

2002

Mary Kaye Green, fka Mary Kaye Kuhlmann v. Gregory G. Kuhlmann : Brief of Appellee

Utah Court of Appeals

Follow this and additional works at: https://digitalcommons.law.byu.edu/byu_ca2



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Court of Appeals; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

Gary G. Kuhlmann; Respondent/Appellee.

Chad J. Utley; Eric R. Gentry; Christopherson, Farris, White and Utley; Attorneys for Petitioner/Appellant.

Recommended Citation

Brief of Appellee, *Green v. Kuhlmann*, No. 20020698 (Utah Court of Appeals, 2002).
https://digitalcommons.law.byu.edu/byu_ca2/3940

This Brief of Appellee 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 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. Please contact the Repository Manager at hunterlawlibrary@byu.edu with questions or feedback.

MARY KAYE GREEN, fka
MARY KAYE KUHLMANN,

Petitioner and Appellant

V.

GARY G. KUHLMANN,
Respondent and Appellee

BRIEF OF THE APPELLEE

Court of Appeals No. 20020698 -CA

APPEAL FROM AN INTERLOCUTORY ORDER OF THE FIFTH JUDICIAL
DISTRICT COURT OF UTAH, WASHINGTON COUNTY, HONORABLE
ROBERT T. BRAITHWAITE PRESIDING.

Chad J. Utley, No. 7654
Eric R. Gentry, No. 9580
Christopherson, Farris, White & Utley, P.C.
Attorneys for Petitioner and Appellant
189 North Main Street
P.O. Box 2408
St. George, Utah 84771-2408
Telephone: (435) 634-1600
Facsimile: (435) 628-9323

Gary G., Kuhlmann, No. 4994
Respondent and Appellee
113 East 200 North, Suite 1
P.O. Box 910387
St. George, Utah 84701-0387
Telephone: (435) 656-6156
Facsimile: (435) 634-1398

Utah Court of Appeals

MAY 13 2003

Paulette Staqq

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	ii
JURISDICTIONAL STATEMENT.....	1
STATEMENT OF ISSUES PRESENTED FOR REVIEW.....	1
STATEMENT OF THE CASE.....	2
SUMMARY OF ARGUMENTS.....	4
ARGUMENTS.....	5
I. <u>The Trial Court Properly Applied Existing Case Law In Denying Petitioner’s Motion For Protective Order.</u>	5
II. <u>The Trial Court Did Not Abuse Its Discretion As Argued By The Petitioner Since No Evidence Was Admitted.</u>	10
III. <u>The Trial Court Properly Found That Material Evidence Was Not Before The Court At The Time Of The Original Decree And Modification.</u>	13
IV. <u>This Court Should Not Modify The Existing Rules Nor Abandon Existing Precedent Establishing The Standards To Be Applied With Regard To Modifications Of Stipulated Custody Decrees.</u>	14
CONCLUSION.....	15
CERTIFICATE OF MAILING.....	16

TABLE OF AUTHORITIES

Rules

Rule 24(a)(5(A), Utah Rules of Appellate Procedure.....	1
Rule 26(b), Utah Rules of Civil Procedure.....	6, 9, 11

Statutes

Utah Code Annotated §30-3-10.....	8, 9
-----------------------------------	------

Cases

<i>Crouse v. Crouse</i> , 817 P.2d 836 (Utah App. 1991).....	11, 12, 13
<i>Cummings v. Cummings</i> , 821 P.2d 472 (Utah App. 1991).....	11, 12, 13
<i>Ellis v. Gilbert</i> , 429 P.2d 39 (Utah 1967).....	5, 6
<i>Elmer v. Elmer</i> , 776 P.2d 599 (Utah 1989).....	2, 7, 8, 11, 12, 13
<i>Langeland v. Monarch Motors, Inc.</i> , 952 P.2d 1058 (Utah 1998).....	2
<i>Roundy v. Staley</i> , 984 P.2d 404 (Utah App. 1999).....	2
<i>State v. Petty</i> , 412 P.2d 914 (Utah 1966).....	6
<i>Walton v. Walton</i> , 814 P.2d 619 (Utah App. 1991).....	11, 12, 13

JURISDICTIONAL STATEMENT

This Court has jurisdiction under the Court's order issued pursuant to Rule 5, Utah Rules of Appellate Procedure, granting the Petitioner leave to appeal.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

Respondent takes issue with the Petitioner's Statement of Issues and Standards of Review. First, the Petitioner's Statement fails to provide any "citation to the record showing that the issue was preserved in the trial court" as required by Rule 24(a)(5)(A), Utah Rules of Appellate Procedure. The only reference with regard to preservation of issues is to the Petitioner's motion for protective order. Such motion asserted only that the material sought through the Respondent's discovery requests was not relevant and was being sought only to harass and embarrass the Petitioner. Second, the only issues properly appealed and before this Court deal specifically with the trial court's denial of the Petitioner's motion for protective order and do not include whether a basis exists for modifying custody in this case or whether the Utah courts should adopt a new standard for determining custody where initial custody determinations are uncontested. Based thereon, the only issues properly presented for review are as follows.

1. Did the trial court abuse its discretion by ordering the Petitioner to respond to discovery requests propounded by the Respondent and seeking information regarding Petitioner's extramarital sexual activities for periods both before and after the parties' divorce, where the Respondent was not aware of such activities at the time of divorce and

where such facts were not before the court at the time the court approved the parties' stipulated custody arrangements?

The standard of review applied to determine whether the trial court erred in requiring that the Petitioner provide such discovery, is whether the trial court abused its discretion. *Roundy v. Staley*, 984 P.2d 404 (Utah App. 1999); *Langeland v. Monarch Motors, Inc.*, 952 P.2d 1058 (Utah 1998).

2. Did the trial court abuse its discretion by ordering the Petitioner to respond to discovery requests propounded by the Respondent and seeking information regarding Petitioner's extramarital sexual activities for periods both before and after the parties' divorce, due to the court's reasoning that such information is relevant with regard to the Petitioner's moral conduct and parenting ability?

The standard of review applied to determine whether the trial court erred in requiring that the Petitioner provide such discovery, is whether the trial court abused its discretion. *Roundy v. Staley*, 984 P.2d 404 (Utah App. 1999); *Langeland v. Monarch Motors, Inc.*, 952 P.2d 1058 (Utah 1998).

STATEMENT OF THE CASE

Respondent does not oppose the Petitioner's Statement of the Case, except with regard to paragraph 12. As is apparent from the trial court's ruling (Record at 597 - 604), while the trial court did refer to language in the case of *Elmer v. Elmer*, 776 P.2d 599 (Utah 1989), the trial court did not rely solely upon such case as a basis for its ruling. The trial court further did not rely upon a ruling that the Respondent was not required to show a

change of circumstances at trial of this matter, but rather relied upon the fact that newly discovered evidence relevant to this matter was not before the court at the time of divorce (Record at 200).

In addition to the above, the crux of this matter revolves around information obtained by the Respondent in late 2000, which prompted the filing of the counter-petition below seeking a change of custody. In late 2000, the Respondent came into possession of excerpts from the diary of a third party which evidence an extramarital sexual relationship between the Petitioner and a man in Cedar City, Utah, from at least October 1996 through December 1996. Such diary entries refer to the Petitioner arriving at the man's home, having sexual relations with him, and spending the night there, all while Petitioner and Respondent were still married. Additionally, these relations included times when the man's children were in the home and while the man's live-in girlfriend was present in the home. The Petitioner knew of the relationship between the man and the live-in girlfriend at the time and knew that the man maintained sexual relationships with numerous other women at the same time. Additionally, the excerpts refer to certain tattoos and other mechanisms which the man used to "mark" his women. Petitioner had one such tattoo and other "marking" before the Petitioner and Respondent divorced but explained to the Respondent that the "marking" was done by a lesbian friend of the Petitioner's. Petitioner repeatedly denied any extramarital sexual involvement both before and after the parties' divorce. The diary entries are found in the record at pages 520 - 536. The Respondent was investigating the information he had obtained at the time the Petitioner filed her petition to modify in the trial court.

SUMMARY OF ARGUMENTS

This appeal deals with discovery issues and only discovery issues. However, the analysis in the Petitioner's brief is suited to a case where the Petitioner is contesting a trial court's modification of a custody decree. Indeed, the Petitioner goes so far as to seek this Court's abandonment of the current standards applicable to all cases where a modification of custody is sought after a nonlitigated decree is entered. Thus, Petitioner has turned a simple discovery matter into a crusade for custody reform. Additionally, Petitioner's arguments extend only to discovery sought for matters occurring prior to the parties' original divorce and subsequent modification of the custody decree. Yet Petitioner summarily asserts that the trial court's order requiring disclosure of extramarital relations after such dates should also, for some reason, be reversed.

The Petitioner argues that the trial court erred in requiring production of the discovery requested by the Respondent because such evidence is "clearly irrelevant to establish the prerequisite change in circumstances" (Petitioner's Brief page 9); the trial court "failed to make . . . findings [that a material change in circumstances has occurred] (Petitioner's Brief page 10), the trial court "failed to find any evidence that any asserted change in circumstances was material, and . . . Respondent has failed to provide such evidence" (Petitioner's Brief page 11), the trial court "erroneously found that material evidence was not before the court issuing the decree" (Petitioner's Brief page 11), and the trial court "conclude[d] that the disputed evidence was material to the children's welfare without finding that there was evidence to support such a conclusion." (Petitioner's Brief page 12).

In essence, Petitioner argues that the trial court should have required the Respondent to prove his case in support of a change of custody before the Petitioner was required to provide the Respondent with the requested discovery. Petitioner's arguments are apparently based upon Petitioner's assumption that the Respondent cannot prevail in his action in chief and thus the trial court should not have required the production of the requested discovery. However, the requested discovery is essential to a determination of whether there is a material change in circumstances and whether the best interests of the children will be served by a change in custody. Petitioner's arguments would require the Respondent to prove a change in circumstances before being allowed to obtain discovery as to the true nature of the circumstances at the time of the divorce and since. Such is not required. The trial court properly noted that although the court was ordering that the discovery be provided, "the burden remains upon Respondent to prove the allegations, but both sides must be allowed discovery to prepare the case." (Record at 601). Thus, the day for Petitioner's arguments with regard to the test applied to the instant custody modification will be at a trial of the matter, not by an appeal of a discovery order.

ARGUMENTS

I. The Trial Court Properly Applied Existing Case Law In Denying Petitioner's Motion For Protective Order.

Our Supreme Court has described the policy behind our discovery rules. In *Ellis v. Gilbert*, 429 P.2d 39 (Utah 1967), the Court noted that the purpose of the discovery procedure in the Rules of Civil Procedure is:

to make procedure as simple and efficient as possible by eliminating any useless ritual, undue rigidities or technicalities . . . and to remove elements of surprise or trickery so the parties and the court can determine the facts and resolve the issues as directly, fairly and expeditiously as possible. In accord with this is the beginning policy statement in Rule 1(a): that the rules “shall be liberally construed to secure the just, speedy, and inexpensive determination of every action.”

In *State v. Petty*, 412 P.2d 914 (Utah 1966), the Court also noted this same purpose and then stated

One of the means of accomplishing this is to permit discovery of information which will aid in eliminating noncontroversial matters, and in identifying, narrowing, and clarifying the issues on which contest may prove to be necessary. Insofar as discovery will serve this purpose it should be liberally permitted.

Thus, anything bearing on the issue of custody modification or which would render that issue moot, narrow the issues, or lead to the discovery of admissible evidence with regard to that issue is discoverable. The Petitioner filed her motion seeking a protective order claiming that the discovery sought with regard to any past and on-going extramarital sexual relations of the Petitioner was irrelevant and sought only to embarrass and harass the Petitioner. It was in that context that the trial court correctly entered its order denying the Petitioner’s motion.

In determining what is “relevant to the subject matter” of a case and thus discoverable under Rule 26(b), the Utah Supreme Court noted

In considering what is the “subject matter” of a lawsuit we keep in mind that the ultimate objective of any lawsuit is a determination of the dispute between the parties; and that the earlier and easier this can be accomplished, with justice to both sides, the better for all concerned. Whatever helps to attain that objective is “relevant” to the lawsuit.

Ellis v. Gilbert, Id.

The Petitioner's first argument, as summarized in her brief, asserts that the trial court's order requiring the Petitioner to produce certain evidence was in error because the trial court "held that a substantial change of circumstances need not be shown to modify a stipulated child custody decree." The Petitioner opines that had the trial court interpreted the case of *Elmer v. Elmer*, 776 P.2d 599 (Utah 1989) the way Petitioner interprets such case, and later cases, the trial court would not have required the production of the requested information. However, such argument is not supported by the *Elmer* case or the trial court's ruling.

As pointed out by the trial court, the discovery was ordered produced, not because the Respondent was relieved of any obligation to show a material change of circumstances, but rather:

because case law holds that a decree may be **reopened** when material facts were not before the court, even in cases where **the best interest of the child** has been adjudicated, the Court will certainly reopen this decree, in which custody was simply based upon a stipulation, if there are material facts which were not presented. The questions as to Petitioner's extramarital affairs are therefore certainly relevant in order to determine whether such material facts exist.

(Record at 600). Thus, the trial court's ruling found that the requested discovery should be provided in order to determine whether circumstances exist which justify a change in custody. This ruling is consistent with the *Elmer* case cited by the trial court and in which the Utah Supreme Court noted

However, the res judicata aspect of the [changed circumstances rule] must always be subservient to the best interests of the child. The courts have long held that even when an initial decree has adjudicated the best interests of a child, a subsequent proceeding could reopen that decree if material facts were

not before the court (citations omitted), or if the circumstances pertaining to the decree had subsequently changed, so that a new determination should be made based on a full development of all material facts.

Elmer at 604. What the trial court did in ruling on the Petitioner's discovery motion was exactly what the Utah Supreme Court stated in *Elmer*. The trial court determined that the requested discovery was relevant and should be provided as such information was not before the court at the time of the decree.

Additionally, the Respondent has asserted a substantial change in circumstances in this case. Shortly before the Petitioner filed her petition to modify the parties' stipulated decree, the Respondent was provided with information regarding extramarital sexual activities of the Petitioner. However, prior to and after the parties' divorce, the Respondent had heard rumors regarding alleged extramarital sexual activities by the Petitioner and confronted the Petitioner. The Petitioner at all times denied such activities as depicted in the newly discovered evidence. The Petitioner's denial of such activities and the Respondent's reliance thereon was one of the material facts relied upon by the Respondent in not contesting the current custody arrangement. If such activities had been known, Respondent would have contested custody in the Petitioner and sought sole custody (Record at 510 - 511).

As was also properly found by the trial court, the information requested in the Respondent's discovery requests as to the Petitioner's past and current extramarital sexual activities is certainly "relevant" to the subject matter of this case under the Utah Code. In ordering that the Petitioner provide the requested discovery, the trial court noted, "Utah Code

Annotated §30-3-10, dealing with custody determinations, reads, in relevant part, ‘In determining custody, the court shall consider the best interests of the child and the past conduct *and demonstrated moral standards of each of the parties.*’” (Record at 600) (Emphasis in original).

The Petitioner’s actions in seeking protection from disclosure of information requested by the Respondent was for no other reason than to prevent what she perceived as harassment, annoyance and embarrassment of the Petitioner and her current husband. Nothing is farther from the truth. Respondent has explained above the relevance of the information sought. Such information is essential to the Respondent’s case. If Petitioner had not or was not engaging in the activities questioned there would be no basis for asserting a claim of harassment, embarrassment or annoyance. The Petitioner could simply respond to the discovery requests by indicating that there were no such activities. That Petitioner has and may be engaging in such activities is at core of this case. Additionally, that the Petitioner may have engaged in activities or have information which, if disclosed, may annoy or embarrass her, is not the issue under Rule 26. Rarely, if ever, will a discovery request not cause some level of annoyance or embarrassment. The issue under Rule 26 is whether the discovery is sought for the purpose of annoying or embarrassing the Petitioner. As explained above, that is certainly not the intent nor purpose of the Respondent’s requests, and the trial court properly so found.

It is interesting to note that the Petitioner asserts in her argument that had the Respondent asked for the same information at the time of the original divorce or the

subsequent modification, the information could have been obtained through discovery. Thus, the information is admittedly relevant. However, the Petitioner now asserts that, due only to the passage of time and the Petitioner's continued denial of any extramarital sexual relationships, the information has somehow become irrelevant. Such is not logical. The Respondent's reliance on the Petitioner's continued reassurances that extramarital sexual activities were not occurring should not now work to her advantage by somehow claiming that the information should have been sought earlier. At the time of the original divorce, the parties had agreed to joint legal custody with equal time to the children. Certainly some amount of trust had to be in place and the Respondent trusted the Petitioner's statements denying sexual relationships existed. Additionally, the Respondent was in the position of having the children one-half of the time, a situation which no longer exists.

II. The Trial Court Did Not Abuse Its Discretion As Argued By The Petitioner Since No Evidence Was Admitted.

In her second argument, as summarized in her brief, the Petitioner, asserts that "the trial court abused its discretion in **admitting evidence** of the best interests of the children before determining that there has been a substantial and material change in circumstances since the entry of the decree." (Petitioner's Brief page 28) (Emphasis supplied). The error in Petitioner's theory is that the trial court did not "admit" any evidence. The trial court merely ruled that the Petitioner has to supply Respondent with the requested discovery. The issue as to whether any of the information obtained by the Respondent through discovery will be admitted into evidence will be made only at trial. As stated above, the requested

discovery certainly comes within the parameters of Rule 26, Utah Rules of Civil Procedure, and therefore, the trial court's order denying the Petitioner's motion for protective order was proper.

The Petitioner argues that Utah case law requires a strict application of the changed circumstances test to this case despite the court's ruling in the *Elmer* case. Petitioner asserts that cases subsequent to *Elmer* limit the court's ruling in *Elmer* to cases where custody is determined by default. Initially, it must be stated that such argument is, again, not directed or applicable to the discovery issue on appeal before this Court. Such argument is more appropriate after or in connection with a determination by a trial court of what evidence will be admitted regarding a custody modification and in what order such evidence should be taken. In any event, the Petitioner's alleged modification of the *Elmer* ruling has not occurred. Despite Petitioner's contention, in *Walton v. Walton*, 814 P.2d 619 (Utah App. 1991), this Court applied the *Elmer* rationale to the case before it even though such case involved a stipulated custody decree rather than one entered by default. In *Crouse v. Crouse*, 817 P.2d 836 (Utah App. 1991), this Court again upheld the *Elmer* rule in a case dealing with a stipulated custody decree. In that case, the trial court had not taken evidence on the best interests of the child as part of the evidence relating to a change in circumstances. This Court found the trial court did not abuse its discretion by choosing not to allow such evidence to be presented prior to a determination of a change in circumstances. However, this Court at no time abandoned or ruled improper the use of the *Elmer* rule in such cases. Finally, in *Cummings v. Cummings*, 821 P.2d 472 (Utah App. 1991), this Court again

addressed a case involving a requested modification of a stipulated custody decree. In that case, this Court again applied the *Elmer* rule. “We find that even under the *Elmer* evidentiary standard, the changes are not sufficient to constitute a substantial or material change of circumstances.” *Id.* at 479. Thus, this Court has not, and should not, abandon the *Elmer* rule or require more of a showing for its application other than that the decree sought to be modified was not litigated. Thus, the trial court’s ruling in this case should be upheld.

Even were the Court to find validity in Petitioner’s argument that the *Elmer* rule should not be applied to cases resolved by stipulation, it would have no impact on the discovery issues presented here. The application of the rule, again, deals with evidence presented at trial and the manner of such presentation and is not a limitation on discovery. However, Petitioner argues that based upon the holding in *Elmer*, 776 P.2d 599, as interpreted in *Crouse*, 817 P.2d 836, *Cummings*, 821 P.2d 472 and *Walton*, 814 P.2d 619, unless “exceptional circumstances” exist, the modified rule under *Elmer* does not apply to a custody modification sought with regard to a stipulated custody decree. Petitioner wrongly asserts that exceptional circumstances are defined by the courts as only “an initial custody award premised on a temporary condition, a choice between marginal custody arrangements, a default case,” or where “the refusal to change custody will result in the continuation of custody in a parent who is indifferent to, or even destructive of, the child’s welfare.” (Petitioner’s Brief page 28 - 29). In reality, the cases cited by the Petitioner do not require a showing of “exceptional circumstances” but refer to certain times when it may be appropriate to require a showing of what this Court refers to as “exceptional criteria” before

considering evidence of the best interests of a child as part of the evidence establishing changed circumstances. Contrary to Petitioner's assertion, such cases do not define what constitute exceptional criteria but merely give examples of some criteria which may qualify as such. In the Petitioner's cited cases, this Court gives no absolute definition but rather describes exceptional criteria as "such as an initial custody award premised on a temporary condition, a choice between marginal custody arrangements, or a default decree." *Crouse*, 817 P.2d at 840, *Cummings*, 821 P.2d at 478, *Walton*, 814 P.2d at 623.

It is obvious that this Court in the above cases did not intend to limit what constitutes exceptional criteria. It is also obvious that evidence of extramarital relationships which was not known to the Respondent and not before the court at the time of the original decree herein or the modification thereof, constitute such exceptional criteria for proceeding under *Elmer*. Based thereon, the trial court's order that the Petitioner herein respond to discovery with regard to prior and ongoing extramarital sexual relationships is certainly within the trial court's discretion.

III. The Trial Court Properly Found That Material Evidence Was Not Before The Court At The Time Of The Original Decree And Modification.

The Petitioner argues that the trial court erred in finding that information regarding the Petitioner's extramarital sexual activities was not before the court at the time of the original decree or the subsequent modification. However, it is undisputed that such information was not before the court. The reason it was not before the court was due to the Petitioner's repeated assurance that the rumors regarding possible extramarital sexual

activities were false. The parties had worked long at trying to first save their seventeen year marriage and then at reaching a fair resolution of their divorce proceedings with the least impact on the parties' children. Based upon the Petitioner's repeated assurances, the Respondent chose to trust the Petitioner rather than chase rumors which Petitioner denied. It is clear that the propounded discovery is intended to bring before the trial court the true circumstances at the time of the parties' original divorce and those existing since such time so that a full and fair determination may be made by the trial court with regard to whether changed circumstances exist and the best interests of the parties' children.

IV. This Court Should Not Modify The Existing Rules Nor Abandon Existing Precedent Establishing The Standards To Be Applied With Regard To Modifications Of Stipulated Custody Decrees.

The Petitioner's final argument is that this Court, in determining the propriety of a trial court's discovery order, should rewrite the existing standards applicable to modifications to stipulated custody decrees. This is not the context in which to make such a modification, especially in light of the fact that no determination has as yet been made in the trial court as to whether either the Petitioner's or Respondent's requested modifications should be granted, nor what evidence is admissible with regard to such claims. If such an argument is made at all on appeal, it should be made by Petitioner only after an adverse ruling applying the standard that Petitioner now seeks to change. Additionally, in light of the well established history and rationale surrounding the existing *Elmer* standard, such standard should remain.

CONCLUSION

The trial court properly acted within its discretion in denying the Petitioner's motion for protective order and requiring the Petitioner to disclose information regarding the Petitioner's prior and on-going extramarital sexual activities. Such information is relevant to this case, to whether changed circumstances exist, and to whether a change in custody would be in the best interest of the parties' children. Such ends the analysis of this case. The Respondent should be allowed such discovery in order to establish the true circumstances of the Petitioner's extramarital sexual activities both before the divorce and on an on-going basis. Such allowance certainly comports with the overriding interest involved in this case and as enumerated by the Petitioner's cited authorities, that being the best interest of the parties' children. Based thereon, the Respondent respectfully requests that this Court affirm the trial court's ruling denying the Petitioner's motion for protective order and requiring that the requested discovery be provided.

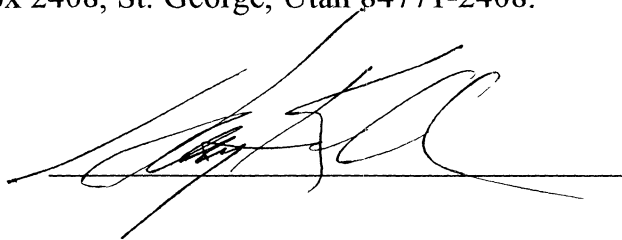
RESPECTFULLY SUBMITTED this 12th day of May, 2003.

A handwritten signature in black ink, appearing to read 'Gary G. Kuhlmann', is written over a horizontal line.

Gary G. Kuhlmann
Respondent and Appellee

CERTIFICATE OF MAILING

I hereby certify that on May 12, 2003, I caused a true and correct copy of the foregoing to be mailed First Class mail, postage prepaid to Chad J. Utley, counsel for Petitioner, at 189 North Main Street, P.O. Box 2408, St. George, Utah 84771-2408.

A handwritten signature in black ink, appearing to be "C. J. Utley", written over a horizontal line.