

1989

Helen Diane Chidester v. Clayton Boyd Chidester : Brief of Appellant

Utah Court of Appeals

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Appellee pro sae.

Jean Babilis; Attorney for Appellant.

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Docket # 890567

**IN THE SECOND JUDICIAL DISTRICT COURT OF WEBER COUNTY
STATE OF UTAH**

Helen Diane Chidester
Plaintiff Respondent
Pro Sae

Appeals Court Number: 890567

Appellants Brief

vs

Clayton Boyd Chidester
Defendant Appellant
Attorney: Jean Babilis

District Court Number: 880985077
Utah Court of Appeals
400 Midtown Plaza
230 South 500 East
Salt Lake City, UT 84102

The statement of the issues:

I feel that a person should obey a court order. Otherwise, why do we have judges sign papers for people to obey. I think there should be an enforcement of the court order on this divorce. When I got a divorce, Judge Hyde looked these papers over and he said that it was a very fair settlement amongst us. I have always tried to be a fair person in life on anything. I think it's a shame to have to go back to court to fight things that are morally yours, that you have earned that was established during your marriage and that you worked hard during your marriage for. I feel people should put their differences aside, but this battle has been more than a statement of the issues. This has continued almost five years of my life. There has been a problem, I feel, that I have beaten this lawyer that is representing my ex-husband quite a few times in court and there are a lot of personal things that I could mention in court that have done a lot of damage to me and my children. Also the new wife, I feel, personally has tried to grab everything I own, but my issue here is there is a court order that was signed by both attorneys and by a judge. The system should work, otherwise its a joke and you have people disobeying court orders and doing what they want to. My ex was used to having his own way when I was married to him so I feel that he's trying to do the same thing now and he is doing what he wants and not obeying the court order.

On the retirement, you have to be married 10 years to the gentleman to receive the retirement. That is one of the requirements by law. Otherwise, any woman would marry a guy and in a year or two would run off with his benefits. That's why they put the 10 years on it. Also, women got tired of other women grabbing their benefits that were nice ladies. They took their aprons off and folded them and put them away. They took a stand. Their is a survivor benefit, A, B and C. I would like the court to have my ex show proof of the benefits that he has on this plan. If Jeannine has benefit C, if he died right now, my plan of retirement (with the requirement of 10 years) would go down the drain and she would receive approximately \$366 per month (page 20) plus I think she'd receive other benefits such as PX and commisary privileges, etc. and she only put 6 months in the marriage towards that. There are also premiums paid on this plan (it's a buy-

down plan) which my benefits are being used for until he reaches 60 years of age. When he does reach 60, I do receive the benefits, but if he has plan C, I would receive less benefits. Again, he should obey a court order.

On the life insurance, there was a court order that the children would be named as beneficiaries which was established during our marriage (I believe the amount was \$69,000). This is more of a moral issue than anything else. There were personally things given to the other client. On page 16 on case #85077 there was personally \$6,000 difference given to my ex-husband to save my children's life insurance plus other things that were given. You will see that actually I paid for some of this insurance to give to my kids. Also there was a court order on this.

I enclose a copy of the divorce. The decree of the divorce is on page 28. The summary of this argument is that I think a person should obey a court order. I am a very fair person. Personal things were given to my ex-husband to save the life insurance for my children. I feel that you owe them something in life. I don't think it's fair that a lawyer is trying to be vindictive because he's lost cases over you. He's gone out of his way to hurt the children very deeply. In fact there's an affidavit by Kimberly Chidester on page 114 that he used a daughter to add different things that she didn't say to slander the mother. On page 121 he used a cop that has caused a lot of problems in this community where I live at. He's harassed me and my family horribly and I've had the FBI after him. This is on some affidavits.

My argument is these benefits are very important to me and to my children. On the retirement, if she has plan C, she has personally ruined my benefits. I would rather have the equity in the house for the exchange if my benefits are ruined. If the plan is C and something happens to him today, I have lost everything because of dishonest people. Also there's a Uniform Service Spouse Protection Act.

Also a court order means a court final decree of a divorce, dissolution, annulment, or legal separation or a court order ratified or approved of property settlement agreement incident to such a decree including a final decree modifying the term of the previously issued decree of divorce, dissolution, annulment or legal separation or of a court order ratified or approved property settlement agreement incident to such a previously issued decree.

Also I stated that you have to be married 10 years to be eligible to participate in this retirement plan. This lady was not married to my ex for 10 years. In fact I have 14/20ths of his plan. I think that's a fair way to put the 10 years that you have to be married to protect the man so some woman doesn't marry him just for his benefits and it protects the woman to show there has been effort in the marriage.

My conclusion is there was a court order and I'm going to emphasize on that - that it was signed by the judge. These were personal settlements that were made among each lawyer. This was a very fair divorce. If you look the divorce over, you will see that even my ex got a little more than I did and today most men are lucky to walk out with their shirt.

The addendum: there has been so many problems with this attorney that my ex has representing him because of losing so many times to me in court that he has

put a hardship on me. I am also fighting over a son's death that I feel there is a cover-up somewhere on it. There has been a lot of funds put out by my ex to this lawyer that I feel in a way he could have given to his kids instead. There has been a jealous wife that wants everything that belongs to me. It comes down to the fact that it's greed. The main concern should be the children and things to be done honestly. And to show that a judge has authority and a court order means what it says. When it comes down to it, I feel this is what should be done. I think a judge should look very seriously into these things I have written. I will explain to the judge what this attorney has done.

Also when my attorney withdrew (on page 159) I felt that he got tired of Jean wasting his time. Also I'll enclose you a copy on page 105. The only thing that was solved in this court that I had the paperwork for was this Service Benefits Life Insurance that the children gained an extra 4 percent - from 16% to 20%. That was another benefit that my ex-husband didn't obey the court order on that Judge Wahlquist signed (on page 61). Also on page 43 there was an order that was entered on Feb. 18, 1986 from John F. Wahlquist (who is retired now) to order the defendant must provide the life insurance before he left, which he did, but he didn't give me all the paperwork and it became defaulted. Through a generous act of mine, I gave the funds to the children. This Service Life Insurance which was taken care of properly through Judge Taylor was done very fair, but this benefit also hurt my retirement. This has been a continuing battle that I have felt has been against a lawyer and a jealous wife which is separated from my ex-husband to cause me this much grief.

Also I enclosed two statements. One was from Wyoming in 1967 (these cases have been trialed). Evidence supported a judgement and decree requiring the divorced wife to make available for delivery to the former husband personal property which was awarded him in the divorce decree and which the divorced wife had withheld. Its case #Moulden vs Moulden, 426P2D 1018.

The other statement is where a party to the divorce action failed to carry out the terms for the division of property made in the divorce decree and loss results to the other party as a result thereof the other party is entitled to relief. Mickens vs Mickens 385P.2nd D 14-62 Washington D 876.

I would like to have these things resolved so I can go on with my life and quit fighting Jean over this and my ex and his wife. I deeply love my children or I would not fight for this. I also believe in fairness.



Diane Chidester
Pro Sae