abuse both of the boy and his mother, the boy's severe self-destructive behavior and suicidal thoughts and threats, and physical examination findings strongly suggestive of sexual abuse. The boy's, his mother's, and his father's behavior have been carefully documented both by professional observers and by court-appointed visitation supervisors. I have reviewed hundreds of pages of these documentations and the entire available corpus of medical records.

I offer the following examples of Atty. Murphy's behavior that illustrate my concerns:

1. When this boy complained to his mother of pain in his penis, and a penile infection was diagnosed, his pediatrician did not perform the appropriate cultures to rule out a sexually-transmitted disease. The boy's mother's attorney wrote to Atty. Murphy about his mother's wish to obtain a second opinion for her son. She was, in my opinion, appropriately concerned that a proper diagnostic work-up be performed. Atty. Murphy denied the request, and told the mother's attorney that if she took the boy for a second opinion she would lose his custody.

Atty. Murphy then spoke to the boy's pediatrician

Following this contact, the pediatrician called the boy's mother and told her that the culture was negative and to stop using his office to try to prove abuse. Subsequently, Atty. Murphy testified at an emergency hearing that the

boy's mother had taken her son to the pediatrician 5 times to get the same culture of his penis, hoping for a positive result, but they came up negative each time. I know from my own review of the pediatrician's records that this was false.

In those pediatric office visits, there was one culture of the boy's irritated *toes* to rule out a bacterial infection, which was negative; a urinalysis (not a culture) which was negative; a single urine culture, which was negative; and a single swab under his foreskin (the site where the boy had expressed pain and where irritation and exudate typically presented after he expressed pain) which was *positive*. At the final visit, no culture was taken at all. This was a short session that took place shortly after the pediatrician called me to discuss the case. In that conversation, the pediatrician told me that he was intent on getting to the bottom of this matter. He did not, as I suggested, review prior to talking with the mother the boy's many disclosures of his father's manipulations and massages, his disclosure to the pediatrician himself, documented by the pediatrician in his office note, that the boy's father tickled his penis, and the boy's many other documented disclosures and behaviors suggesting abuse. Rather, the pediatrician after a short conversation ushered the boy and his mother out of the office.

2. After the boy complained of pain in his anus, and blood was seen when he was wiped after a bowel movement, he was examined in a hospital emergency room. An anal fissure was diagnosed. The ER physician suggested that his mother apply an over-the-counter cream to aid in the

healing of the fissure. The boy's symptoms continued during the following 10 days, during which he saw his father for 2 full weekends and 3 weekdays, and blood was seen again. His maternal grandmother, a nurse, took a photograph of the boy's anus because it appeared to her that there were new fissures.

Shortly afterward, his father's attorney and Atty. Murphy asked the Court to remove the boy's custody from his mother, specifically citing this photograph.

I have reviewed the pertinent medical records and this photograph. There is no question in my mind that it shows fresh fissures that raise serious concern about current sexual abuse. Notwithstanding my and other experts' subsequent testimony on this finding and many other physical and behavioral artifacts of abuse, the boy remains in his father's care and custody and is, in my opinion, at high risk of continued abuse. This dangerous situation was largely driven, I believe, by Atty. Murphy's professional bias, collusion with the boy's father and his attorney, and misinterpretation and misrepresentation of medical information.

3. In her effort to prove that the boy's mother was making false allegations of abuse, Atty. Murphy required both the boy and his mother to undergo evaluation and treatment by professionals who shared her own denial of abuse and skepticism of mothers' concerns to protect their children. It was clear through the proceeding that she was in frequent contact with these individuals. Indeed, she denied the mother's attorney's request to allow me to talk with the boy's therapist. The man subsequently recommended through Atty. Murphy to the Court that the definitive evaluation of the boy's abuse risk be conducted by a psychiatrist notorious for his belief in the discredited notion of "parental alienation syndrome" and his repeatedly expressed interest that mothers, not perpetrators of sexual abuse, were responsible for children's disclosures of abuse. Indeed, this physician, in his opinion and testimony, damned the mother in vulgar language, minimized the significance of the large body of medical and behavioral symptoms and findings, and suggested that the boy's disturbed behavior derived from his "orgiastic" relationship with his mother. The psychiatrist indicated that he based his conclusions in part on the work of the author of this so-called syndrome, Richard Gardner.

4. In the courtroom and in the hallway outside it, I observed on numerous occasions that Atty. Murphy, during the breaks in the hearings, would secrete herself in a conference room with the father and his attorney. This, in my view,

was a manifestly inappropriate public signal of her bias and collusion. At no time did I observe her in conversation with the boy's mother. On one of the days in which I gave testimony, I could not but notice a new person in the courtroom. She sat in the front row and stared at me intently as I testified.

Because her presence and behavior struck me as remarkable, I asked the mother's attorney in the subsequent break who she was. I learned that she was Atty. Murphy's wife. These observations incline me to believe that Atty. Murphy has little respect even for the appearance of fairness. Introducing a person with a first-order relationship to her, who has no professional role in a sensitive family matter, also bespeaks Atty. Murphy's problematic disregard for the integrity of the judicial process.

I thank the Committee for their reading and consideration of these remarks and my recommendation to reject Atty. Maureen Murphy's nomination as a Connecticut Family Court Judge.

Respectfully,

Eli H. Newberger, M.D.