

1983

Kathryn C. Williams v. Danny Gene Boyer and Michael Boyer : Appellant's Petition for Rehearing

Utah Supreme Court

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Horace J. Knowlton; Attorney for Plaintiff-Appellant;

Gary A. Weston; Nielsen & Senior; Attorneys for Defendant-Respondents;

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STATEMENT OF FACTS

Two letters from the files of Gary A. Weston, attorney for the defendants, one dated October 29, 1981, and the other March 10, 1983, are marked Exhibits "A" and "B" respectively, attached hereto and made a part hereof by reference, to show the true date of the judgment appealed from.

The judgment was submitted to Judge Leary by mistake and signed by him on the 28th day of September, 1981, though the case had been tried by Judge Dee. When the mistake was discovered, it was submitted to Judge Dee on the 28th day of October, 1981, who signed the same without changing or correcting the date.

The true date of the judgment appealed from is, therefore, October 28, 1981, signed, and October 29, 1981, entered, as indicated in the plaintiff's Notice of Appeal.

WHEREFORE, the plaintiff, appellant herein, respectfully petitions the above entitled court for an order of rehearing the plaintiff's appeal, withdrawing its order dismissing the appeal, and permitting the filing of this petition as part of the plaintiff's record on appeal to correct a mistake which the plaintiff submits was innocently made.


HORACE J. KNOWLTON
Attorney for Plaintiff - Appellant

Received two copies this _____ day of
March, 1983.

GARY A. WESTON, Attorney for Defendants -
Respondents

October 29, 1981

Mr. Horace J. Knowlton
Attorney at Law
214 Tenth Avenue
Salt Lake City, UT 84103

Re: Williams v. Boyer

Dear Horace:

As we discussed by telephone on Tuesday, I had inadvertently prepared the Findings and Judgment in the above referenced matter for signature by Judge Leary, rather than Judge Dee. We discovered that error a few days ago, and therefore proceeded to have both the Findings and the Judgment re-executed by Judge Dee and re-entered by the court. I am again herewith enclosing copies of the Findings and Judgment indicating the execution of the same by Judge Dee on October 28, 1981. It is my intention and understanding that the prior entry of the Judgment by Judge Leary was invalid.

Yours very truly,

Gary A. Weston

GAW:ds
Enclosures

RAYMOND T. SENIOR
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JOSEPH L. HENRIOD, P.C.
MICHAEL GOTTFREDSON, P.C.
DALE JAY CURTIS
GAYLE F. MCKEACHNIE
GARY A. WESTON
EARL JAY PECK
RICHARD G. ALLEN
KENT B. SCOTT
STEVEN H. STEWART
STEPHEN L. HENRIOD
CLARK R. NIELSEN
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DAVID M. SWOPE
JONATHAN L. REID
BRUCE J. NELSON
CLARK B. ALLRED
THOMAS L. MONSON
DAVID L. RASMUSSEN
JEFFREY M. JONES
JOHN K. MANGUM
JAMES L. CHRISTENSEN
DAVID F. EVANS
ANNA W. DRAKE
RICK J. SUTHERLAND
RICHARD K. HINCKS
THOMAS C. JEPPELSON
DENNIS L. JUDD
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March 10, 1983

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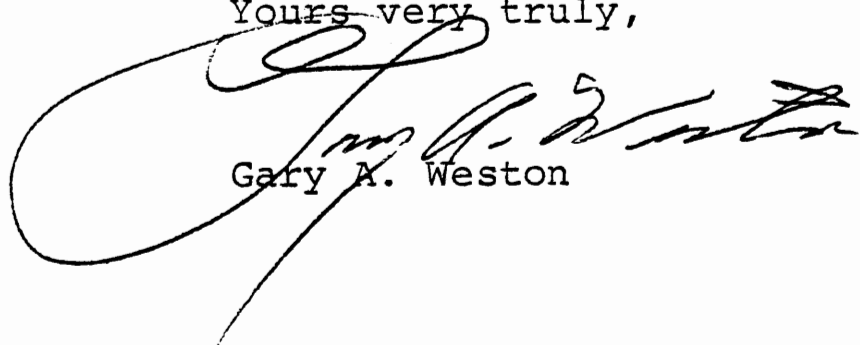
Re: Williams vs. Boyer

Dear Horace:

Enclosed is a copy of my file copy of the letter which I sent to you on October 29, 1981. The information therein set forth accurately indicates my understanding as of that date regarding the execution of the Findings and Judgment in the above matter.

My file indicates that on October 29, 1981, Judge Dee's clerk, Mr. Willis, telephoned and advised that the Judgment was signed the previous day by Judge Dee.

Yours very truly,



Gary A. Weston

GAW:ds
Enclosure