

2016

## **John Elias Scott, Appellant vs. Andrea Odette Pena, Apellee**

Utah Court of Appeals

Follow this and additional works at: [https://digitalcommons.law.byu.edu/byu\\_ca3](https://digitalcommons.law.byu.edu/byu_ca3)



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Supreme Court; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah.

---

### **Recommended Citation**

Legal Brief, *Scott vs. Pena*, No. 20150862 (Utah Court of Appeals, 2016).  
[https://digitalcommons.law.byu.edu/byu\\_ca3/3342](https://digitalcommons.law.byu.edu/byu_ca3/3342)

This Legal Brief is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs (2007– ) by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at [http://digitalcommons.law.byu.edu/utah\\_court\\_briefs/policies.html](http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html). Please contact the Repository Manager at [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu) with questions or feedback.

FILED  
UTAH APPELLATE COURTS

MAY 16 2016

**MELLOR LAW FIRM, PLLC**

9035 South 1300 East, Suite 250  
Sandy, Utah 84094

Telephone and Fax: (385) 275-1233  
email: melissa@mellorlawutah.com

May 16, 2016

Utah Court of Appeals  
Attn: Kimberly Van Adrighem-Shafer  
Matheson Courthouse  
450 South State Street, S520  
Salt Lake City, Utah 84114

Via email: kim@utcourts.gov

Re: *John Elias Scott, Appellant v. Andrea Odette Pena, Appellee*  
Case No. 20150862-CA

To the Honorable Justices of the Utah Court of Appeals:

I represent the Appellee, Andrea Pena ("Ms. Pena"), in the above-referenced case. I hereby submit this letter in lieu of a brief. John Scott ("Mr. Scott") has filed a brief appealing decisions made in the Fourth District Court by Judge Claudia Laycock and Commissioner Thomas Patton ("Appellant's Brief").

Mr. Scott's brief is without merit. Mr. Scott addresses several issues that are not material to the present appeal. For example, he routinely attempts to re-litigate matters that were long since decided. On August 27, 2013, the parties entered into a stipulation resolving all issues through the date of that stipulation. However, Appellant's Brief continuously references matters prior to August 27, 2013. Moreover, Mr. Scott argues the circumstances regarding his application for a protective order, which was dismissed by the Fourth District Court. Mr. Scott appealed that decision, and this Court has already dismissed Mr. Scott's appeal regarding the protective order. *See* Utah Court of Appeals, Case No. 20150812-CA.

In addition to all the inapplicable arguments raised by Mr. Scott, he fails to cite to the official record or include other supporting documentation with his Brief. Consequently, Mr. Scott has failed to appropriately bring this matter before the Court, and his appeal should be dismissed.

Sincerely,

MELLOR LAW FIRM, PLLC

*/s/ Melissa K. Mellor*

MELISSA K. MELLOR  
Attorney at Law

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2016, I caused a copy of this letter to be served upon Appellant, John Scott, via US First Class Mail, postage prepaid at the following address:

John Scott  
1043 S. Canyon Meadow Dr. #3  
Provo, Utah 84606

/s/ Melissa K. Mellor

JUN 13 2016

John E. Scott

My Name

1043 S Canyon Meadow Dr #3

Address

Provo, UT 84606

City, State, Zip

(801) 310-8761

Phone

Johnscott78@gmail.com

Email

June 11, 2016

Utah Court of Appeals

Attn: Kimberly Van Adrighem-Shafer

Matheson Courthouse

450 S State St, S520

Salt Lake City, UT 84114

Re: *John Elias Scott, Appellant v. Andrea Odette Penna, Appellee*

Case No. 20150862-CA

To the Honorable Justices of the Utah Court of Appeals:

I represent myself the Appellant, John Scott ("Mr. Scott"), in the above referenced case. I hereby submit this letter in lieu of a reply to Opposing Counsel Melissa Mellor's Response to my appeal brief from decisions made by Judge and Commissioner in the Fourth District Court.

Ms. Mellor says that my brief is without merit. I say that I am not an attorney and have zero legal training or experience. I am only a committed and loving father to my two minor children who is doing the best I can to be treated fairly, be treated honestly and be treated uprightly. If there is any error made in the presentation of my appeal, I would ask that my pleadings and documents be construed as correct and to form so that justice may be met. I have previously submitted to this court a "Notice of Special Pro Se Rights" detailing what federal courts require in regards to my pleadings and proffers to this court with my handicap of not being an officer of this court and not being trained in law. I pray to God that your Honors please consider and accept that notice and that my appeal can survive so that what is wrong and amiss in this case may be made right before God and man.

Miss Mellor states that I address several issues that are not material to the present appeal. This is a vague statement at best. I know of no statements I have made or issues presented that do not have significant relevance to my life, my children's welfare or the cause of justice and liberty. As a United States citizen appearing in a court of law, as organized under the laws of the United States and adhering to my personal liberties and freedoms, I always have a right to be treated fairly, for all to follow the rules and adhere to the higher laws and principles of freedom and justice, and in court to have a full, fair and complete trial made by a neutral forum.

Miss Mellor then goes on to say that I routinely attempt to re-litigate matters that were long since decided. However, Miss Mellor fails to give any example as to help understand what she is referring to. An appeal is exactly that; if a matter was decided and I dispute this matter, then I have a right to bring the matter before a higher court for review and decision.

In further response to the above paragraph, as I have detailed in my Appeal Brief, I met against 3 officers of the court who lied to me and deceived me on the reality of what I was agreeing to in Mediation held August 2013. I did not fully understand what was happening or the significance. Within 24 hours of signing the mediation agreement I discovered my surprise and the unjust and unfortunate circumstances that mediation created. I had been litigating severe violations of the court's orders since 2006 which significantly harmed my children and our rights together and mediation effectively erased the consequences of these violations to the violator. I did not understand that the justice, which was being delayed for over two years, would then be denied because of mediation. A signature did not erase the past harms and abuses against me or my children. We had been denied significant and meaningful time together under the most horrific of circumstances. I had contempt certified and the guilty went on to continue the wayward and evil behavior and violations of the court's order and served no penance and received no penalty. I was also denied attorney fees. None of this seems regular or orderly.

Immediately after mediation in 2013 and discovering my surprise and the errors made and unfair and unjust circumstances mediation created I asked for a hearing with the Commissioner to vacate mediation. This was denied and so I under rule 108 asked for his recommendation to be reviewed and requested several times for the judge to allow the matter to be heard in court. These attempts were ignored. I then demanded that my signature be revoked and removed, which was also ignored. I sent a notice to the court that my constitutional rights were being violated and asked for review by the Presiding Judge and a hearing before him. This request was denied. Again, I am not an officer of the court. I consider myself base and unlearned. I am awkward and inexperienced with the nuances of the law, but do think that surely, these judges and commissioners who are supposed to be learned and educated in the law could understand basic right and wrong and see that for the guilty to go unpunished was wrong and to have disparate and unequal treatment applied against me was wrong.

The above reasons continued to present day. In this appeal it is vital for your Honors to see that if Appellee could violate law and the court's orders so many times and so egregiously and go unpunished and not even pay attorney fees as made mandatory by Utah Code 30-3- 3 and then for me to have my parental rights terminated by the court for 1 week of extra time with my children breaks the scales of justice. How can I be punished so extremely and so egregiously for withholding parent-time when I was legitimately fearful for the safety of my children and kept them for good cause? I noticed the court in the hearing on the matter on August 25, 2015 that Appellee was violent and abusive. The court recognized what I was presenting and that Appellee was presenting that she had missed a week of parent-time and then awarded her our children. I know of no law or code that would sanction the court's actions. It insults intelligence and rightful thinking. It violates laws as far as I have read and understood and is wrong. For the court to ignore Appellee's actions of keeping my children and only award me menial make-up time and then not follow thru with its threats of jail-time and to deny me of attorney fees even when contempt is sanctioned and found is unfair and absurd. Following what the court did when Appellee withheld the children from me, the most I should have received is 1 week of make-up parent-time, not a no contact order and being forced into paying indefinitely for supervised visits against all the guidelines made by law as stated in my appeal under Utah Code 3-3- 34.5.

There is no compelling State interest or finding of abuse as held by a full, fair and complete trial that would sanction removal of my children from me or terminate our rights and time together. In this way and by the judge's disparate and unequal treatment of me and by not allowing hearings which are required by normal and regular process, the judge and commissioner have overstepped their authority and jurisdiction, thereby making their orders unconstitutional and unsavory. The court allowed Appellee to deny me rightful and significant time with my children and then terminated my rights for doing the same, but to a much lesser degree. This was only 1 week compared to over 260 days which were certified as denied days to me by this same court.

Miss Mellor states that I referenced a protective order which was dismissed. I do not know the nuances and particularities of the law or how to get in good graces. I am not an officer of the court, but I do not understand how one judge could grant me a protective order and then for Judge Laycock which clearly has ire against me and seeks to stalk and punish me in any way she knows how could involve herself in 2 protective order matters I had in this same court, but not her courtroom, and influence and dismiss these.

On July 7, 2015 and in reference to the protective order I was granted by Judge McVey on January 10, 2010 which in 2014 Judge Laycock dismissed, it is apparent to me that Judge Laycock seems to think me being awarded an order of protection is worse than the actual violent actions of Appellee. The only conclusion I can draw from this is that Judge Laycock believes that I should not be a father and should not father and raise my children that only Appellee should and can. This seems wrong if true as judges cannot litigate their own cause. The forum is required to remain neutral.

In Miss Mellor's final paragraph she states that I have not included any evidence and have not cited the official record. I am confused by this statement. In my Appeal brief I requested a hearing. From what I have seen in court in the past, I am lead to

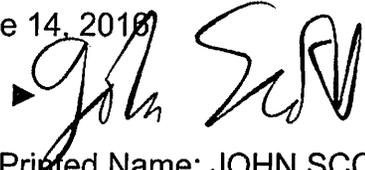
believe that I can bring evidence to a hearing. Also, I submitted evidence electronically to Miss Kimberly Van Adrighem-Shafer with both my Appeal Brief and my Docketing Statement. This seems to make what Miss Mellor stated untrue.

Further, in regards to not citing the record: I followed the format used by every lawyer and attorney in appeals. In my Appeal Brief there is a section titled: **"STATEMENT OF FACTS WITH REFERENCE TO THE RECORD"**. I don't understand what Miss Mellor means by saying that I did not cite the record. I have a section saying that I made reference to the record and after timelines of statements I was making I placed "(R.)" and inside of the box listed a number of where the page number on the record was that I was talking about.

**WHEREFORE**, in light of the above, I pray that my appeal survive and that this court and your Honors speedily restore my children to me who have unjustly and without good cause been stripped from me and then prevent any further evil actions by Judge Laycock against me by reversing her unsavory orders and allowing me to hear my cases and cause in Salt Lake County BY TRANSFERRING case 064400836 to 3<sup>rd</sup> District Court and ordering Judge Laycock away.

Date: June 14, 2016

Sign here ▶

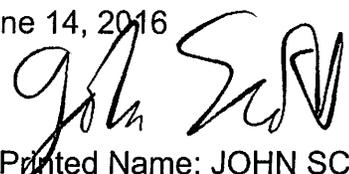


Typed or Printed Name: JOHN SCOTT

I hereby certify that I caused a true and correct copy of this response to Opposing Counsel's letter to the Utah Court of Appeals as well as Opposing Counsel, Melissa Mellor via email to [Melissa@mellorlawutah.com](mailto:Melissa@mellorlawutah.com) and [kim@utcourts.gov](mailto:kim@utcourts.gov)

Dated: June 14, 2016

Signed:



Typed or Printed Name: JOHN SCOTT