

ORIGINAL

BOOKED
RECEIVED/ENTERED

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAR 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

ROBERT SCOTLUND VAILE,

Supreme Court Case No: 55446
District Court Case No: 98 D230385

Petitioner,

vs.

**REQUEST TO FILE REPLY
IN SUPPORT OF MOTION
TO STAY CASE**

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE
HONORABLE CHERYL B. MOSS,
DISTRICT JUDGE, FAMILY COURT
DIVISION,

AND

**REPLY MEMORANDUM IN
SUPPORT
OF MOTION TO STAY CASE**

Respondent.

FILED

JUL 20 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

**REQUEST TO FILE REPLY IN SUPPORT
OF MOTION TO STAY CASE**

Robert Scotlund Vaile, Petitioner, respectfully requests permission to file his reply memorandum in support of motion to stay the case in the lower court, including the rulings entered by the lower court in hearing on March 8, 2010 for good cause as described herein.

RECEIVED
MAR 10 2010
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

10-Della2

1 **REPLY MEMORANDUM IN SUPPORT OF**
2 **MOTION TO STAY CASE**

3 **I. RELEVANT HISTORY REGARDING THE PENDING WRIT**
4 **PETITION**

5 In an October 26, 2010 hearing before the family court below, Defendant's counsel
6 represented to the court that a 2003 judgment for attorney's fees against Petitioner had
7 been renewed in accordance with the law. Based on those representations, the family
8 court ordered Mr. Vaile to interplead funds to the Court in payments of those attorney's
9 fees on threat of criminal contempt. Within weeks of the October 26, 2009 hearing, it
10 was revealed the 2003 judgment had not, in fact, been renewed under Nevada law.
11

12
13 At a hearing on February 3, 2010, the lower court signed an order vacating the writ
14 of garnishment against Mr. Vaile's employer, Deloitte & Touche LLP, which was based
15 on the lapsed 2003 judgment. Nevertheless, the family court still issued an order
16 requiring Mr. Vaile to interplead funds in support of the expired 2003 judgment for
17 attorney's fees stating simply that the order issued in the October 26, 2010 hearing still
18 "stands." On February 17, 2010, Petitioner requested this Court to intercede to prevent
19 him from being jailed or allowing the family court to force him into bankruptcy by
20 requiring payment of funds that he did not have, and to stay the action in the family
21 court.
22
23
24

25 On February 19, 2010, this Court issued an order for a temporary stay of the family
26 court's order that required Mr. Vaile to deposit funds with the district court, and required
27 real party in interest to respond. Despite this Court's order, the family court, on
28

1 February 25, 2010, entered a written order requiring Mr. Vaile to deposit those funds
2 with the district court on threat of contempt.

3
4 In opposition to the request to stay the case in this Court, real party in interest's
5 counsel, the Willick Law Group, argued that the family court was justified on October
6 26, 2009, and February 3, 2010 in ordering Mr. Vaile to pay funds in support of the
7 expired judgment, based on a filing that Willick made to the family court on February 1,
8 2010. See Exhibit "I" of Respondent Real Party in Interest's Appendix. This filing
9 requested registration of a federal court default judgment against Mr. Vaile for torts
10 alleged by Porsboll in connection with Mr. Vaile returning his children to the United
11 States under the direction of the family court. As of the February 3, 2010 hearing, Mr.
12 Vaile had not received the request for registration, and the matter was not heard at the
13 hearing on February 3, 2010.

14
15
16
17 A hearing on this registration and other matters took place in the lower court on
18 March 8, 2010. Petitioner was present at the hearing. At this hearing, the family court
19 determined that neither this Court's decision in *Landreth*,¹ nor NRS 3.233 prevented the
20 registration and enforcement the federal court tort judgment in family court. In order to
21 avoid the prohibitions in this Court's stay of the lower court's ruling requiring monetary
22 payment from Mr. Vaile, the family court ordered Mr. Vaile's employer, Deloitte &
23 Touche, LLP (a non-party in the action, present at the hearing only to observe) to
24 withhold from Mr. Vaile's earnings the same \$1,174 that it ordered at the February 3,
25
26
27

28

¹ Landreth v. Malik, 125 Nev. Adv. Op. No. 61, December 24, 2009.

1 2010 hearing, for the same 2003 judgment for attorney's fees. Deloitte & Touche, LLP
2 is currently under a Temporary Restraining Order in California from withholding any of
3 Mr. Vaile's earnings.
4

5 Other matters brought by the Willick Law Group were also heard at the March 8,
6 2010 hearing. Because the California court stayed² the proceedings in California based
7 on *forum non conveniens*, the family court determined that all of Mr. Vaile's causes of
8 action in California had been transferred to her court for adjudication, and then
9 proceeded to rule on the merits of Mr. Vaile's California claims, over the objections of
10 Mr. Vaile that he had never asserted his claims before that court. The family court
11 determined that the fact that the defendants in the California action were not parties
12 before the family court was no hindrance to her authority to rule on the merits of the
13 California case.³ Without allowing discovery or the presentation of *any* evidence, the
14 family court ruled that Mr. Vaile's claims before the California court were without merit,
15 and awarded attorneys fees to all California defendants in that action.
16
17
18
19

20 Finally, based on the Willick Law Group's request for a declaratory judgment to
21 assist that firm's principal in litigation in Virginia against Mr. Vaile's previous attorney,
22 the court reframed its previous order, advising that the March 20, 2008 order in this case
23 was final until October 2008, directly contrary to this Court's decision on the matter.
24
25
26

27 ². The California court's *forum non conveniens* order was actually stayed by
28 operation of law in California based on an appeal of that matter.

³. Real party in interest had previously been dismissed from the California action.

II. ARGUMENT

1
2 When without legal basis, the Willick Law Group continually reverts to the "bad
3 guy" argument. The argument is basically that since Mr. Vaile is a bad guy in their
4 book, the law should not be applied to him. They then pretend to quote him as claiming
5 defiance of the Nevada courts, attempt to reframe his actions as being in vexatious, and
6 call him a liar. All this in an attempt to evade facts on point and the legal issues that this
7 Court requested through a response.
8
9

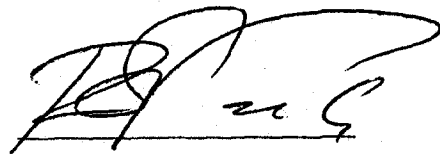
10 Based on the simple facts of this matter, the Willick Law Group's February 1, 2010
11 request to register a federal court tort order in the family court could not have provided
12 a basis for the lower court to order Mr. Vaile to make payments towards an attorney fee
13 award. The mail service of the request was not even received by Mr. Vaile until *after*
14 the lower court had ruled, and the lower court did not take up the matter until March 8,
15 2010. This matter could not be more clear.
16
17

18 The only possible explanation under Respondent's theory is that the lower court
19 was ordering Mr. Vaile to make payments *in anticipation* that the Willick Law Group
20 would be able to justify the order (as the court requested) after the fact, or that the lower
21 court is buying the bad guy argument and not applying the law in this case. Either case
22 requires this Court's mandamus power.
23
24

25 In this case, the family court has ignored this Court's decision in 2002 holding that
26 the Nevada courts had neither personal jurisdiction of the parties, nor subject matter
27 jurisdiction in the case, issuing precisely the opposite findings. While recognizing this
28

1 Court's precedent to the contrary, the family court has issued retroactive child support
2 arrearages resulting in many tens of thousands of dollars against Mr. Vaile. The lower
3 court has issued written orders that directly contradict this Court's stay, and entered
4 orders that attempt to avoid the clear mandates of this Court regarding payments by Mr.
5 Vaile. It must be clear that the lower court is willing to do to great lengths to make
6 rulings against Mr. Vaile, and will not allow the mandates of this Court, Nevada statutes,
7 or due process stand in the way. Because of these actions, Mr. Vaile respectfully
8 requests that this Court stay the proceedings in the lower court, including enforcement
9 of the rulings of March 8, 2010, until the matters before the Court on appeal and on writ
10 petition are resolved.
11
12
13

14 Respectfully submitted this 9th day of March, 2010.
15

16
17
18


19 Robert Scotlund Vaile
20 PO Box 727
21 Kenwood, CA 95452
22 (707) 833-2350
23 *Petitioner in Proper Person*
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I am the Petitioner in this action, and that on the 9th day of March, 2010, I served a true and correct copy of the foregoing *Request to File Reply in Support of Motion to Stay Case and Reply Memorandum in Support of Motion to Stay Case*, by placing the document in:

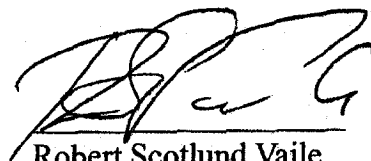
U.S. Mail, first class postage prepaid; or

National courier (Fedex or UPS) with expedited delivery prepaid,

and addressed as follows:

Marshal S. Willick
Willick Law Group
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Attorneys for Real Party in Interest

Honorable Cheryl B. Moss
Eighth Judicial District Court
Family Division
601 North Pecos Road
Las Vegas, NV 89101-2408
Respondent



Robert Scotlund Vaile
PO Box 727
Kenwood, CA 95452
(707) 833-2350
Petitioner in Proper Person