

1958

Jane Laraway Miller v. Orrin Towler Miller : Appellant's Reply Brief

Utah Supreme Court

Follow this and additional works at: https://digitalcommons.law.byu.edu/uofu_sc1



Part of the [Law Commons](#)

Original Brief submitted to the Utah Supreme Court; funding for digitization provided by the Institute of Museum and Library Services through the Library Services and Technology Act, administered by the Utah State Library, and sponsored by the S.J. Quinney Law Library; machine-generated OCR, may contain errors.

Orrin T. Miller;

Recommended Citation

Reply Brief, *Miller v. Miller*, No. 8862 (Utah Supreme Court, 1958).
https://digitalcommons.law.byu.edu/uofu_sc1/3098

This Reply Brief is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Supreme Court Briefs (pre-1965) by an authorized administrator of BYU Law Digital Commons. For more information, please contact hunterlawlibrary@byu.edu.

DEC 19 1958

LAW LIBRARY

IN THE SUPREME COURT OF THE
STATE OF UTAH
FILED
DEC 1 - 1958

JANE LARAWAY MILLER,

Clerk, Supreme Court, Utah

Plaintiff & Respondent

—vs.—

Case No.
8862

ORRIN TOWLER MILLER,

Defendant & Appellant

APPELLANT'S REPLY BRIEF

ORRIN T. MILLER

TABLE OF CONTENTS

	<i>Page</i>
RESTATEMENT OF THE CASE	1
ARGUMENT	5
A. Point of No Return	5
B. Failure of Court Decree To Be Founded on Existing Law	7
C. Fitness of Mother	7
D. Character of Defense	8
CONCLUSION	9

IN THE SUPREME COURT OF THE STATE OF UTAH

JANE LARAWAY MILLER,

Plaintiff & Respondent

—vs.—

ORRIN TOWLER MILLER,

Defendant & Appellant

Case No.
8862

APPELLANT'S REPLY BRIEF

RE-STATEMENT OF THE CASE

The following Attorneys have represented me at various times:

Paul E. Reimann handled the case two years as long as I stayed out of Utah.

Keith Schofield of Richards & Bird was and is employed by the State Department in South America.

Elias L. Day completed what he was hired for and withdrew because of ill health, but would return any time requested to do so.

James E. Faust withdrew by mutual request.

David E. West is still rendering services for which he was paid in advance.

The following Attorneys have represented Jane Laraway Kemp: Merrill Faux, Paris Jensen, Homer Jensen, Regnal W. Garff, Jr.

The brief as prepared by Attorney Paris Jensen and as transferred to Attorney Regnal W. Garff, Jr., acting for Attorney Jensen, shows that Attorney Jensen has continued his character assassination as a point of law. Attorney David E. West has removed from this case by request for failure to correct errors in the statement of fact, and for granting two months of extension time to Attorney Paris Jensen to attend the World's Fair in Brussels, which has further delayed the hearing for nearly one year. Attorney Paris Jensen is still responsible for the irresponsible way he has handled this case with utter disregard for rights or proper law practice.

Jane Laraway Kemp returned to the State of Utah to take advantage of the generosity of the Utah Court, as the State of Maryland would not grant her a divorce on any grounds she could present.

The case was two years old when Attorney Paris Jensen entered the case and impressed a Lien against all savings in the State of Utah. I was present in the State of Utah when the bank notified me and my Attorney Paul E. Reimann of the impress Lien No. 106222. I was counseled to leave Utah because of the hostility of Attorney Paris Jensen until a settlement could be arranged. This Lien has continued over four years without any court hearing. The Lien was without legal cause as a case involving

sale of my personal property by Mrs. Ova Laraway, Mother-in-law, heard before the Honorable Judge Neeley as shown by testimony of Jane Laraway Miller Kemp.

All documents in File No. 196968 and Case No. 8862 for consideration before the Supreme Court were prepared by Attorney Paris Jensen and are not true according to court testimony.

The decree of divorce from the Honorable Judge Joseph G. Jeppson was the first case in trial court where there was confiscation of all personal property. Several attorneys, who have briefed the decree, have labeled it as "injustice with a vengeance." I was sent by City Attorney Ray E. Christensen and Commissioner Grant M. Burbidge to Attorney McCarty, acting President of the Salt Lake Chapter of the Utah Bar Association. As spokesman for all its members he refused to grant help in securing services to file an appeal to the Supreme Court. This action constitutes a conspiracy to defraud which is the definition for Communism.

The Federal Attorney in Salt Lake City has handed down three rulings of the divorce decree: (1) the lien constitutes a lump sum settlement which is contrary to state divorce laws. (2) The decree contains a statement concerning income tax payment and deductions for payment of alimony. The court has no jurisdiction over such matters and this wording of the court decree makes the whole decree illegal and invalid. (3) The court decreed the surrender of Government Bonds to be placed solely under lien in the Prudential Federal Savings with the account under lien by Document No. 106222. The court has no such jurisdiction but tricked me into surrender of bonds. The Federal Court will issue a stay order and Federal injunction to

stop any future surrender of government property and jeopardy of ownership of invested funds in government investments.

The Honorable Judge Joseph G. Jeppson of the trial court, when notified by letter of the federal rulings, retaliated by giving his personal pledge in his chambers that he would see that the lien would never be removed. He has succeeded so far in doing just what he has pledged.

The Honorable Judge Alden J. Anderson refused to allow any testimony in his court. His decision, as explained by Attorney Elias L. Day, was due to the lies presented in the pre-trial by Attorney Paris Jensen. The Honorable Judge Alden J. Anderson penned visiting hours for Sunday, 1 p.m. to 3 p.m., on the court decree after delaying one month and without notifying the attorneys. He left me to visit my child on a letter from Attorney Paris Jensen, which made me a ward of Attorney Jensen. Knowledge of the visiting hours and of the court decree by the Honorable Alden J. Anderson became known when documents were prepared for this present appeal and enforcement of this visitation right has been denied by hearing held before the Honorable Judge Van Cott.

A pre-trial decree was given by the Honorable Judge A. H. Ellett requiring me to bond for child support for sixteen years with any insurance company. Investigation of the companies and their policies revealed that I was again the first to receive such a decree. The advice of the insurance company salesman was not to go into court with the Attorney, James E. Faust, who had brought such a decree from pre-trial. I had instructed Attorney James E. Faust, by telephone on the morning of the trial, that I would not consent to adoption, but he set up the adoption proceed-

ings against my wishes. I was forced to choose between taking a third denial in the lower court or appeal a consent. The testimony given in the Honorable Judge J. Patton Neeley's court showed Attorney James E. Faust gave Jane L. Kemp his promise in private to get me to agree to her wishes. He was acting both as my attorney and as her agent; and when I documented these facts before the Utah Bar Association he threatened me by telephone "that if I proceeded with legal action against him, he would get even." This is further evidence that a conspiracy exists.

Prior to the hearing before the Honorable Judge Stewart M. Hansen for the removal of consent, the status of the case was reviewed before Attorney Grant Iverson. He counceled that the trial court, being at fault, would rule against me regardless of who represented me in court. The Honorable Judge Hansen would write an illegal decree even though he knew the law states I can withdraw consent. The court was favorably inclined after hearing testimony, but the decision was reversed by Attorney Paris E. Jensen entering the chambers of the Honorable Judge Hansen after court was dismissed. Attorney Paris Jensen has offered by out of court payments of \$350.00 which he calls legal fees to remove consent. This action by Attorney Paris Jensen is properly called "Backshish." Attorney Paris Jensen has prepared his brief of personal character abuse and withdrawn prior to the harvest of the seeds which he has sown.

ARGUMENT

The "point of no return" as stated by the brief is not substantiated by any case or brief. My consent for adoption could only be secured with the help of Attorney James E. Faust, who was supposed to represent me.

The trial court has forced the sale of the child, Jane Ann with funds illegally impressed by lien. Can the act of transferring money from the right pocket to the left constitute a sale of property? The trial court has engaged in extortion and child traffic.

The money, savings, bonds, etc., in question represents the salary paid for an employment contract with the University of Utah which is a state institution, and, therefore, the State of Utah as much as is the Utah State Supreme Court. The State of Utah received 10% of my contract salary without assuming any responsibility for the safety and welfare of those who were sent to represent her in the communist country of Iran. My life was expendable in a cause I felt worthy "To defeat communism in a combat of ideologies and foreign help." "Easy Come, Easy Go" statement made by Attorney Merrill Faux in the Honorable Judge Joseph G. Jeppson's court, which prompted him to confiscate all savings from salary is not borne out from field experience. Cecil De Moisy, the nurse from Ogden, Utah, lost her life in Tehran, Iran. Mr. and Mrs. Carroll, who replaced me as a sanitary team in the Persian Gulf, lost their lives on bandit infested highways over which I traveled daily for two years.

I was employed at the time of legal separation at the Bacterial Warfare Center in Maryland. I was hired through a contract that the University of Utah has with Dugway. My assignment included being Liaison Safety Officer between Dugway Test Area, and Detrick Production Area, and I represented the welfare of the people of Utah in connection with watershed contamination etc., a second service to this state which required jeopardy of life through daily exposure to communicable disease.

The haphazard manner in the proceedings as stated in the respondent's reply could equally be used to describe the wanton disregard by the trial court of the laws governing divorce action. It has been the intention of the Utah Legislature to restrict court action, but it has become a practice in this state to allow a Judge a free hand and he may write the law to fit each separate case.

The best interests of the child are not necessarily served by the custody or adoption action of the court. Visitation at "Various Times & Places," as incorporated in the divorce decree, has amounted to three hours in three years. The hostility that exists has been generated by hostile court action. Jane Laraway Kemp instructed the child, Jane Ann, to call Mr. Kemp "father" prior to any consent for adoption. The child was never told by her mother who the man was who visited her on Sundays.

The child, Jane Ann Miller, was infected by dysentery by the mother in 1956 and nearly succumbed after nine days, during which time she was unable to eat. The trial court and the Salt Lake County Welfare Society were so informed of this incident by testimony and by letter.

The question of fitness of the mother was discussed in a Point Four Meeting held in Shiraz, Iran, at the time of the death of the infant child, Thomas Miller. The responsibility for the death was fixed to the mother's failure or negligence to feed or nurse the child. The infant child, Thomas Miller, was less than a week old and doing well at the time I was requested by the Point Four to go from my home in Shiraz, Iran to Tehran, Iran by carryall to identify the remains of Cecil De Moisey, the Utah Contract Nurse from Ogden, who was killed in a plane crash in

Tehran. She was a member of the health team as was Mr. Kazie, Counterpart Sanitary Engineer, who had survived the same crash. I remained in Tehran to attend memorial services of the five Americans aboard the plane. I was notified by wire and later the next morning by wireless that my infant son was not expected to live until I could return with Dr. L. H. O. Stobbe. We arrived after a hectic thirty-nine hours drive by jeep and found the child in the English Mission Hospital all but dead from malnutrition. All symptoms and facts showed gross negligence on the part of the mother. Death was described as due to the secondary invader Infectious Hepatitis as described by testimony given by me in answer to question directed from the bench in the divorce proceedings.

The permission of the trial court was requested and denied to take deposition of Dr. L. H. O. Stobbe, who was brought to treat the dying child, Thomas Miller, and the deposition of Glen S. Gagon, Point Four employee now living in Provo, Utah.

A letter has been received by the Department of State at Washington, D.C. giving authority to the country of Iran to prepare deposition for the filing of charges. Iranian law places the children as property of the fathers. Judgment also is in the hand of the father. The Iranian Embassy, the Department of Justice in Tehran, and a local attorney in Shiraz, are all now involved in preparation of deposition and testimony from Iranian Nationals.

Considerable testimony and professional observation could be presented to show instability of the mother, but I shall not resort to character abuse.

CONCLUSION

The Honorable Judge Ray Van Cott and Judge Alden J. Anderson by trial court decree have denied my rights of visitation. The Honorable Judge Joseph G. Jeppson has by trial court decree confiscated all savings, bonds, etc. and without appearance or documentation confiscated my mother's savings in a joint account. The Honorable Judge Stewart M. Hansen by decree has denied my God-given rights as a natural parent. The Honorable Judge J. Patton Neeley permitted my mother-in-law Ora Laraway to sell my personal property stored in her home without paying me. The action of the trial court has destroyed my faith that Democracy is any different from the Communism practiced by the Tedah party and that the court is an instrument of justice to defend the individual rights of its citizens.

I have been told by the Honorable Judge A. H. Ellett and the Honorable Judge Ray Van Cott Jr. that I have no rights in the trial court. Attorney Ray McCarthy and other attorneys have deprived me my constitutional rights to appeal and my rights as a citizen of this great state of Utah. The trial court has failed to consider as foremost the welfare of the child, Jane Ann, as evidence shows neglect leading to homicide prompted by vengeance.

I think the case should be returned to the lower trial court only after the rights of the plaintiff are completely outlined and the action for the trial court to take fully dictated. Considerable sums of money have been spent on litigation and only the removal of injustice and extortion will satisfactorily terminate litigation.

Respectfully submitted,
ORRIN T. MILLER