

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

MAR 12 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

**OPPOSITION TO
RESPONDENT'S REQUEST TO SUPPLEMENT RECORD
FOR WRITS OF PROHIBITION/MANDAMUS**

Petitioner, CISILIE A. VAILE, by and through her attorneys, the LAW OFFICE OF MARSHAL S. WILLICK, P.C., submits an Opposition to the above captioned *Request* pursuant to NRAP 27(a). More precisely, we do not object to the supplementing of the record with the proffered document (Scot's motion filed February 18, 2000), but to the misstatements in the explanatory text making up Scot's motion to supplement the record. As explained below, we are also concerned that the actual purpose of the motion is to serve Scot's plan to evade justice.

INACCURACIES

Scot claims that Cisilie did not begin legal proceedings in Norway until after the Nevada proceedings had occurred, and further claims that he "fully disclosed" the Norwegian proceedings to Judge Steel. Both representations are false.

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1 First, as demonstrated by documents in the Appendix, the mandatory mediation is Norway's
2 first step in a child custody proceeding, as it is in *our* trial courts.¹ The Norwegian legal proceedings
3 were initiated on November 8, 1999, more than three months *before* Scot filed his motion for
4 custody in Las Vegas on February 18, 2000. *See* Appendix Vol. 1, at Exhibit G.² As demonstrated
5 by the opening lines of that document, court-annexed mediation through Sentrum Family
6 Counselling Services was requested as required under Norwegian law "with a view to legal custody,
7 physical custody and visitation." *Id.*

8 In the document Scot seeks to have this Court add to the record, he mis-characterized those
9 proceedings as "two formal mediation sessions" which he claimed were initiated *by him* and
10 conducted so that he would be "in compliance with EDCR 5.11." Motion of February 18, 2000, at
11 6; affidavit of Scot at 1, paragraph 7. His representations were not "full disclosure" of the
12 proceedings in Norway – they were a part of the fraud by which he obtained the pick-up order used
13 as a cover for his kidnap of the children.

14 Scot attempts to continue a number of misrepresentations in his current motion. He claims
15 that Cisilie waited a year after discovering Scot's fraud on the Nevada court before "filing any
16 document challenging the sufficiency of the divorce." The Appendix shows that Norwegian counsel
17 filed an "Answer" dated March 24, 2000, stating on its face that she "denies that the motion is in the
18 jurisdiction of District Court Family Division, Clark County, Nevada on the grounds that neither the
19 plaintiff nor the defendant or the children have ever resided or have had domicil in Clark County,
20 Nevada." Appendix, Vol. 2, Exhibit 3, DD.³ This is the same document that opposing counsel has
21 claimed does not exist. *See* Scot's Opposition to Petition for Writ at 7, fn. 5, and 6, line 28.

22
23 ¹ *Cf.* NRS 3.475; EDCR 5.70 ("court-connected mandatory mediation program").

24 ² Entitled "Request for mediation pursuant to the Norwegian Children Act."

25 ³ This document was filed by the Las Vegas clerk of the court on April 4. As demonstrated by Exhibit 3, EE,
26 it was in the hands of the judge's "executive assistant" on March 24 – five days before the motion hearing – but was
27 ignored. Eight days after it was filed, the judge even recited that there had been "no response" from Cisilie, although
28 the record shows that this was simply not true. *See* Exhibit 3, BB.

1 In other words, Cisilie's counsel first attempted to bring to the attention of the lower court
2 that it had no subject matter jurisdiction and that Scot had committed fraud on the court here, some
3 weeks after learning of it.⁴

4 The document that Scot now seeks to have filed in this Court confirms the scope and
5 deliberateness of the fraud on the court perpetrated by Scot in obtaining the pick-up order. Scot
6 deliberately and repeatedly *lied* to the District Court, in his moving papers and in open court. Scot's
7 motion complained that Cisilie had refused to "move the children *back* to Nevada." Motion filed
8 February 18, 2000, at 10-11. At the motion hearing, Judge Steel quite properly inquired into
9 jurisdiction. Unfortunately, Scot and his attorney both told the District Court – falsely – that Cisilie
10 refused to "return" the children to Nevada, that the children had lived in Nevada for "their entire
11 lives," and had left *from* Las Vegas to go to Norway for a temporary visit. Supplemental Exhibit
12 2, Transcript of March 29, 2000, at 2.

13 If Judge Steel had closely examined Scot's motion, she would have observed that while page
14 one of Scot's affidavit claims it was sworn in the "State of Nevada, County of Clark," Scot's
15 signature was notarized by "Consular Agency of the United States of America in the Swiss
16 Confederation, Canton and City of Zurich." The record does not indicate that the judge noticed this,
17 but Scot's own motion shows that at the time he orchestrated the fraudulent pick-up order, he was
18 nowhere near this country, nevertheless Nevada.

19 It is unfortunate, but there is just no way to characterize the statements in the motion and in
20 open court as anything other than deliberate, calculated lies intended to convince the lower court that
21 it had jurisdiction, when it was known that there was no jurisdiction.⁵ Even Scot's testimony at the
22

23 ⁴ Cisilie was not served with Scot's *Motion* until three days prior to the hearing. A letter from Scot's counsel
24 in Norway to Cisilie indicates that a copy of the *Motion* was mailed to Cisilie *in Norway* on or about March 7, 2000.
25 From that date, Cisilie had to have the document translated for her attorney, prepare a response, and translate the
26 response into English to be forwarded to the Nevada Courts. It is unfortunate that Ms. Hagen (Cisilie's Norway counsel)
27 was unable to secure assistance in the Nevada procedures, but she was hardly given enough time to do so.

28 ⁵ Scot told the lower court: "We lived here all their lives," and his attorney re-emphasized: "They were born
in the United States and lived in Las Vegas prior to leaving. . . ." There is no reasonable possibility that these were
innocent remarks that have been somehow mis-interpreted.

1 In the meantime, we are informed that Scot is pressing his attorneys in Texas to take the
2 position that since this Court has issued no ruling, they should press forward with custodial
3 arrangements in the courts of that State based on Judge Steel's rulings, and award him permanent
4 custody.⁶ A "docket call" hearing has apparently been scheduled for March 16, with the intent of
5 convening further hearings on March 26. We have asked our Texas counterparts to advise the Texas
6 trial court that this Court is considering the legal merits of the writ petitions, and that any new
7 proceedings in yet a third jurisdiction⁷ should be deferred.

8 We have no reason to believe that current opposing counsel has knowingly participated in
9 an effort to delay these proceedings for the sake of delay, to facilitate further machinations
10 elsewhere, but we think it highly likely that Scot requested as much procedural action as possible
11 for exactly that end. While we are doing what we can to contain procedural feints elsewhere, we
12 respectfully request an expeditious resolution of the writ petitions.

13 DATED this 8th day of March, 2001.

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

16 

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21 (702) 438-4100
22 Attorneys for Petitioner

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24 _____
25 ⁶ His position is that since he has had physical control of the girls since last May 17, his legal authority for
26 custody should be ratified by the courts where he lives.

27 ⁷ As indicated by the ruling of the Norwegian appellate court, proceedings are to continue in the trial courts
28 of that country, based on the finding that Scot's kidnap did not deprive the courts of the State of habitual residence from
jurisdiction over children who were living there.

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

R. SCOTLUND VAILE,

Plaintiff,

vs.

CISILIE A. VAILE,

Defendant.

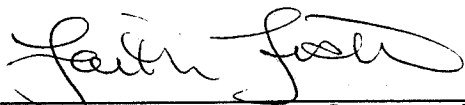
CASE NO: D230385
DEPT. NO: G

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

CERTIFICATE OF SERVICE

I hereby certify service of the *Opposition to Respondent's Request to Supplement Record for Writs of Prohibition/ Mandamus*, this 8th day of March, 2001, pursuant to EDCR 7.26(a) via facsimile to (702) 383-0701 and addressed as follows:

Peter M. Angulo, Esq.
RAWLINGS, OLSON, CANNON,
GORMLEY & DESRUISSEAU
301 E. Clark Avenue, #1000
Las Vegas, NV 89101


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

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