

1981

## Marilyn Stone v. Gordon Barth Stone : Brief of Respondent Marilyn M. Stone

Utah Supreme Court

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Defendant-Appellant.

Case No. 17613

APPEAL FROM A JUDGMENT  
OF THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH  
HONORABLE DEAN E. CONDER, JUDGE

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**AUG - 6 1981**

IN THE SUPREME COURT OF THE STATE OF UTAH

MARILYN M. STONE,

Plaintiff-Respondent,

vs.

GORDON BARTH STONE,

Defendant-Appellant.

Case No. 17613

## BRIEF OF RESPONDENT MARILYN M. STONE

APPEAL FROM A JUDGMENT  
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IN THE SUPREME COURT OF THE STATE OF UTAH

MARILYN M. STONE,	)	
	)	
Plaintiff-Respondent,	)	
	)	
vs.	)	Case No. 17613
	)	
GORDON BARTH STONE,	)	
	)	
Defendant-Appellant.	)	
	)	

BRIEF OF RESPONDENT MARILYN M. STONE

STATEMENT OF THE NATURE OF THE CASE

Appellant GORDON STONE's Order to Show Cause requesting a reduction in alimony was dismissed for failure to show a significant change in circumstances, and GORDON STONE appealed.

DISPOSITION IN THE LOWER COURT

The Honorable Dean E. Conder, in the Third Judicial Court of Salt Lake County, Utah, heard Appellant GORDON STONE's request to reduce alimony on January 6, 1981. In November, 1980, Appellant GORDON STONE moved the court for and was granted an Order to Show Cause why the alimony provision of the January 6, 1976, Divorce Decree should not be modified to reduce alimony to \$100.00 per month. Judge Conder considered the file, memoranda of counsel and the deposition of Appellant GORDON STONE in dismissing the Order on January 19, 1981, on the basis that adjustments

in income, up or down, are insufficient grounds to support an alimony modification.

#### RELIEF SOUGHT ON APPEAL

Appellant GORDON STONE seeks reversal of the trial court ruling dismissing his Order to Show Cause and an Order of this Court modifying the Divorce Decree to reduce substantially the amount of monthly alimony due Respondent MARILYN STONE.

Respondent MARILYN STONE respectfully requests this Court to affirm the Judgment of the lower court.

#### STATEMENT OF FACTS

Rule 75(p)(2)(d), Utah Rules of Civil Procedure, requires that the appellant's brief contain "a concise statement of the material facts of the case citing the pages of the Record supporting such statement." However, Appellant GORDON STONE does not once cite the Record in his Statement of Facts. The Statement of Facts in Appellant GORDON STONE's Brief is controverted by Respondent MARILYN STONE with references to the pages of the Transcript on Appeal and the Exhibits.

Respondent MARILYN M. STONE and Appellant GORDON STONE were married in February, 1953, and had six children during their marriage (R. 12-13) which ended by Divorce Decree dated January 6, 1976 (R. 15-18). At all times during the divorce, Respondent was represented by Jon C. Heaton and J. Rand Hirsch (R. 4, 12 & 15) of the law firm of Prince, Yeates, Ward & Gelsinger.

and Appellant by Byron L. Stubbs (R. 8, 115, 160-161). Prior to entry of the Divorce Decree, the parties, with advice of their counsel (R. 115, 160-161) executed a stipulated property distribution agreement (R. 5-10) which was incorporated into the Divorce Decree by the trial court (R. 15-18).

Appellant has testified that he fully understood the agreement and consulted his attorney regarding the property distribution agreement prior to its execution (R. 160-161).

Following the granting of the Divorce Decree, Appellant remarried and currently lives with his second wife and her two daughters by a former marriage (R. 166). Appellant's current wife works full-time (R. 161-162) and receives monthly child support payments for her minor daughter (R. 180).

Respondent is currently employed full-time as manager of the Boyles Brothers Employees Credit Union and has been so employed since the date of the Divorce Decree (R. 71). She currently has living at home one minor child and another child who recently returned from a full-time religious mission for the L.D.S. Church (R. 71).

Based upon Appellant's tax returns, Exhibits 6-10 herein, and pursuant to the terms of the Divorce Decree (R. 16-17), the currently monthly alimony due Respondent is at least \$473.33. As a convenience to this Court, a summary of the calculations used in deriving this figure is attached as Exhibit "A" hereto. Further, monthly child support currently due under the Divorce Decree is \$140.00 (R. 16-17).



By letter of November 14, 1980, and without notice to opposing counsel, Appellant's counsel made demand upon Respondent for reduction in alimony (R. 61-62), based upon the following reasons:

1. Appellant realizes little net gain from salary increases after deduction of taxes and alimony increases (R. 61);
2. Respondent's gross salary has increased (R. 61);
3. Only one child remains living at home (R. 62);
4. Respondent has failed to "adjust [her] life and improve [her] position" (R. 62); and
5. Appellant's financial support of a son serving a full-time religious mission for the L.D.S. Church (R. 62).

Appellant then moved the trial court for an Order to Show Cause why alimony should not be reduced to \$100 per month, listing on the mailing certificate Denis R. Morrill, a partner in the firm of Prince, Yeates & Geldzahler, and brother of Respondent as counsel (R. 20). Appellant's Motion was granted by Order of November 25, 1980 (R. 45). Pursuant to notice, Appellant was deposed December 23, 1980 (R. 142-204) and Interrogatories were propounded by Respondent December 2, 1980 (R. 25-44).

In his deposition, Appellant GORDON STONE set forth the basis for his request for reduction in alimony as follows:

Question: What prompted you to make the request for the change in the agreement at this time?

Answer: Living expenses and the feeling that I am not getting anything out of what I work for.

Question: Is there anything else that prompted you to make this request for the change in the agreement at this time?

Answer: No. (R. 201-202)

Appellant GORDON STONE further testified as follows respecting the changed circumstances experienced by Respondent MARILYN STONE:

Question: Do you contend that your ex-wife, Marilyn Stone, has experienced changed circumstances which would justify the modification of the agreement?

Answer: Yes.

Question: What are those?

Answer: Increases in her earnings.

Question: Do you know what those are?

Answer: No. (R. 170)

\* \* \* \* \*

Question: Do you know whether or not she has attained a position [at her place of employment] of greater responsibility since 1976?

Answer: No, she's been the manager there since then.

Question: And you have no idea what her income may or may not have been?

Answer: No.

Question: At the time you entered into the agreement in 1976, you considered, didn't you, her income from Boyles Brothers?

Answer: Yes.

Question: Do you contend there has been any other changed circumstances in Marilyn Stone's situation which would justify the modification of the agreement?

Answer: Yes.

Question: What is that other circumstance?

Answer: Less children at home. (R. 171)

\* \* \* \* \*

Question: Is it your contention that you're seeking to have the court modify both the child support and the alimony obligations?

Answer: No.

Question: What is your position?

Answer: Just the alimony.

Question: Just the alimony?

Answer: Yes.

Question: Do you contend there are any other changed circumstances of Marilyn Stone which you believe would cause the court to modify the agreement?

Answer: Not that I am aware of.

Question: Just so we are clear, you contend there are two changed circumstances of Marilyn Stone's situation which would justify the modification. One is the increase in her income, is that correct?

Answer: Uh-huh (Affirmative).

Question: And the second is that there are fewer children in the home? (R. 172)

Answer: (The witness is nodding affirmatively.)  
(R. 173 )

Appellant GORDON STONE also testified in his deposition that he has no knowledge of Respondent MARILYN STONE's increased living expenses (R. 173), medical expenses (R. 174) or extraordinary expenses (R. 174).

In his deposition, Appellant GORDON STONE testified that his employer furnishes him a new automobile every two years.

and pays all maintenance, gasoline and related expenses (R. 152-154). This automobile is used by Appellant for non-business, personal activities without compensation to the company (R. 154-155). Appellant GORDON STONE also testified that he owns two homes (R. 175, 182-183).

On January 6, 1981, a hearing on the Order to Show Cause was held before the Honorable Dean E. Conder (R. 68). Both Appellant and Respondent were personally present with their respective counsel (R. 68). At the hearing, the court repeatedly attempted to elicit from Appellant's counsel the evidence upon which the request to reduce alimony was based. Appellant's counsel stipulated to the court that the only evidence to be offered was contained in Exhibits 1-10 admitted by the court (R. 122). Although present, Appellant did not testify.

Following the hearing, Respondent filed with the court a Supplemental Memorandum in response to assertions made by Appellant's counsel at oral argument (R. 73-75). Also following the hearing, on January 14, 1981, Appellant served upon Respondent's counsel Appellant's Answers to Interrogatories (R. 76-105), Appellant's Memorandum in Support of his Motion for Reduction of Alimony (R. 106-111) and an affidavit of Appellant (R. 112-116).

In his affidavit (R. 112-115), filed one week after the hearing at which he failed to testify, Appellant GORDON STONE made several self-serving statements respecting his income for the years 1975-1979 and respecting his claimed failure to follow his attorney's advice in executing the property settlement agreement.

Appellant's claim that Respondent MARILYN STONE's brother, a partner in the law firm representing her throughout this matter, had somehow coerced Appellant into ignoring his own attorney's counsel, was not brought out in Appellant's deposition nor at the January 6, 1981, hearing. In his deposition, Appellant specifically testified that he consulted with his current counsel prior to executing the agreement (R. 160-161).

Judge Conder, by minute entry of January 19, 1981, dismissed Appellant's Order to Show Cause on grounds that there was not sufficient evidence to support a change in alimony (R. 117). In so ruling, Judge Conder relied upon Carter v. Carter, 563 P.2d 177 (Utah 1977), in stating that "[a]djustments in income (up or down) are not sufficient to base an adjustment in alimony." (R.117) In finding the evidence insufficient to support the requested change, Judge Conder relied upon the file, memoranda of counsel and the deposition of Appellant (R. 117), and signed the Order dismissing Appellant's Order to Show Cause on February 18, 1981 (R. 132). Appellant filed his Notice of Appeal on March 11, 1981 (R. 134).

#### ARGUMENT

THE TRIAL COURT CORRECTLY HELD THAT APPELLANT GORDON STONE FAILED TO DEMONSTRATE SUBSTANTIAL CHANGE IN CIRCUMSTANCES ADEQUATE TO SUPPORT MODIFICATION OF ALIMONY PAYMENTS.

The only question presented on appeal is whether Appellant GORDON STONE demonstrated substantial change in material circumstances of the parties sufficient to support a reduction

of alimony payments from approximately \$473.33 per month to \$100.00 per month. After hearing the evidence and considering arguments and memoranda of counsel, Judge Conder ruled that Appellant had failed to do so.

On appeal, Appellant GORDON STONE asserts as bases for his attempts to reduce alimony, the following claimed changes in circumstances (Brief of Defendant-Appellant, p.2):

1. Increase in Respondent Marilyn Stone's salary.
2. Reduction in the number of minor children living at home.
3. Increase in value of real property owned by Respondent.
4. Obviation of Respondent's need for a large family home.
5. Appellant's remarriage.
6. Automatic increase in alimony as discouraging either party from improving their financial conditions.

As Judge Conder ruled in the trial court, mere changes in income, up or down, are insufficient to support a modification of a Divorce Decree. Carter v. Carter, 563 P.2d 177, 178 (Utah 1977).

Appellant's reliance on the number of children in the home as a reason for reducing alimony is misplaced since the purpose of alimony is to "provide support for the wife as nearly as possible at the standard of living she enjoyed during the marriage, and to prevent the wife from becoming a public charge." Georgedes v. Georgedes, 627 P.2d 44, 46 (Utah 1981). In this instance, where alimony and child support payments were bargained for by the parties, represented by counsel, as part of a stipulated property

distribution agreement incorporated in the Divorce Decree, the separability of these support payments must be maintained. In this case, child support payments have been reduced over time as the children have attained majority.

Appellant can cite to nothing in the Record in support of his assertions respecting the increased value of Respondent's real property, Respondent's need for such a large family home, or the counter-productive effect of the alimony escalation clause of the Divorce Decree.

Appellant's remarriage is a voluntary disability which does not relieve him of his obligations to his former family. Wright v. Wright, 586 P.2d 443, 445 (Utah 1978).

A. On Appeal, This Court Will Afford Considerable Deference to the Decision of the Trier of Fact.

The modification of a Divorce Decree is a matter of equity within the continuing jurisdiction of the trial court, Foulger v. Foulger, 626 P.2d 412, 414 (Utah 1981); Despain v. Despain, 610 P.2d 1303, 1305 (Utah 1980); Land v. Land, 605 P.2d 1248, 1250 (Utah 1980); Section 30-3-5, Utah Code Annotated (1980) as amended; and, therefore, on appeal, this Court may review questions of law and questions of fact. Christensen v. Christensen, 628 P.2d 1297, 1299 (Utah 1981); Izatt v. Izatt, 627 P.2d 49, 52 (Utah 1981); Utah Constitution, Art. VIII, Section 9. In Christensen v. Christensen, supra at 1299, this Court set forth the standard for review of decisions denying modifications of support payments:

[O]n review, this Court will accord considerable deference to the judgment of the trial court due

to its advantaged position and will not disturb the action of that court unless the evidence clearly preponderates to the contrary, or the trial court abuses its discretion or misapplies principles of law. (Emphasis added.)

In the instant case, Judge Conder issued his ruling dismissing Appellant GORDON STONE's Order to Show Cause after hearing oral argument and considering the file, memoranda of counsel and the deposition of Appellant (R. 117). On appeal, Appellant asserts that the trial court accepted Appellant's figures respecting percentage increases in income experienced by the parties and that such figures were entered into evidence unopposed by Respondent MARILYN STONE. Appellant further asserts that "the balance of the evidence offered by the appellant-husband indicated that the respondent's needs and requirements had substantially decreased since the date of the original Divorce Decree." (Brief of Defendant-Appellant, p. 4).

As set forth in the Statement of Facts above, Appellant GORDON STONE testified in his deposition that he had no personal knowledge of Respondent's needs and requirements. Appellant's inference that Judge Conder failed to consider all the evidence is simply not supported by the Record.

Even if Judge Conder had accepted the percentage increase figures presented in Appellant's post-hearing memorandum, which he did not (R. 117), no other evidence was offered by Appellant upon which the court could rely in making a determination respecting substantial change in material circumstances. Exhibits 1 through 10, the tax returns for 1975 through 1979 of Respondent and



Appellant, were the only evidence offered at the hearing by Appellant. Although present at the January 6, 1981, hearing, Appellant GORDON STONE did not testify. Rather, he submitted to the court, some two weeks after the hearing, a personal affidavit containing numerous, self-serving statements designed to establish without threat of cross-examination, what he perceives to be significant changes in material circumstances. None of the assertions contained in the affidavit were raised in Appellant's deposition or at the hearing before Judge Conder.

Judge Conder issued his ruling dismissing Appellant GORDON STONE's Order to Show Cause after the memorandum and affidavit of Appellant had been submitted. Appellant can point to nothing in the Record in support of his position that the trial court failed to consider the "balance of the evidence" which he alleges demonstrates that Respondent MARILYN STONE's needs and requirements have substantially decreased. Since Judge Conder's decision is based upon all information before him at that time, and since Appellant has made no showing that (1) the evidence clearly preponderates contrary to Judge Conder's decision, (2) Judge Conder abused his discretion, or (3) Judge Conder misapplied principles of law, this Court should uphold the decision of the trial court.

B. Alimony Payments Will Be Modified Only Upon  
A Showing of Substantial Change in Material  
Circumstances.

While it is clear that the trial court has continuing jurisdiction to modify Divorce Decrees as demanded by equity,

Foulger v. Foulger, supra; Despain v. Despain, supra; Land v. Land, supra; Section 30-3-5, Utah Code Annotated (1953) as amended, it is well settled that the moving party must show a substantial change of material circumstances to support such modification. Kessimakis v. Kessimakis, 580 P.2d 1090, 1091 (Utah 1978); Sorenson v. Sorenson, 438 P.2d 180, 181, 20 Utah 2d 360 (1968). It is also well recognized by this Court that the party seeking the modification bears the burden of persuasion. Christensen v. Christensen, supra at 1299; Kessimakis v. Kessimakis, supra; Sorenson v. Sorenson, supra.

In Foulger v. Foulger, 626 P.2d 412, 414 (Utah 1981), this Court stated:

The change in circumstance required to justify a modification of the Decree of Divorce varies with the type of modification contemplated. Provisions in the original Decree of Divorce granting alimony, child support, and the like, must be readily susceptible to alteration at a later date, as the needs which such provisions were designed to fill are subject to rapid and unpredictable change. Where a disposition of real property is in question, however, courts should properly be more reluctant to grant a modification. In the interest of securing stability in titles, modifications in a Decree of Divorce making disposition of real property are to be granted only upon a showing of compelling reasons arising from a substantial and material change in circumstances.

The above holds true a fortiori where the property disposition is the product of an agreement in stipulation between the parties and sanctioned by the trial court. Such a provision is the product of an agreement bargained for by the parties. As such, a trial court should subsequently modify such a provision only with great reluctance and based upon compelling reasons.

Although this Court has held that the standard of "great reluctance and compelling reasons" applies to dispositions of real property made pursuant to property settlement agreements between the parties, Foulger v. Foulger, supra; Despain v. Despain, 610 P.2d 1303, 1306 (Utah 1980); Land v. Land, supra at 1251, the Court has also shown greater deference to alimony and child support payments as integrated in property distribution agreements. Christensen v. Christensen, 628 P.2d 1297 (Utah 1981); Despain v. Despain, 627 P.2d 526 (Utah 1981).

In Despain v. Despain, 627 P.2d 526, 528 (Utah 1981), this Court denied a defendant-husband's request for reduction of child support payments and stated:

Defendant has not urged any compelling reasons for invoking the powers of equity to abrogate the property settlement; nor has he shown a change of circumstances to justify modification of the child support payments. Over a period of three years, the parties were involved in attaining an agreement. Both made concessions in exchange for benefits.

\* \* \* \* \*

It is a proper assumption that plaintiff settled for the sum she received in reliance on the availability of additional funds to assist the children, living with her, in completing their education. It would be highly unequitable under the circumstances of this case to permit defendant to retain the benefits and be relieved of the obligations he assumed in his bargain with plaintiff.

In the instant case, the sole change in circumstance addressed by Appellant GORDON STONE at the January 6, 1981, hearing was the increase in income experienced by both parties. (Exhibits 1 through 10.) The only other source of evidence to

which Appellant GORDON STONE can point in support of his allegations of changed circumstance are his affidavits and deposition. As set forth above, Appellant testified in his deposition (R. 201) that the changed circumstances upon which he relied in seeking modification of the alimony provision consisted of "living expenses and the feeling that [he is] not getting anything out of what [he] works for." (R. 201) He further testified that the only changes respecting the needs and circumstances of Respondent MARILYN STONE of which he was aware were an increase in her income and the fact that fewer children were living at home. (R. 172-173). Appellant also testified that he had no knowledge respecting changes in Respondent's cost-of-living expenses (R. 173), her medical expenses (R. 174), or other extraordinary expenses she may have encountered (R. 174).

The only changes in circumstances on the record are the increases in the respective salaries of Respondent and Appellant. It is clear from the lack of evidence on the Record that Appellant has failed to meet his burden of showing of a significant change in material circumstances, and the Order to Show Cause was properly dismissed.

C. An Increase in a Former Wife's Income, Standing Alone, is Insufficient to Support a Modification of the Divorce Decree Reducing Alimony Payments.

It is clear that the amount of alimony payable is not controlled solely by the income level of the husband. Carter v. Carter, 563 P.2d 177, 178 (Utah 1977); Kessimakis v. Kessimakis, 580 P.2d 1090, 1091 (Utah 1978). A change in income, however, is

an important factor for the court to consider in evaluating appropriate and equitable modification in alimony payments. Christensen v. Christensen, 628 P.2d 1297 (Utah 1981); Carter v. Carter, supra; Callister v. Callister, 261 P.2d 944, 1 Utah 2d (1953).

Other major factors to be considered by the court in considering alimony modifications are the needs and requirements of the former wife and inflation, Carter v. Carter, supra; Wright v. Wright, 586 P.2d 443, 445 (Utah 1978). The purpose for alimony is to "provide support for the wife as nearly as possible at the standard of living she enjoyed during the marriage, and to prevent the wife from becoming a public charge." Georges v. Georges, supra.

In his Brief, Appellant GORDON STONE attempts to distinguish Carter by assertion that the trial court had independent knowledge going to the credibility of the husband. Even if Carter could be distinguished on grounds of credibility, the rationale set forth in Wright is unaffected. Alimony payable is not dependent solely upon changes, up or down, in income.

D. The Record Contains No Other Evidence to Support Appellant's Contention of Significant Change In Circumstances.

Appellant GORDON STONE in his Brief asserts that only one minor child is currently living with Respondent MARILYN STONE. Since the filing of this Appeal, another son has returned from serving a full-time religious mission for the L.D.S. Church and currently resides with Respondent.

In support of his contention that the number of children living at home has something to do with Respondent's need for a large home, and that the value of the home is related to alimony payable, Appellant relies upon Sorenson v. Sorenson, 438 P.2d 180, 20 Utah 2d 360 (1968). In Sorenson, this Court overturned the trial court's reduction in alimony on grounds that the defendant-husband had failed to show adequate basis for modification. There, as here, the court noted that there was no evidence given or offered to show the amounts or values of property or income therefrom. Appellant's reliance on Sorenson is misplaced because the record before this Court does not contain anything to support the contentions relating to need for the home or change in value thereof.

Appellant also cites, in his Index to Cases, Ridge v. Ridge, 542 P.2d 189 (Utah 1975). Ridge is not cited in the body of Appellant's Brief, but even if it were, the case is inapplicable since the reduction in alimony granted therein is based on a 28 percent decrease in the husband's salary. In the instant case, Appellant's salary has increased substantially during the period since the Divorce Decree was granted. (Exhibits Nos. 6-10)

The Record before this Court clearly does not support Appellant's contentions respecting changed needs and requirements of Respondent.

E. Appellant's Remarriage Does Not Toll His  
Obligation to Make Support Payments to His  
Former Wife and Children.

Appellant GORDON STONE asserts, in his Brief (Brief of

Defendant-Appellant, p. 7) that his remarriage and voluntary support of his two step-children should somehow obviate his duty to pay alimony and child support to Respondent. The voluntary remarriage of the defendant-husband and assumption by him of support of his new wife and her children does not justify a reduction in alimony. Sorenson v. Sorenson, 438 P.2d 180, 181, 20 Utah 2d 360 (1968); See also Wright v. Wright, 586 P.2d 443, (Utah 1978).

F. The Alimony Increase Provision of the Divorce Decree is Valid According to Public Policy and Enforceable.

Paragraph 9 of the Divorce Decree provides, in part:

. . . [P]laintiff is awarded the sum of \$200.00 per month as alimony. This amount will continue as the alimony obligation until such time as defendant receives an additional salary increase. At the time of this additional increase, and at the time of any and all additional salary increases, defendant's alimony obligation shall increase by a sum equal to 35 percent of defendant's gross salary increase. (R. 17)

In Christensen v. Christensen, 628 P.2d 1297 (Utah 1981), this Court overturned a lower court's alimony reduction and upheld a provision of a Divorce Decree granting the former wife child support of \$12,000 plus one-half of the former husband's after-tax income in excess of \$24,000. In Christensen, the husband's income had increased since the Decree, and he was reluctant to share the increase with his former family. This Court rejected his arguments respecting a decrease in profit margin and the failure of his former wife to become employed within a reasonable time.

In the instant case, Appellant's contention that he is "not getting anything out of what [he] works for" (R. 201) is the same argument rejected in Christensen. Appellant in the case at bar was represented at the time of execution of the settlement agreement by the same attorney currently representing him. Appellant has admitted he consulted with counsel before signing the document (R. 160-161). This Court should not now reinstate rights and privileges Appellant has voluntarily contracted away simply because Appellant has come to regret the bargain made. Land v. Land, 604 P.2d 1248, 1251. (Utah 1980).

#### CONCLUSION

Appellant GORDON STONE must meet the burden of showing a significant change in material circumstances to prevail on his request to decrease alimony. In light of the deference given trial court decisions on appeal, and in light of the dearth of evidence in the Record, this Court should hold that Appellant has failed to meet his burden. Further, this Court should uphold the alimony increase provision of the Divorce Decree because Appellant knowingly entered the agreement with advice of counsel. To strike down the provision now that Appellant has come to regret his bargain would be unequitable to Respondent in high degree.

This Court should uphold the decision of the trial court.

Respectfully Submitted,

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PRINCE, YEATES & GELDZAHLER





CERTIFICATE OF SERVICE

I hereby certify that on the 6<sup>TH</sup> day of August, 1981, I served two copies of the foregoing Brief of Respondent Marilyn M. Stone upon Byron L. Stubbs, Esq., attorney for defendant-appellant, by depositing said copies in the U.S. Mail, first-class postage prepaid thereon, addressed as follows: Byron L. Stubbs, Esq., 530 East 500 South, Salt Lake City, Utah 84102.

Stephen C Rich

EXHIBIT "A"

<u>Year</u>	<u>Salary</u>	<u>Increase</u>	<u>35% of Increase</u>	<u>Total Yearly Alimony</u>	<u>Monthly Payments</u>
1975	\$15,200			\$2,400	\$ 200.00
1976	18,559	\$3,359	\$1,176	3,576	298.00
1977	19,858	1,299	455	4,031	336.00
1978	22,246	2,388	836	4,867	406.00
1979	24,568	2,322	813	5,680	473.33