

1960

In the Matter of the Disconnection of Part of the Territory of West Jordan, Inc. : Brief of Respondent Town of West Jordan

Utah Supreme Court

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Davis and Bayles; Attorneys for Town of West Jordan;

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**IN THE SUPREME COURT
of the
STATE OF UTAH**

FILED

2 - 1960

REPLY BRIEF ON REHEARING

Clerk, Supreme Court, Utah

IN THE MATTER OF THE DIS-
CONNECTION OF PART OF THE
TERRITORY OF WEST JORDAN,
INC.

} Reply Brief
On Petition
For Rehearing
Case No. 9254

BRIEF OF RESPONDENT
TOWN OF WEST JORDAN

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IN THE SUPREME COURT of the STATE OF UTAH

REPLY BRIEF ON REHEARING

IN THE MATTER OF THE DIS- }
CONNECTION OF PART OF THE } Reply Brief
TERRITORY OF WEST JORDAN, } On Petition
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Case No. 9254

BRIEF OF RESPONDENT
TOWN OF WEST JORDAN

STATEMENT OF POINT

Purpose of Rule 75 (h) U.R.C.P. is to correct error, accident, or mistake in record.

ARGUMENT

The appellants have been disappointed by the outcome of the matter on appeal, so has the respondent, neither received a favorable determination. Rule 75(h) is not and should not be used as a tool, simply to obtain a rehearing of a matter after

hearing and decision. Moore's Federal Practice, Second Edition, page 3654, Paragraph 75.14.

Appellants' failure to bring more of the record before the Supreme Court was done purposely. Respondent acted in accordance with what it thought good procedure, expecting the Supreme Court to say that with nothing in the record the appeal must be dismissed.

If the Supreme Court is of the opinion that additional facts should be reviewed, such may be obtained by sending the matter back to the District Court, as has been ordered, or by permitting the record for all parties to be brought before the Supreme Court on a rehearing. If a rehearing is granted, each party should be given an opportunity to present the record each has designated.

CONCLUSION

Rehearing should not be granted under Rule 75(h) to correct error, accident or mistake. If rehearing is granted, it should be granted at the discretion of the Court and each party be permitted to present the record each has designated for rehearing.

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