

1987

Utah v. Steven Ray James : Brief of Respondent

Utah Supreme Court

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BRIEF

UTAH
DOCUMENT

DOCKET NO. 870306

IN THE SUPREME COURT OF THE STATE OF UTAH

STATE OF UTAH,	:	
	:	
Plaintiff-Respondent.	:	Case No. 870306
	:	
vs.	:	
	:	
STEVEN RAY JAMES,	:	Priority 1
	:	
Defendant-Appellant.	:	

BRIEF OF RESPONDENT

INTERLOCUTORY APPEAL FROM PRETRIAL ORDERS IN
A FIRST DEGREE MURDER, CAPITAL HOMICIDE, IN
VIOLATION OF UTAH CODE ANN. § 76-5-202(1)(h)
(SUPP. 1987) IN THE FIRST JUDICIAL DISTRICT
COURT, CACHE COUNTY, THE HONORABLE VENOY
CHRISTOFFERSON, PRESIDING.

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JURISDICTION AND NATURE OF THE CASE

This is an interlocutory appeal from pretrial orders in a capital homicide case charged in the First District Court. This Court has jurisdiction to hear the appeal under Utah Code Ann. § 77-35-26 (2)(c)(Supp. 1987).

STATEMENT OF ISSUES

1. Whether defendant's right to a fair trial will be jeopardized by the use of a prior conviction as an aggravating circumstance to be proven in the guilt phase of his trial for first degree murder.

2. Whether the trial court abused its discretion in denying defendant's pretrial motion for a change of venue where the motion was premature because defendant presented no evidence that the potential jurors have been exposed to the allegedly prejudicial media coverage and where extensive voir dire of potential jurors is a viable means to uncover any potential prejudice.

3. Whether defendant may raise for the first time in his brief on this discretionary appeal, the trial court's denial of his pretrial motion for a survey of a random sample of the residents of Cache and Box Elder counties at county expense where he did not request permission to appeal this issue. Alternatively, whether the trial court abused its discretion in denying defendant's motion when the trial court offered to permit extensive voir dire of a large pool of potential jurors.

STATEMENT OF THE CASE

Defendant is charged with the first degree murder of his son in the First District Court, Cache County, State of Utah. Prior to trial, defendant filed a motion to dismiss the aggravating circumstance supporting the first degree murder charge and a motion for a change of venue due to prejudicial pretrial publicity. Judge VeNoy Christofferson denied these motions.

Defendant petitioned this Court for permission to appeal the interlocutory orders on the motion to dismiss the aggravating circumstance and the motion for a change of venue. The State concurred in the petition and this Court granted the interlocutory appeal.

STATEMENT OF FACTS

The State agrees with the statement of facts set out in defendant's brief.

SUMMARY OF ARGUMENT

1. Defendant's prior conviction for a crime of violence is an element of first degree murder and there is no constitutional infirmity in admitting this evidence to prove an element of the crime. Defendant's fear of prejudice can be adequately protected by a cautionary jury instruction.

2. Defendant's motion for a change of venue due to pretrial publicity was properly denied because it was premature. The test is whether any of the actual jurors are actually irrevocably prejudiced against defendant and unable to give him a fair trial. Until the potential jurors are questioned, the trial court acted reasonably in denying the motion.

3. Surveys of the community at large are not necessarily accurate predictions of the ability to provide defendant with a fair trial. Moreover, the trial court did not deny the motion but told defendant that he could present further evidence in support of it and, therefore, there is no final order from which defendant may appeal.

ARGUMENT

POINT I

THE AGGRAVATING CIRCUMSTANCE CHARGED UNDER
UTAH CODE ANN. §76-5-202(1)(h) IS
CONSTITUTIONAL AND WILL NOT DENY DEFENDANT
HIS RIGHT TO A FAIR TRIAL.

Defendant is charged with murder in the first degree in violation of Utah Code Ann. § 76-5-202(1) (Supp. 1987) in that he intentionally or knowingly caused the death of his son, Steven Ray James, and that he was previously convicted of a felony involving the use or threat of violence to a person. Defendant

complains on appeal that § 76-5-202(1)(h) will interfere with his constitutional right to a fair trial. Specifically, defendant argues that notice of prior convictions read to a jury as part of the charging information before presentation of any evidence will be prejudicial because of the tendency of the jury to convict because he is a 'bad person' rather than because he is proved guilty of Capital Homicide.

Section 76-5-202(1)(h) provides that:

(1) Criminal homicide constitutes murder in the first degree if the actor intentionally or knowingly causes the death of another under any of the following circumstances:

(h) The actor was previously convicted of first or second degree murder or of a felony involving the use or threat of violence to a person. For the purpose of this paragraph an offense committed in another jurisdiction, which if committed in Utah would be punishable as first or second degree murder, is deemed first or second degree murder.

Thus, a prior conviction of first or second degree murder or of a felony involving the use or threat of violence to a person is an element of first degree murder.

The purpose of subsection (h) is stated simply in the commentary to the Model Penal Code:

Perhaps the strongest popular demand for capital punishment arises where the defendant has a history of violence. Prior conviction of a felony involving violence to the person suggests two inferences supporting escalation of sentence: first, that the murder reflects the character of the defendant rather than any extraordinary aspect of the situation, and second, that the defendant is likely to prove dangerous to life on some future occasion. Thus, prior conviction of a violent felony is included as a circumstance that may support imposition of the death penalty.

Model Penal Code § 210.6 commentary at 136 (1980)

The State acknowledges that evidence of prior crimes is generally presumed prejudicial and "absent a reason for the admission of the evidence other than to show criminal disposition, the evidence is excluded." State v. Saunders, 699 P.2d 738, 741 (Utah 1985). However, "[e]vidence of prior crimes is admissible if the evidence is relevant to prove a specific element of the crime for which a defendant is on trial." State v. Pacheco, 712 P.2d 192, 195 (1985), cert. denied, ___ U.S. ___, 107 S. Ct. 64 (1986). Where the Legislature has chosen to have the jury consider the circumstances in the guilt phase of the trial, this Court should find that the statute is constitutional since the Legislature has the duty to define crimes. State v. Bishop, 75 Utah Adv. Rep. 9, 36-7 (Feb. 3, 1988).

Defendant relies upon three Utah cases wherein this Court found that due process was violated where the jury was allowed to consider prejudicial prior conviction evidence; e.g., State v. Saunders, 699 P.2d 738 (Utah 1985); State v. McCumber, 622 P.2d 353 (Utah 1980); State v. Gottfrey, 598 P.2d 1325 (Utah 1979). However, in none of those cases, unlike the present case, was a prior conviction an element of the crime with which the defendant was charged. Because defendant's conviction involving a crime of violence is an element of first degree murder, a valid reason exists for admission of the evidence, and the cases cited by defendant are simply inapplicable.

Defendant claims that Utah is the only state which permits the use of prior convictions to be considered as an

aggravating circumstance in the guilt phase of a capital trial. However, both Alabama and Oregon provide for the use of prior convictions in the guilt phase of a capital trial.

Ala. Code § 13A-5-40(a)(13) (1975) provides:

(a) The following are capital offenses: . . .

(13) Murder by a defendant who has been convicted of any other murder in the 20 years preceding the crime;

In Arthur v. State, 472 So. 2d 650 (Ala. Cr. App. 1985), overruled on other grounds, 472 So. 2d 665 (Ala. 1985), the defendant complained that the inclusion of a prior offense as an element of first degree murder violated due process of law. The Arthur court stated that:

Statutes which enhance the sentence are not violative of the due process clause, and do not create an unreasonable classification. The statute was obviously enacted with a view to the protection of society from a certain class of criminal with the belief that a hardened criminal needed more severe punishment

Furthermore, the section does not deprive the appellant of due process of law because it requires the use of a prior conviction in the indictment

Moreover, the aggravating circumstances constitute an element of the capital offense and are required to be averred in the indictment, and must be proved beyond a reasonable doubt. The aggravating circumstances must be set forth in the indictment because the State is required to give the accused notice that a greater penalty is sought to be inflicted than for a first offense.

(citations omitted). Id. at 657-58.

Or. Rev. Stat. § 163.095(1)(c) (Repl. 1985) provides that the crime is aggravated murder if:

"[t]he defendant committed murder after having been convicted previously in any jurisdiction of any homicide, the elements of which constitute the crime of murder as defined in ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118."

In State v. Earp, 69 Or. App. 365, 686 P.2d 437 (1984), cert. denied 691 P.2d 483 (Or. 1984), the defendant argued that the court erred in admitting evidence of his previous conviction to prove murder in the first degree. The court stated that:

[i]t is apparent that, in order to prove defendant's guilt of aggravated murder in this case, it was necessary to prove defendant's prior conviction for first degree murder. Thus, evidence of the prior crime is not only relevant it is material to proof of the crime charged, and was not introduced to show defendant's criminal propensity. Although the prejudicial impact on a defendant in a murder case of having the jurors know that he committed first degree murder previously is strong, the defendant may avoid that problem by stipulating to the prior conviction¹

Earp, 686 P.2d at 439.

The Earp court further relied upon the holding in Spencer v. Texas, 385 U.S. 554 (1967) wherein the defendant claimed that admission of the prior conviction during the guilt determination phase of the trial offended the Fourteenth Amendment guarantee of due process:

The Supreme Court rejected the contention, stating that the admission of that type of evidence could be justified by the State's valid governmental interest in enforcing greater penalties against habitual

¹ Oregon statutory law provides that the defendant has the choice of stipulating to the existence of his prior conviction or of having evidence of that conviction admitted in evidence. See Or. Rev. Stat § 163.103 (Repl. 1985).

offenders and that the jury is expected to follow limiting instructions. The court recognized that there might be other less intrusive ways of enforcing enhanced penalty provisions, such as a bifurcated trial, but stated that the failure to adopt an alternative procedure did not change the constitutional result.

Earp 686 P.2d at 440.² See also State v. Danielson, 719 P.2d 44 (Or. App. 1986), cert. denied 723 P.2d 325 (Or. 1986) (reaffirming Earp).

Defendant argues that the only remedy for the alleged prejudicial effect of this evidence is reduction of his charge to second degree murder. On the contrary, there are alternative remedies that will protect defendant from the potential prejudice he fears while protecting the valid state interest in enhancing the degree of the crime for persons who have previously demonstrated violent behavior and who have failed to conform their behavior to the law after their prior experience with the judicial system.

First, the jury may be instructed that defendant's prior conviction may only be considered as aggravation and not proof that defendant murdered his son. They may be specifically admonished not to consider the fact of his prior conviction unless they first find that he intentionally and knowingly killed his son.

² It is interesting to note that Spencer was reaffirmed in Marshall v. Lonberger, 459 U.S. 422, 438, n. 6 (1983), a case cited by defendant for the proposition that no cases exist addressing the present issue.

In an analogous setting the Court of Appeals of Washington, in State v. Lindamood, 39 Wash. App. 517, 693 P.2d 753 (1985), considered the potential impact on a jury of admission of a prior conviction for burglary. Defendant was charged with first degree murder with burglary as an aggravating circumstance. At trial, his recent conviction for burglary was admitted. The Court held there was very little likelihood that the jury would be influenced by the prior conviction when deciding the issue of premeditation in a murder case.

Defendant further argues that his prior conviction is inadmissible under the rules of evidence and State v. Banner, 717 P.2d 1325 (Utah 1986). His argument is inapplicable because the prior conviction is not offered to impeach defendant's credibility under Rule 609, but to prove an element of first-degree murder. It is also not offered under any of the circumstances governed by Rule 404. Simply, defendant's prior conviction will not be presented to the jury to show his character in order to prove that he committed the act charged, but merely to elevate the degree of the offense. A cautionary instruction will eliminate the potential for prejudice that defendant fears.

Alternatively, if this Court finds that admission of the evidence will unfairly prejudice defendant even with a cautionary instruction, defendant could stipulate to the aggravating circumstance of a prior conviction of a crime of violence in exchange for the State not offering the prior conviction at the guilt phase, except as impeachment. Such an

approach has been adopted in Oregon. In State v. Earp, 69 Or. Ap. 365, 686 P.2d 437 (1984), the defendant was charged with aggravated murder based on a prior conviction for homicide. Similar to Utah's scheme, the Oregon statute requires proof of the prior conviction as an element of aggravated murder. In addition, the Oregon law permits the defendant to stipulate to the prior conviction which would not then be revealed to the jury at trial.

Notably, in Earp, the defendant refused to stipulate to his prior conviction and it was admitted at trial. The Oregon Court held that, although its admission might be prejudicial, the prior conviction was an essential element of aggravated murder that must be proven. The Court stressed that Earp had the opportunity to neutralize any potential prejudice by stipulating to the fact of his prior conviction and preclude the jury from hearing that evidence.

In the present case, if this Court is concerned about the potential for prejudice arising from the introduction of defendant's prior conviction, it may offer defendant the compromise of a stipulation to his prior conviction. Under that circumstance, the State would agree not to offer any evidence at the guilt phase regarding the prior conviction, except for impeachment purposes. The stipulation would take effect only if the jury convicts defendant of an intentional and knowing murder. At that point, the jury would be informed of the aggravating circumstance of a prior conviction and would be asked to make a finding consistent with the stipulation.

While the State urges the Court to find that introduction of defendant's prior conviction as an element of the crime will not unfairly prejudice him, if this Court determines that neither a cautionary instruction nor a stipulation would protect defendant from potential prejudice, this Court may adopt a bifurcated approach under its general rulemaking authority found in Utah Code Ann. § 78-2-4 (1987), where the jury would not initially be presented with evidence of defendant's prior conviction. See State v. Bishop, 75 Utah Adv. Rep. 9, 48-9 (Feb. 3, 1988) (Zimmerman, J., concurring in result). If the jury finds defendant guilty of an intentional and knowing killing, they may then be instructed on the aggravating circumstance and return to deliberate its existence or nonexistence.

This approach would comport with the policy of this Court to construe statutory provisions whenever possible to avoid invalidating them on constitutional grounds. Greaves v. State, 528 P.2d 805, 806-07 (Utah 1974). This Court has previously acted to fill constitutional voids resulting from the enactment of legislation which omitted certain key provisions fundamental to the protection of a defendant's rights in a capital proceeding. In State v. Lafferty, 73 Utah Adv. Rep. 57, 69 (Jan. 11, 1988), this Court imposed a requirement that juries be instructed to find that previously uncharged crimes used at penalty phase be proven beyond a reasonable doubt. In State v. Wood, 649 P.2d 71 (Utah 1982), the Court construed § 76-3-207, to require proof beyond a reasonable doubt at the penalty phase of a capital case, even though no specific burden of persuasion had been provided by the Legislature.

Finally, defendant asserts that § 76-5-202(1)(h) limits the use of a foreign conviction as an aggravating circumstance to first or second degree murder. Defendant's interpretation strains the plain meaning of the statute and does not comport with sound public policy considerations. The sentence to which defendant refers appears merely to clarify that it is the Utah definition of first and second degree murder that applies rather than that of the foreign jurisdiction. It in no way limits, however, the aggravating circumstance in the way defendant suggests. It is the fact of defendant's previous violence and previous opportunity to reform upon which the aggravation rests. To hold that persons who have previously been convicted in foreign jurisdictions of crimes of violence are less culpable than persons convicted of the same crimes in Utah is illogical.

POINT II

THE TRIAL COURT PROPERLY EXERCISED ITS
DISCRETION WHEN IT DENIED DEFENDANT'S MOTION
FOR A CHANGE OF VENUE.

Defendant asserts that the pretrial publicity in his case has been so massive and prejudicial that it will presumptively deny him an impartial jury. He refers this Court to a number of news articles and television reports to support his argument. Initially, it is important to note that the trial court's ruling on this issue should be sustained unless it was an abuse of discretion. State v. Bishop, 75 Utah Adv. Rep. 9, 18 (Feb. 3, 1988). The trial court, however, properly exercised its discretion in this case.

The mere demonstration that some dissemination of news thought to be prejudicial to a defendant has occurred does not normally entitle him to prevail on a motion for change of venue. State v. Lafferty, 73 Utah Adv. Rep. 57, 63 (Jan. 11, 1988). State v. Wood, 648 P.2d 71, 89 (Utah 1982), cert. denied, 459 U.S. 988 (1982); State v. Pierre, 572 P.2d 1338, 1349-50 (Utah 1977), cert. denied, 439 U.S. 882 (1978). As noted in Wood:

"The mere general showing of publicity thought to be adverse to a party is not sufficient to require a change of venue except in the most extraordinary cases. In the usual situation, the movant must at least make a showing that the allegedly prejudicial material reached the veniremen, so that a foundation is laid for the possibility of actual bias." Northern California Pharmaceutical Association v. United States, 306 F.2d 379, 383 (9th Cir. 1962).

648 P.2d at 89 (footnote omitted). In Codianna v. Morris, 660 P.2d 1101 (Utah 1983), the Court similarly observed:

An accused can be denied a fair trial where the process of news-gathering is allowed such a free rein that it intrudes into every aspect of a trial and creates a "carnival atmosphere" and where the publicity is so weighted against the defendant and so extreme in its impact that members of the jury are encouraged to form strong preconceived views of his guilt. Sheppard v. Maxwell, 384 U.S. 333, 358, 86 S. Ct. 1507, 1519, 16 L.Ed.2d 600 (1966). Nevertheless, "pretrial publicity--even pervasive, adverse publicity--does not inevitably lead to an unfair trial." Nebraska Press Association v. Stuart, 427 U.S. 539, 554, 96 S. Ct. 2791, 2800, 49 L.Ed.2d 683 (1976).

660 P.2d at 1111. And, the burden is on the defendant to show that pretrial news coverage has generated community bias to such a degree that the right to a fair and impartial trial has been put in jeopardy. Wood, 648 P.2d at 88; Utah R. Crim. P. 29(e) (Utah Code Ann. § 77-35-29(e) (1982)).

The law concerning inherently prejudicial publicity was largely developed in three major United States Supreme Court decisions--Sheppard v. Maxwell, 384 U.S. 333 (1966); Estes v. Texas, 381 U.S. 532 (1965); and Rideau v. Louisiana, 373 U.S. 723 (1963). For example, in Sheppard the Court stated:

[W]here there is a reasonable likelihood that prejudicial news prior to trial will prevent a fair trial, the judge should . . . transfer it to another county not so permeated with publicity.

384 U.S. at 363. In Pierre, this Court interpreted those cases:

Concerning Rideau, Estes and Sheppard, the Supreme Court in Murphy v. Florida, 421 U.S. 794 at 799, 95 S. Ct. 2031, at 2036, 44 L.Ed.2d 589, said that these cases ". . . cannot be made to stand for the proposition that juror exposure to information about . . . news accounts of the crime with which he is charged alone presumptively deprives the defendant of due process." Rather these cases must be resolved taking the totality of circumstances into account.

572 P.2d at 1349-50. For the same reasons the Court did not find the refusal to order a change of venue in Pierre, a highly publicized case, to be an abuse of discretion, the Court should find no error here. A review of this case leads one to the identical conclusion that "this is not one of those exceptional cases where pretrial publicity exacerbated by State complicity encouraged the jurors to form such strong preconceived views of defendant's guilt as to be considered inherently prejudicial against him." Pierre, 572 P.2d at 1349. See also Codianna, 660

P.2d at 1112.³

Furthermore, Sheppard, Estes, and Rideau are all distinguishable from the instant case. In Sheppard the defendant was examined for five hours without counsel during a three day inquest televised live from a high school gymnasium; the three Cleveland newspapers published the names and addresses of the jurors exposing them to expressions of opinion from cranks and friends; the prosecution made evidence available to the news media which was inadmissible and never offered at trial, and even the press in outside States made comments that it would be a miracle if defendant could receive a fair trial in light of the performance by the Cleveland press. In Estes the two-day pretrial hearing, the opening and closing arguments of the State, and the return of the jury's verdict were all televised. The Estes Court was concerned about the impact of television on the

³ Nor does defendant's case represent the "unusual case" like, for example, Pamplin v. Mason, 364 F.2d 1 (5th Cir. 1966), and Maine v. Superior Court of Mendocino County, 68 Cal. 2d 375, 66 Cal. Rptr. 724, 438 P.2d 372 (1968) (both cited by this Court in State v. Wood, 648 P.2d at 89 n. 21), where the courts demonstrated an increased sensitivity to the effect of community bias on the fairness of a trial. In Pamplin, the defendant was a civil rights leader in a community of less than 30,000 who had been charged with aggravated assault upon a local police officer committed after he had been arrested in the first racial demonstration ever staged in the community. There were definite signs of an intense community hostility toward the defendant. In Maine, the defendants were strangers in a small community; the victims of the crime were prominent members of that community; one of the victims was the object of community-wide concern and interest; newspaper publicity included references to a purported confession by one of the defendants; and finally, the two opposing counsel were political opponents in an upcoming election. Clearly, a cumulation of unusual circumstances comparable to those in Pamplin and Maine does not exist in the community where defendant will be tried.

jurors, on the testimony in the trial, and on the defendant. The Court also indicated that the presence of television placed additional responsibilities on the Judge. In Rideau a film of defendant's confession was shown on television to approximately 106,000 viewers in a community with a population of approximately 150,000 people.

At the very least, defendant's motion is premature since none of the actual potential jurors has been examined on the issue. The test is whether any jurors are actually prejudiced against defendant by the media coverage, Bishop, 75 Utah Adv. Rep. at 19. The trial court generously offered to call in a substantial pool from which to select a jury (T. dtd. 1-29-87 at 17) and it is reasonable for the court to attempt to select an impartial jury before ordering a change of venue. Defendant has not presented evidence that any or all of the potential jurors actually viewed or heard the media coverage complained of. Even if some potential jurors have formed opinions regarding defendant's guilt, they would not necessarily be disqualified if they are able to set those opinions aside and decide the case based upon the evidence at trial. Lafferty, 73 Utah Adv. Rep. at 63.

In fact, defendant's own witnesses who appeared at the hearing on the motion did not support defendant's claim. Dr. Pitkin admitted that, although he perceived prejudice in some of the newscasts, he could not predict with certainty how any particular individual would perceive them (T. dtd. 5-26-87 at 42). Further, Ms. Hobbs, who testified about community efforts

to locate defendant's missing son, stated that she believed defendant to be innocent until proven guilty.

Because the potential jurors have yet to be questioned on the issue, the trial court did not abuse its discretion in denying defendant's motion at this time. Defendant has not established that he will not be able to select a fair, impartial jury and the trial court's ruling should be affirmed.

POINT III

THIS COURT NEED NOT CONSIDER DEFENDANT'S ARGUMENT THAT THE TRIAL COURT SHOULD HAVE ALLOWED THE SURVEY BECAUSE DEFENDANT DID NOT REQUEST PERMISSION TO APPEAL THIS ISSUE.

Defendant filed a petition with this Court (R. 617-620) requesting permission to appeal the trial court's orders denying his motion to dismiss the aggravating circumstance and his motion for a change of venue. Defendant did not request in the petition permission to appeal an order denying his request for a survey of potential jurors. In fact, there is no formal motion contained in the record nor is there a final order contained in the record denying such a motion although there is a transcript dated January 29, 1987 wherein such a request was discussed. Further, Judge Christofferson indicated that he would not rule on such a request until defendant had time to produce authority supporting his request (T. dtd. 5/26/87 at 16-17, 27). Because there is no final order denying permission for a survey and defendant did not request permission to appeal from such an order, this Court should not consider this issue. See South Salt Lake v. Burton, 718 P.2d 405 (Utah 1986) (unsigned minute entry not final order for purposes of appeal).

Even if defendant had properly raised this issue, he would not be entitled to relief in this Court. Defendant requested that he be allowed to conduct at county expense a poll of a sample of the residents of Cache and Box Elder counties to determine the general feelings of the community at large on the subject of defendant's guilt or innocence or, at least, on the subject of pretrial publicity. Such a poll would not necessarily have reflected the attitudes of the actual potential jurors to be called in this case. State v. Bishop, 75 Utah Adv. Rep. 9, 18 (Feb. 3, 1988). What is relevant, are the prejudices and biases of the actual jurors and not those of the community at large. Id. Only those jurors who hold opinions so strong that they are unable to set those opinions aside are to be disqualified from the jury. Utah Code Ann. § 77-35-18(e)(14) (1982). Because defendant's informal request was not aimed at reaching the specific biases of the actual potential jurors, it would have provided evidence of only minimal value to the trial court and it was not an abuse of discretion for the trial court to deny the request absent specific authority supporting it.

CONCLUSION

Based upon the foregoing, the State requests this Court to affirm the trial court's interlocutory orders and to remand this case for an immediate trial on the merits.

DATED this 7th day of March, 1988.

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MAILING CERTIFICATE

I hereby certify that on the 7th day of March, 1988, I caused to be mailed, postage prepaid, four (4) true and exact copies (two each) of the above and foregoing Brief of Respondent to Robert W. Gutke, 132 North Main, Logan, Utah 84321, and Nathan Hult, P.O. Box 171, Logan, Utah 84321.


