

**Together We Can  
Mastering the Courtroom:  
Effective Testimony Techniques**

2024

Simulation Exercise  
for

**Motion Hearing**

## CASE SCENARIO

Cast of Characters	
Anthony Michaels	Age 10
Ashley Michaels	Age 6
Aden Michaels	Age 11 months
Cynthia Michaels	Mother
Christopher Michaels	Father
Pauline Blue	Paternal Aunt
Officer Frank Williams	Responding Officer
Rena Jones	Agency Child Protective Services (CPS) Investigator
Stephanie Shaw	Agency foster care caseworker
Becky Ross	Agency caseworker assigned to supervise visits
Annie Santosky, LCSW	Family therapist

**\* Note:** For purposes of this training, we will use the term “State’s Attorney” for both the Bureau of General Counsel and Assistant District Attorney.

### Case Review Hearing through Eight Months of Placement

At the Case Review Hearing on April 16, 2021, the court maintained continued custody with the agency, with a recommendation for continued placement with the relative and an order for unsupervised day visits with a transition to overnight visits, if successful. The Michaels began unsupervised day visits with the children, which increased to weekend visits from Friday at 6:00 pm until Sunday at 3:00 pm. Ms. Michaels was responsible for picking up the children from their daycare/aftercare facility. Ms. Shaw reported that initially the weekend visits progressed nicely; however, on the fourth scheduled weekend, June 4, 2021, Ms. Michaels failed to pick up the children on time. The daycare/aftercare provider contacted Ms. Shaw when she couldn’t reach either Mr. or Ms. Michaels or Ms. Blue on the phone. Ms. Shaw picked up the children and took them to Ms. Michaels’ home. When she arrived, Ms. Michaels’ car was in the driveway. She knocked on the door for at least 10 minutes, wrote a note to leave on the door, and was preparing to leave when Ms. Michaels answered. Ms. Shaw observed that she looked disheveled. Ms. Michaels stated that she was upstairs napping and didn’t hear the door. She further explained to Ms. Shaw that she had been sick and was just starting to feel better. Ms. Shaw determined that there was no safety risk and left the children. Mr. Michaels was not present. On Saturday, Anthony called his aunt and told her that his mother was acting “weird” and had locked herself in her room. He reported that she kept yelling, “get away from my door!” He asked her why they couldn’t come into the room, and she just told him to “go away!” When he asked her about dinner because he couldn’t find any food, she told them to fend for themselves. Anthony discovered that the door was unlocked, and he was able to enter his mother’s room to check on her. She was sleeping but he couldn’t get her to wake up. Anthony then called his aunt to come to pick them up because he was scared. Ms. Blue went to the home to get the children and called Ms. Shaw to report what happened. Mrs. Shaw spoke to Anthony (by himself) to verify the truth of Ms. Blue’s story.

After the visit in question, Ms. Shaw went to the home and explained to Ms. Michaels that for visits to remain unsupervised, she would have to submit to urinalysis. Ms. Michaels agreed, and Ms. Shaw transported her to her substance use counselor’s office. Ms. Michaels’ test results were positive for opioids. Ms. Michaels told Ms. Shaw that she was feeling anxious about being a “perfect” mother and finding employment and used again to give her mind some “peace.” Ms. Michaels had a very long conversation and admitted to all of Anthony’s and

Ms. Blue's allegations.

As a result of Ms. Michaels' positive drug test and the incident that occurred at the visitation, the agency decided to reinstate supervised visits. The State filed a motion to change visitation back to supervised visits only.

## MOTION HEARING

### Direct and Cross Examination of Stephanie Shaw, DCFS caseworker

The State has filed a motion for supervised visitation based on Ms. Michaels' positive drug test and the incident that occurred at the visitation on June 4<sup>th</sup> and 5<sup>th</sup>. The motion requests that the court amend the visitation schedule from unsupervised visitation back to supervised visits.

**State's attorney conducts a direct examination:** Focus on guiding the caseworker's description of what happened during the last visit with the mother. Elicit testimony that Anthony feels safe with his aunt and is worried about his mother. He wants to continue to visit with her but has told you that he is worried that his mother doesn't always take good care of the younger children.

**Mother's attorney conducts a cross examination:** Focus on the positive aspects of the visits and the fact that Anthony wants to continue visiting with his mother, and that his mother wants the children returned home. Elicit information regarding the children's positive relationship with their father and prepare to request that the court order visitation in the home, supervised by Mr. Michaels.

**Children's Attorney conducts cross examination:** Determine which position you are going with and ask your questions accordingly. Remember that the child's attorney in Louisiana is required to represent the expressed wishes of the child if the child is able to make such wishes known. If the child is unable to do so, then the child's attorney is required to represent the best interests of the child. Make sure to pay attention to the questions asked by the other attorneys. Sometimes you might have a lot of questions and sometimes not many. You have to be on your toes. Make sure that you let the court know the positions and wishes of the children, which you are allowed to state.

#### For this exercise please review:

- Scenario
- Motion

#### Attorney Tips:

- **For both direct and cross,** remember that this is a motion hearing not a review hearing. So there are different evidentiary rules, and additionally you are not trying to update the court as to everything as you would at a review hearing.

STATE OF LOUISIANA  
IN THE INTEREST OF

DOCKET NUMBER: J20-1026-01;02;03

Anthony Michaels DOB:06/10/2010

JUVENILE COURT

Ashley Michaels DOB: 02/01/2014

PARISH OF ABC

Aden Michaels DOB:10/20/2019

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### MOTION TO MODIFY VISITATION

Comes now, the Petitioner, the Department of Children and Family Services (DCFS), to respectfully request that this Court modify the visitation order dated April 16, 2021, authorizing unsupervised day visits with a transition to overnight visits, if successful, and amend the visitation order to allow supervised visits weekly for a minimum of one hour. In support, DCFS states as follows:

1. On June 4, 2021, Stephanie Shaw, agency caseworker, received a call from the daycare/aftercare provider of Anthony, Ashley, and Aden Michaels reporting that their mother, Cynthia Michaels, had failed to pick them up. Ms. Shaw went to get the children and transported them to Ms. Michaels' home. Ms. Michaels reported that she had been sick and had overslept.
2. On June 5, 2021, Ms. Shaw received a message from Ms. Blue stating that she had picked up the children early from their visit after Anthony called to tell her that his mother was acting weird, and he was scared.
3. On Monday, June 7, 2021, Ms. Shaw met with Anthony, and he reported that during the visit, Ms. Michaels locked herself in her room and would not let him in. Specifically, on Saturday morning, June 5, 2021, Anthony went into the living room to watch tv. He heard Ms. Michaels get up to go to the bathroom, so he got up to talk to his mother. When Ms. Michaels saw Anthony, she hurried back to her room, slammed the door in his face and locked it. He thought she was acting weird. He knocked on the door and asked her to let him in, but Ms. Michaels did not open the door.
4. Anthony reported that after his brother and sister woke up, all three children were hungry. Anthony reported that he went to the kitchen but could not find anything for them to eat. He stated he then went back to his mother's door to tell her that they were hungry. Ms. Michaels yelled at Anthony to "go away," refused to feed the children, and instead told the children to "fend for themselves." Anthony reported that there was no food in the house.
5. Later that day, Anthony was able to enter Ms. Michaels' room with the intent of checking on her. He reported that Ms. Michaels was sleeping but he was unable to wake her. Anthony stated that at this point he became scared and called his Aunt Pauline to pick the children up. Anthony reported that his mother was still asleep when they left.
6. In the afternoon of June 7, Ms. Shaw met with Ms. Michaels, and she agreed to submit to urinalysis. Ms. Shaw transported her to her substance use counselor's office. Ms. Michael's test results were positive for opioids.
7. After receiving the positive test results, Ms. Michaels admitted to Ms. Shaw that she was feeling anxious about being a "perfect" mother and finding employment and used again to give her mind some "peace."

8. Due to Ms. Michaels' use of opioids and the unsafe unsupervised visit, it is in the children's best interest for visitation to return to being supervised by the agency a minimum of once per week for one hour to ensure their safety and well-being.

WHEREFORE, Petitioner requests that the Court modify the existing visitation order from unsupervised daytime or overnight visits to visits supervised by the agency a minimum of once weekly for one hour and grant any other relief the Court deems appropriate.

State's Attorney