

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

CISILIE A. VAILE,  
Petitioner,  
vs.

S.C. Docket No. 36969  
D.C. Case No. D230385

EIGHTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA, IN AND FOR THE COUNTY  
OF CLARK, FAMILY LAW DIVISION, THE  
HONORABLE CYNTHIA DIANE STEEL,  
DISTRICT JUDGE, Respondent,

and  
R. SCOTLUND VAILE, Real Party in Interest

**FILED**

FEB 15 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
DEPUTY CLERK

**MOTION FOR PERMISSION TO SUBMIT  
SUPPLEMENTAL EXHIBITS,  
POST ORAL ARGUMENT,  
RELATING TO PETITIONS FOR  
WRIT OF MANDAMUS  
AND WRIT OF PROHIBITION**

Petitioner, CISILIE A. VAILE, by and through her attorneys, the LAW OFFICE OF MARSHAL S. WILICK, P.C., and pursuant to NRAP 2 and 27, hereby moves this Court for permission to submit a copy of an appellate Order from Norway (and its translation) as an exhibit post-oral argument for clarification of a matter touched on by both parties.

This case is before the Court on an emergency Petition for two writs. No formal briefing has been done. The Petition referenced ongoing legal proceedings in Norway, while discussing the requested Writ of Mandate, and the requested finding that the children should be returned under the Convention because they were habitually resident in Norway, Cisilie was exercising custodial rights at the time of the kidnaping, and the kidnaping constituted "wrongful removal" by the Real Party in

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01-02984

1 Interest, R. SCOTLUND VAILE (“Scot”). Those three factors, once established, make up the basis  
2 for a required Hague Convention decision.

3 Mr. Angulo, appellate counsel for Scot, filed a Supplemental Appendix with his *Opposition*.  
4 It included (as Exhibit F) a lower-court order entered in the Oslo District Court of Norway on  
5 November 9, 2000. While that order confirmed that Scot’s kidnap of the children was “an unlawful  
6 course of action,” and thus wrongful, the court also deferred to the ruling of the Nevada courts  
7 (Judge Steel’s ruling) in finding that the children were not domiciled in Norway since Judge Steel  
8 found that she had jurisdiction to enter a pick up order.

9 At oral argument, Mr. Angulo argued that the Norway finding confirmed Judge Steel’s  
10 decision to not make a Hague Convention ruling. There was some discussion of Judge Steel’s April  
11 pick up order, since Judge Steel had explicitly relied on Scot’s lie in open court (claiming that the  
12 children had lived in Nevada all their lives until they went to Norway) in making it. The Norway  
13 appeal was also briefly mentioned, although the result was not known to either counsel.

14 On February 9, 2001, the Bogarting Court of Appeal – Civil Division, in Norway, issued its  
15 decision, reversing the finding of the Oslo District Court on which Mr. Angulo relied, and explicitly  
16 finding that both children were residents of Norway at the time Scot kidnaped them. The translation  
17 of the Order is attached as Exhibit 1.<sup>1</sup>

18 The Norway appellate decision also notes that the appeal on which that court was ruling was  
19 not concerned with the Hague Convention (as that question is before *this* Court). The Court also  
20 found that as a substantive matter of Norwegian law, Scot’s kidnap of the children “cannot be  
21 accorded significance” as to the issue of the children’s residence. Opinion at 9. Finally, the Norway  
22 court decided that the substantive issue of child custody should go forward there. Opinion at 10.

23 The final order in Norway is that the children were habitually resident in that country, Cisilie  
24 was exercising rights of custody at the time of their removal, and Scot’s removal of the children from  
25 Norway was wrongful. According to the multiple authorities cited in the Petition, those facts require  
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27 <sup>1</sup> In the interest of time, the document as electronically transmitted is enclosed. With leave of Court, certified  
28 copies of the original court order, in Norwegian, and the certified translation, will be filed subsequently when they arrive  
from Norway.

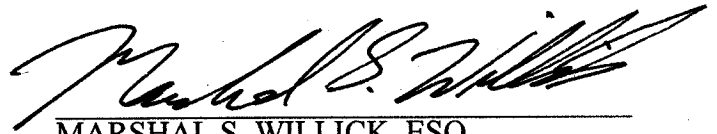
1 the trial court to make a determination under the Hague Convention on the Civil Aspects of  
2 International Child Abduction, and its implementing legislation, the International Child Abduction  
3 Remedies Act ("ICARA"), 42 U.S.C. §§ 11601-11610.

4 As this Court was asked by both counsel to take the Norway proceedings into account when  
5 rendering its decision as to whether to issue a writ of mandate requiring the lower court to conduct  
6 a Hague Convention hearing and return the children to Norway, we request that the Supplemental  
7 Exhibit be filed, become part of the record in this case, and that it be considered in the disposition  
8 of the writ petitions now pending before this Court.

9 A couple of points raised in the parties' submissions in the Norwegian proceeding bear upon  
10 the issues presented to this Court. First, Scot confirmed through his Norway attorneys what he  
11 refused to admit on the stand before Judge Steel – that he first gave notice of an intention to move  
12 from London to the U.S. "around Christmas 1999." Opinion at 8. This was a year and a half after  
13 he claims to have been "resident" in Nevada. However, he also misrepresented to the courts of  
14 Norway throughout his filings there that he is currently a resident of Las Vegas, and intends to  
15 continue living here, although he admitted during the proceedings before Judge Steel that he has  
16 *never* lived in Las Vegas, and currently lives on a ranch in Texas.<sup>2</sup>

17 DATED this 14<sup>th</sup> day of February, 2001.

18 Respectfully submitted by:  
19 LAW OFFICE OF MARSHAL S. WILLYCK, P.C.

20 

21 MARSHAL S. WILLYCK, ESQ.  
22 Nevada Bar No. 002515  
23 3551 East Bonanza, Suite 101  
24 Las Vegas, Nevada 89110  
25 Attorneys for Petitioner

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27  
28 <sup>2</sup> The Norway appellate court quietly noted the conflict by noting on page two Scot's claim that he "is resident in Las Vegas" and on page 3 that Judge Steel permitted Scot to take custody of the children in Texas.

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**CERT**  
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Attorney for Defendant

**DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

R. SCOTLUND VAILE,  
  
Plaintiff,  
  
vs.  
  
CISILIE A. VAILE,  
  
Defendant.

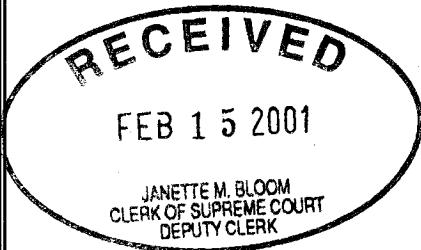
CASE NO: D230385  
DEPT. NO: G

DATE OF HEARING: N/A  
TIME OF HEARING: N/A

**CERTIFICATE OF SERVICE**

I hereby certify service of the *Supplemental Exhibits, Post Oral Argument, for Writ of Mandamus and Writ of Prohibition and Motion for Permission to Submit Supplemental Exhibits, Post Oral Argument, Relating to Petitions for Writ of Mandamus and Writ of Prohibition*, this 14<sup>th</sup> day of February, 2001, pursuant to EDCR 7.26(a) via facsimile to ( 702) 455-2394 and NRCP 5(b) by personal service and addressed as follows:

Judge Cynthia Diane Steel  
Eighth Judicial District Court  
Family Division: Dept. G  
601 N. Pecos Road  
Las Vegas, Nevada 89110



An employee with The LAW OFFICE OF MARSHAL S. WILLYCK, P.C.

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Petitioner, CISILIE A. VAILE, by and through her attorneys, the LAW OFFICE OF MARSHAL  
S. WILLICK, P.C., submits the following post oral argument supplemental exhibit:

1. A translation of the decision by the high court of Norway on Cisilie Vaile's appeal.

DATED this 14<sup>th</sup> day of February, 2001.

Respectfully submitted by:  
LAW OFFICE OF MARSHAL S. WILLICK, P.C.

*Robert Crowe 5247*

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