

1992

Winfield D. Schoolcraft v. The State of Utah, in the interest of Joshua W. Ford, a person under eighteen years of age : Petition for Writ of Certiorari

Utah Supreme Court

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Winfield D. Schoolcraft; Petitioner Pro Se; Jan W. Arrington; Guardian Ad Litem; Robert K. Hunt; Attorney for Adoptive Parents.

R. Paul Van Dam; Utah Attorney General; Carol L. C. Verdoia; Assistant Attorney General; Attorneys for Respondent.

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BRIEF

IN THE SUPREME COURT OF THE
STATE OF UTAH

| | | |
|---------------------------------------|---|------------------------|
| WINFIELD D. SCHOOLCRAFT |) | WRIT OF CERTIORARI |
| PETITIONER, |) | |
| -V- |) | |
| THE STATE OF UTAH, in the interest of |) | CASE NO. <u>920039</u> |
| JOSHUA W. FORD, a person under |) | |
| eighteen years of age |) | |

From the UTAH COURT OF APPEALS, case number 910163-CA
THE DISTRICT JUVENILE COURT FOR WEBER COUNTY case no. 717256
Remanded back to the Juvenile Court by the UTAH SUPREME COURT,
145 Utah Adv. Rep. 17

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FILED

JAN 22 1992

CLERK SUPREME COURT
UTAH

IN THE SUPREME COURT OF THE
STATE OF UTAH

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TABLE OF AUTHORITIES

Constitution of the State Of Utah:

Article 1, Section 1, 4, 7, 11, 24, 27

Article 3, Section; Religious Toleration.

Rules of Civil Procedure:

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| Rule 52 | page 4 |
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QUESTIONS PRESENTED FOR REVIEW

- (1) Can "Due Process", in this case, omit trial upon the facts?
- (2) Is just any action under Rule 1 (liberally construed courts) lawful?
- (3) Are slander and libel proper tools for the State to use?
- (4) Is it proper for the State to contrive unsubstantiated material as evidence? To fabricate an entity in Michael Ford and bestow upon him the rights of biological father?
- (5) Was it error for the Juvenile Court to deny me the right, or the ability, to enter all my objections so they could be responded to?
- (6) Does "Case Law" on Family, Husband and Wife, and etc. actually apply to this case? A case with no family involvement?
- (7) With all the undue activity on the part of those who have conspired with the Crittenden family; Is it actually possible to

consider any aspect of the States case against the Winfield Schoolcraft family as fact?

(8) Does the Court ordering of two Psychologicals done by PHD's for Schoolcraft, both good, and none for the Crittendens, constitute prejudicial and unequal treatment?

(9) Is it proper for the State to deny a relationship and then argue that because of that lack of relationship custody can not be granted?

(10) Is it proper in a state that is predominately Mormon, for a Mormon family to have an advantage in gaining custody over the child of someone else? By being Mormon, are they considered to be better parents?

CITATION TO OPINION OF COURT OF APPEALS

It was stated that "the foster family and Schoolcraft were on equal footing to seek legal custody, neither having any greater legal right under color of law-----"

(1) Schoolcraft, had at least the rights in the beginning before the Crittendens entered the picture with the conspiracy.

(2) The Utah Supreme Court, the last time through, gave Schoolcraft some rights.

(3) Any rights that the foster family have were achieved through foul play.

STATEMENT OF JURISDICTION

The Utah Supreme Court has jurisdiction under the constitution of the State of Utah, Article 1, Section 7, & 11. Because of the very basic nature of this case, and the unconstitutional actions of the State of Utah against the family of Winfield Schoolcraft.

CONSTITUTIONAL PROVISIONS

ARTICLE 1, SECTION 1, Inherent and inalienable rights. SECTION 4, Religious liberty:

In my culture, my inherent and inalienable right extends also to my family, as my family. My religious liberty is my religious obligation, to raise my family. Teaching my son the value of Gods commandments. How can the Mormon family who is willing to conspire with the State in fraudulent activity teach a child good spiritual and moral values?

ARTICLE 1, SECTION 7, Due process of law:

No one will be deprived ----- without due process of law. Can due process of law be made up of fraudulent entities and activities?

ARTICLE 1, SECTION 11, Courts open -- Redress of injuries:

"Due process of law" Without unnecessary delay? My son is now 6 years old. I started fighting for him when he was 6 months and I found him in Ogden.

ARTICLE 1, SECTION 27, Fundamental rights:

The Schoolcraft family rights, all priorities fundamental and Christian, Have been violated by the State of Utah.

ARTICLE 3, SECTION; Religious toleration:

This Mormon community is not tolerant of my religious obligation and desires, to and for my son Joshua.

RULE 52

QUOTE; (a) Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts.....
.....etc.

The three attorneys, with unanimity as if they had conspired together in the Court of Appeals this time around, have taken the following part of paragraph "(a)" out of context, quote; "...Finding of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witness."

The Court Of Appeals, the last time around, on appeal from Judge Neweys Court, gave Michael Ford some degree of status in the court records. This was in error, as Judge Newey found Michael Ford to be hearsay from the mouth of Stanley Swedin. Transcript page 60 Judge VanDyke read Judge Neweys Paragraph 8 for the record. On page 82 & 83 Stanley Swedin could produce no evidence of Michael Ford. But; Like any good gossip, Michael Ford has attained biological father status in the Crittendens petition for adoption, and also in other documents.

Several times in the first paragraph of rule 52, the word fact or facts appears. And in the context of; "upon the facts", "find the facts", "finding of fact", etc., Because; To be valid, The Court Must Find The Facts. I am sorry that I need to be so emphatic. But up to now, I have faced a lot of song and dance, void of facts, from those who oppose my family's unity.

RULE 1

In part, quote; ...They shall be liberally construed to secure the just, speedy, and inexpensive determination of every action.

This is the last sentence of paragraph (a). There is nothing prior to this last sentence, in the paragraph, that contradicts it.

The State employees who participated in this action with the Crittenden family, and the Crittenden family, did not intend to abide by this rule. At the time of Judge Neweys Court the Crittenden family had no standing. They had not yet formed the bond with Joshua that they claimed later. Because they had no standing, they did not provide themselves with an attorney until four and a half years later. Yet; It was in Judge Neweys Court that the Crittenden relatives showed up in a large number to impress the court in favor of John and Colleen Crittenden adopting. Transcript page 180.

At this time I was married to Joshua's biological mother and I at least had the standing accorded me by the Utah Supreme Court. Without intentional delaying tactics, the Crittendens would not have gained standing of any kind.

RULE 9

Paragraph (b) & (j) see addendum. One of the delaying tactics was the use of "LIBEL and SLANDER", resulting in "FRAUD" that has been on going for the last five and a half years. Transcript page 37.

And on page 119, lines 9 & 10 Mr Parmley says, at the prospect of actually discussing the truth behind the slander, Quote; I'm not going to get into the details of that, Your Honor. I don't care to--

The state does not care to have the truth about the slander known, as it may render the slander useless as a tool to use against the Schoolcraft family. Also I see no need for the innocent to run, it is better to stay and fight, even if it is the State of Utah that is making this attack.

RULE 8

Quote; (f) Construction of pleadings. All pleadings shall be construed as to do substantial justice.

There is no justice, when the states pleadings were designed to delay justice, and buy time so that the Crittendens can gain standing.

I have been denied a relationship with my son. It has been argued that a lack of relationship means a lack of standing. Transcript page 222. This situation was contrived by those that conspired to buy standing for the Crittendens.

OBJECTION

It was error for Judge VanDyke's Court to deny me the right, or the ability, to enter all my objections, so that they could be properly responded to. My "RECORD of OBJECTION 1991" is in the addendum. My attempt to enter these objections starts on page 36 Of the transcript, and in some form or another continues throughout.

STATEMENT OF CASE

ATTORNEY FOR THE STATE; Richard A. Parmley, Deputy County Attorney for Weber County, boldly displayed the States' prejudice, as seen all through the transcript.

(1) On page 116 lines 7 to 12, and page 117 lines 2 to 22 of the transcript, Mr. Parmley attempts to give the court a poor impression of Mr. Schoolcraft's work history, and as anyone can see, Mr Parmley has nothing to substantiate his point of view, neither does he have any knowledge of the subject.

(2) On page 24 line 18 to 25, and page 25 line 1 to 11 of the transcript, Mr Parmley is arguing to limit Mr Schoolcraft's presentation to as little as possible. Also page 37 line 14 to 25, and page 38 line 1 to 5, also limiting Mr. Schoolcraft's presentation to as little as possible. Also page 49 line 7 to 9.

(3) On page 55 line 4 to 9, Mr. Parmley is objecting to Mr. Schoolcraft's Objections.

(4) On page 61 line 1 & 2, Mr. Parmley is objecting to Mr. Schoolcraft's questions of Stanley Swedin about the truth of Michael Fords existence, quote "on behalf of the State". Mr. Parmley has been party to keeping the truth from being told.

(5) Mr. Parmley's cross examination of Stanley Swedin starts on page 74 of the transcript, and it is apparent that Mr. Parmley is Mr. Schoolcraft's adversary.

(6) On page 109 Mr. Parmley cross examine Winfield Schoolcraft. Once again the adversary appears on behalf of the State. Notice also that Mr. Parmley does not cross examine the state's choices as parents for Joshua, the Crittendens, However; On page 223 line 1 to

Mr. Parmley clearly expresses the State's choice of parents for Joshua, the foster home where Joshua has spent most of his life so far, the Crittendens.

CLINICALLY LICENSED SOCIAL WORKER; In the State's direct examination of Cindi Lundquist, by Mr. Parmley (Ms. Lundquist is a witness called by the state).

(1) The general overall sound of Ms. Lundquist's testimony is favorable to an apparent state of well-being for Joshua. But; on page 199, lines 2 & 3, Ms. Lundquist testifies, "Well, he was posed to me that if I would do a quick evaluation of J.W.F." etc.

(2) Page 206, lines 24 & 25, "I saw him only on a limited time," etc.

(3) Page 208, lines 7 & 8, "And, again, it was a limited amount of time," etc.

(4) Page 210, line 2 to 4, "Well, again, my evaluation is very limited It's not as in-depth as I would have done on some home evaluations, due to time restraints."

(5) This; The only evidence of anything psychological presented on behalf of the Crittendens and it was on Joshua's well-being, not having anything to do with the Crittenden's psychological profile. On page 224, line 17 to 21, I (Winfield Schoolcraft) expressed my concern "Now, but I don't know what will happen when he gets to learn some mature adult ethics. I really don't know. And I'd like to state that that is an area that hasn't been touched yet. There's nothing in here been covered about the adult ethics of the foster parents. I tried to bring it in earlier," etc..

OFFICE OF BAR COUNSEL;

(1) On the 20th day of February 1991, I Winfield Schoolcraft filed a complaint with the office of Bar Counsel, alleging misconduct on the part of Jane Marquardt, Attorney, in that she ignored the finding of the lower court and used unsubstantiated matter; namely the existence of one called Michael Ford, to influence higher court findings.

(2) After corresponding with Ms. Marquardt and not finding anything to substantiate the existence of Michael Ford, the Bar Counsel made a finding.

(3) On April 23ed, 1991, Stephen A. Trost, (Bar Counsel) found that Jane Marquardt did not violate any of her ethical obligations as an attorney, and dismissed the complaint.

(4) Copies of the complaint and the finding are attached as evidence of the States prejudice that goes beyond the actions of the attorney for the State, Richard Parmley.

OFFICE OF LIABILITY MANAGEMENT, Department of Human Services;

(1) On the 5th day of March, 1991, I Winfield Schoolcraft filed a complaint, alleging misconduct on the part of Stan Swedin, DFS, in that he produced unsubstantiated matter in which to unduly influence the court system.

(2) On March 14, 1991, Jack L. Green replied to me that his office is taking no action for or against the actions of Mr. Stanley Swedin.

(3) Copies of the complaint and the letter of March 14th by Mr. Green are attached as evidence of additional State prejudice over and above that expressed by the attorney for the State, Richard Parmley.

UNITED STATES DISTRICT COURT;

(1) The Complaint to the Federal Court was much like the Docketing Statement to the Court of Appeals. I tried to express that this was not a case of child custody as much as it was a case of wrong doing on the part of Utah State Officials in concert with citizens. In a pretense that I have made no charges of wrong doing, United States District Judge, David K. Winder, dismissed the complaint without a hearing as if it were just a child custody case. This pretense cannot continue. I have a God given obligation to do the best that I can for Joshua. And; those who have used dishonest means must have only self serving motives. How can I quit? Since Judge VanDyke's Court I have increased my efforts, and I must increase them even more.

(2) None of the replies to the complaint addressed the issues as set forth in that complaint. The issues were and still are child stealing, fraud, and other officious activity.

(3) The State of Utah has failed to police their own wrong doers in this matter. Only an arbitrary and despotic Government could object to the truth and defend their own peoples ability; as if it were a right, to fill the state court records with fiction.

(4) This Federal Court section is included to show that the States prejudice has gone so far as to reach the Federal Court that resides in the State of Utah.

PSYCHOLOGICAL;

(1) Two psychologicals for Winfield Schoolcraft. No psychologicals for John or Colleen Crittenden, the States' choice as parents for Joshua.

(2) The claim for the Crittendens was that they have had many psychologicals, because they were foster parents. But; No psychological was ever submitted to the court. They only presented the unsubstantiated claim. It was claimed that the testimony of Cindi Lundquist, whose degrees are in social work, was a psychological on the Crittendens behalf. Ms. Lundquist's testimony I have covered in the section called CLINICALLY LICENSED SOCIAL WORKER. Ms Lundquist only gave testimony about Joshua. And not as in-depth as she would have done, as she testified.

(3) Winfield Schoolcraft submitted two psychologicals, both were done by men with Ph.D.s in psychology. Copies of both of these psychologicals are attached. Both of Winfield Schoolcraft's psychologicals were Court ordered.

THE MULTIRACIAL SUBJECT;

(1) When the racial appearance of the child is used for a reason to remove one white appearing parent and replace that parent with another white parent the rational becomes very weak. This is the arbitrary removing and replacing of parents that is to implement the bias, or the prejudice of the State. On page 96 of the transcript, starting with line 6, is a discussion on this subject. How does all the discussion in the world justify removing white parents so that an influential white family can adopt?

(2) It Has been asserted by the state that Linda Schoolcraft and Winfield Schoolcraft are both pure white. I have quoted Judge VanDyke's statement earlier about those who assert, should prove. In actuality Linda Schoolcraft does not look as white as Dinah Shore, whose first child was black from her ancestry; not that of her Russian husband. Dinah Shore was discussed in Judge VanDyke's Court with out any objection, on page 96 of the transcript.

(3) When the only reason for discussing a child's racial background is to arbitrarily remove one white parent and install another white parent, (the States' choice) the child's color then becomes irrelevant. Such arbitrary actions are prejudicial and unwarranted.

HOW VALID IS THE BLOOD TEST?

(1) In the light of what has been done, and to the extent that the State has been willing to go with false testimony, how can we depend on the validity of the blood test?

(2) In fact, there has been two court ordered blood tests. The first one was the last part of 1986, and the second one was ordered and completed early in 1987. Although I objected to the blood test, I participated; because I was told that the decision would be automatically against me if I did not.

(3) Jane Marquardt, Guardian Ad Litm, at that time did not find the first blood test fit for the purpose desired; Therefore she requested a new one.

(4) The first blood test; Blood was taken from Winfield Schoolcraft on 12/3/86, Court order by Weber County Utah Juvenile Court. Blood drawn at Oregon Medical Lab, Eugene Oregon, #50 Oakway

Mall. Julie Revelle admitted me, her supervisor was Norma Lockier. My picture was taken and all that was done was witnessed by a fourth party. Blood was shipped to Dr. C.W. DeWitt Ph.d., Dept. of Pathology, University of Utah Medical Center, Room 5B 210, 50 North Medical Dr., Salt Lake City, Utah 84132. A copy of receipt from Oregon Medical Laboratories is attached.

(5) With out any discussion of the findings of the blood test the request for a new blood test was made, and so ordered by Judge Newey, the Juvenile Court Judge at that time. The new blood test has the states approval, because the State uses it just as the State uses the alleged Michael Ford and Joshua's alleged racial back ground.

(6) To be able to redo any evidence, (the blood test) until such a combination of; people, or circumsrances, become available, so as to achieve the States' prejudice, is unconscionable.

RECEIPT
Received From Schoolcraft, Winfield Date 12-2 19 82 **8045**
Address A3108952 Dollars \$ 25.00
For _____
By M o today
HOW PAID
AMT OF ACCOUNT CASH
AMT PAID CHECK
BALANCE DUE MONEY ORC-R
RECEIPT FORM
Receipt for the drawing of blood for the first blood test.

(7) I would like to quote one sentence from Judge VanDyke, found on page 58 of the transcript, lines 1 & 2, "The general rule or principle is that he who asserts must prove." Now I would quote a paragraph from Judge Newey's Memorandum Decision signed by him the 10th day of february, 1987, "8. That Linda Schoolcraft advised Mr. Swedin that a Michael Ford was the father of Joshua Ford on her application for Public Assistance.". Those who have asserted the existence of Michael Ford gained only hearsay recognition for their fabricated entity in Judge Newey's Court. But; The continued and repeated use of the name Michael Ford, as the repetitious beating of a drum, has caused a story to be printed in the Pacific Reporter (J.W.F. v, SCHOOLCRAFT 763 P.2d 1217) which sounds like Linda Schoolcraft and the alleged Michael Ford had some kind of relationship. Any person reading this case would assume that Michael Ford was real, because how could the rights be removed from someone who did not exist.

(8) In the petition for adoption on the part of the Crittenden family, written by Findley P. Gridley, Attorney, reads in part, "2. The natural parents of Joshua W. Ford, Michael Ford and Linda Jan Schoolcraft, abandoned and deserted him on or about December 5, 1985", Michael Ford has come a long way from fabrication, to hearsay, to flesh and blood, having rights shared with Linda Schoolcraft, the Mother of Joshua. The very name of the case in the Pacific Reporter, J.W.F. v, SCHOOLCRAFT, is getting close to slander, because Winfield D. Schoolcraft has not been allowed to develop a relationship with Joshua, good or bad.

SUMMARY OF ARGUMENT

THE STATES' PREJUDICE;

(1) There is a Biblical principle in turning the other cheek. Those who take unfair advantage of a person of lesser means will invariably grow in confidence when the lesser person turns the other cheek. In the book of 2nd Peter, 3rd chapter, 15th verse, it says "And account that the long suffering of our Lord is salvation:", The entire 3rd chapter is worth reading here. As the Lord has been patient with me, I should be patient in affairs regarding those that I care for. In my being long suffering, the wrong doing will have time to surface, as it has, as it always does. I would call your attention to the 3rd verse; are these not those who are breaking the commandments of God found in the 20th chapter of Exodus? But; The long suffering of our Lord and Savior Jesus Christ can be there salvation also.

(2) The prejudice that has, just this year 1991, fully floated to the surface can no longer be ignored. The wrong doing has been blatantly expressed by more than one State Official.

(3) I, Winfield Schoolcraft, from the Cascade Mountains of Oregon, have been treated by the State of Utah, as some "Country Bumpkin", as if unable to understand the fine elements of their prejudice.

(4) Basically; Prejudice will not function on the truth. Remove all unsubstantiated matter from and around this case, with all of its' many case numbers; And the States' case will collapse. The second blood test, which on the surface appears good; Is not good because, it has been placed in doubt by the States' prejudicial

actions. The bold truth is, that there is nothing, in the states case, except its' prejudice.

THREE ATTORNEYS; In Juvenile Court on February 14, 1991.

(1) Jan Arrington, Richard A. Parmley, and Findley P. Gridley, all attorneys. And; All standing in opposition to the unity of the Winfield Schoolcraft family; All standing in opposition to the truth about the existence of Michael Ford; All working on behalf of the influential Crittenden family.

(2) Two attorneys; Paid for with State or County money, Jan Arrington and Richard Parmley; Being paid to stand in opposition to the Winfield Schoolcraft family unity.

(3) On the other side of the court room was Winfield D. Schoolcraft, not an attorney, asking for the custody of his son Joshua.

ARGUMENT

Do away with all that is unsubstantiated, and all that is contrived, fabricated, and of no substance; and the State has no case against uniting Joshua with the Winfield Schoolcraft family.

CONCLUSION

MICHAEL FORD THE MYTH;

(1) Set aside every unsubstantiated aspect of Michael Ford; Michael Ford the biological father; Michael Ford in a common law relationship with Linda Schoolcraft; Michael Ford's existence.

THE FRUIT OF THE FORBIDDEN TREE;

(1) Let those who have been involved in wrongful actions not benefit from those actions. Let the Crittenden family not keep that

which they have gained by conspiring with the State agency. No amount of influence, religious or other, should buy for them another mans child.

THE BLOOD TEST;

(1) There were those who thought that the second blood test was true; But, the probability is that it is just as fabricated as Michael Ford and all the rights accorded him. The second blood test has the same reliability as the rest of the State's case.


(2) I, Winfield D. Schoolcraft move to set aside the findings of the second blood test. I have always held Joshua out to be my own, as he well could be.

CUSTODY

(1) I also move to set aside the Crittenden adoption, as it was based on wrong doing by both the Crittenden family and the State of Utah.

(2) And please grant Joshua to his rightful family, the Schoolcraft family.

Signed this 23rd day of January, 1992

A handwritten signature in cursive script, reading "Winfield D. Schoolcraft", written over a dashed horizontal line.

Winfield D. Schoolcraft

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APPENDIX INDEX

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Rule 52. Findings by the court.

(a) **Effect.** In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58A; in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. It will be sufficient if the findings of fact and conclusions of law are stated orally and recorded in open court following the close of the evidence or appear in an opinion or memorandum of decision filed by the court. The trial court need not enter findings of fact and conclusions of law in rulings on motions, except as provided in Rule 41(b). The court shall, however, issue a brief written statement of the ground for its decision on all motions granted under Rules 12(b), 50(a) and (b), 56, and 59 when the motion is based on more than one ground.

(b) **Amendment.** Upon motion of a party made not later than 10 days after entry of judgment the court may amend its findings or make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial pursuant to Rule 59. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the district court an objection to such findings or has made either a motion to amend them, a motion for judgment, or a motion for a new trial.

(c) **Waiver of findings of fact and conclusions of law.** Except in actions for divorce, findings of fact and conclusions of law may be waived by the parties to an issue of fact:

- (1) by default or by failing to appear at the trial;
- (2) by consent in writing, filed in the cause;
- (3) by oral consent in open court, entered in the minutes.

(Amended effective Jan. 1, 1987.)

Rule 53. Masters.

(a) **Appointment and compensation.** Any or all of the issues in an action may be referred by the court to a master upon the written consent of the parties, or the court may appoint a master in an action, in accordance with the provisions of Subdivision (b) of this rule. As used in these rules the word "master" includes a referee, an auditor, and an examiner. The compensation to be allowed to a master shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action, which is in the custody and control of the court as the court may direct. The master shall not retain his report as security for his compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.

(b) **Reference.** A reference to a master shall be the

jury, a reference shall be made only when the issues are complicated; in actions to be tried without a jury save in matters of account, a reference shall, in the absence of the written consent of the parties, be made only upon a showing that some exceptional condition requires it.

(c) **Powers.** The order of reference to the master may specify or limit his powers and may direct him to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. He may require the production before him of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. He may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may himself examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in the Utah Rules of Evidence for a court sitting without a jury.

(d) Proceedings.

(1) **Meetings.** When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master may apply to the court for an order requiring the master to speed the proceedings and to make his report. If a party fails to appear at the time and place appointed, the master may proceed ex parte or, in his discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) **Witnesses.** The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, he may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.

(3) **Statement of accounts.** When matters of accounting are in issue before the master, he may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in

PART I.

SCOPE OF RULES — ONE FORM OF ACTION.

Rule 1 General provisions.

(a) **Scope of rules.** These rules shall govern the procedure in the Supreme Court, the district courts, the circuit courts, and the justice courts of the state of Utah in all actions, suits, and proceedings of a civil nature, whether cognizable at law or in equity, and in all special statutory proceedings, except as governed by other rules promulgated by this court or enacted by the Legislature and except as stated in Rule 81. They shall be liberally construed to secure the just, speedy, and inexpensive determination of every action.

(b) **Effective date.** These rules shall take effect on January 1, 1950, and thereafter all laws in conflict therewith shall be of no further force or effect. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that in the opinion of the court their application in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure applies.

(Amended effective Jan 1, 1987)

Rule 2. One form of action.

There shall be one form of action to be known as "civil action."

PART II.

COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS.

Rule 3. Commencement of action.

(a) **How commenced.** A civil action is commenced (1) by filing a complaint with the court, or (2) by service of a summons together with a copy of the complaint in accordance with Rule 4. If the action is commenced by the service of a summons and a copy of the complaint, then the complaint, the summons and proof of service, must be filed within ten days of such service. If, in a case commenced under paragraph (a)(2) of this rule, the complaint, summons and proof of service are not filed within ten days of service, the action commenced shall be deemed dismissed and the court shall have no further jurisdiction thereof, provided, however, that the foregoing provision shall not change the requirement of Utah Code Ann. Section 12-1-8 (1986).

(b) **Time of jurisdiction.** The court shall have jurisdiction from the time of filing of the complaint or service of the summons and a copy of the complaint. (Amended effective April 1, 1990)

Rule 4. Process.

(a) **Signing of summons.** The summons shall be signed and issued by the plaintiff or the plaintiff's attorney. Separate summonses may be signed and served.

(b) **Time of service.** In an action commenced under Rule 3(a)(1), the summons together with a copy of the complaint shall be served no later than 120 days after the filing of the complaint unless the court allows a longer period of time for good cause shown. If the summons and complaint are not timely served, the action shall be dismissed without prejudice or

tative. In any action brought against two or more defendants on which service has been obtained upon one of them within the 120 days or such longer period as may be allowed by the court, the other or others may be served or appear at any time prior to trial.

(c) **Contents of summons.** The summons shall contain the name of the court, the address of the court, the names of the parties to the action and the county in which it is brought. It shall be directed to the defendant, state the name, address and telephone number of the plaintiff's attorney, if any, and otherwise the plaintiff's address and telephone number. It shall state the time within which the defendant is required to answer the complaint in writing and shall notify the defendant that in case of failure to do so, judgment by default will be rendered against the defendant. It shall state either that the complaint is on file with the court or that the complaint will be filed with the court within ten days of service. If service is made by publication, the summons shall briefly state the subject matter and the sum of money or other relief demanded, and that the complaint is on file.

(d) **By whom served.** The summons and complaint may be served in this state or any other state or territory of the United States, by the sheriff or constable or by the deputy of either, by a United States Marshal or by the marshal's deputy, or by any other person 18 years of age or older at the time of service, and not a party to the action or a party's attorney.

(e) **Personal service.** Personal service shall be made as follows:

(1) Upon any individual other than one covered by subparagraphs (2), (3) or (4) below, by delivering a copy of the summons and/or the complaint to the individual personally, or by leaving a copy at the individual's dwelling house or usual place of abode with some person of suitable age and discretion there residing, or by delivering a copy of the summons and/or the complaint to an agent authorized by appointment or by law to receive service of process,

(2) Upon an infant (being a person under 14 years) by delivering a copy to the infant and also to the infant's father, mother or guardian or if none can be found within the state, then to any person having the care and control of the infant or with whom the infant resides, or in whose service the infant is employed,

(3) Upon a natural person judicially declared to be of unsound mind or incapable of conducting his own affairs, by delivering a copy to the person and to the person's legal representative if one has been appointed and in the absence of such representative, to the individual, if any, who has care, custody or control of the person,

(4) Upon an individual incarcerated or committed at a facility operated by the state or any of its political subdivisions, by delivering a copy to the person who has the care, custody, or control of the individual to be served, or to that person's designee or to the guardian or conservator of the individual to be served if one has been appointed who shall, in any case, promptly deliver the process to the individual served,

(5) Upon any corporation, not herein otherwise provided for, upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy thereof to an officer, a managing or general agent, or other agent at the principal office of the law

tains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of Rule 14; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

(b) Motions, orders and other papers.

(1) **Motions.** An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) **Orders.** An order includes every direction of the court including a minute order made and entered in writing and not included in a judgment. An order for the payment of money may be enforced by execution in the same manner as if it were a judgment. Except as otherwise specifically provided by these rules, any order made without notice to the adverse party may be vacated or modified without notice by the judge who made it, or may be vacated or modified on notice.

(3) **Hearings on motions or orders to show cause.** When on the day fixed for the hearing of a motion or an order to show cause, the judge before whom such motion or order is to be heard is unable to hear the parties, the matter shall stand continued until the further order of the court, or it may be transferred by the court or judge to some other judge of the court for such hearing.

(4) **Application of rules to motions, orders, and other papers.** The rules applicable to captions, signings, and other matters of form of pleadings apply to all motions, orders, and other papers provided for by these rules.

(c) Demurrers, pleas, etc., abolished. Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.

Rule 8. General rules of pleadings.

(a) **Claims for relief.** A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim or third-party claim, shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief; and (2) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded.

(b) **Defenses; form of denials.** A party shall state in short and plain terms his defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If he is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, he may make his denials as specific denials of designated averments or paragraphs, or he may generally deny all the averments except such designated averments or paragraphs as he expressly admits; but, when he does so intend to controvert all its averments, he may do so by general denial subject to the obligations set forth in Rule 11.

(c) **Affirmative defenses.** In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleadings as if there had been a proper designation.

(d) **Effect of failure to deny.** Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(e) **Pleading to be concise and direct; consistency.**

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in Rule 11.

(f) Construction of pleadings. All pleadings shall be so construed as to do substantial justice.

Rule 9. Pleading special matters.

(a) (1) **Capacity.** It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, he shall do so by specific negative averment, which shall include such supporting particulars as are peculiarly within the pleader's knowledge, and on such issue the party relying on such capacity, authority, or legal existence, shall establish the same on the trial.

(2) **Designation of unknown defendant.** When a party does not know the name of an adverse party, he may state that fact in the pleadings, and thereupon such adverse party may be designated in any pleading or proceeding by any name; provided, that when the true name of such adverse party is ascertained, the pleading or proceeding must be amended accordingly.

(3) **Actions to quiet title; description of interest of unknown parties.** In an action to quiet title wherein any of the parties are designated in the caption as "unknown," the pleadings may describe such unknown persons as "all other

persons unknown, claiming any right, title, estate or interest in, or lien upon the real property described in the pleading adverse to the complainant's ownership, or clouding his title thereto."

(b) **Fraud, mistake, condition of the mind.** In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

(c) **Conditions precedent.** In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity, and when so made the party pleading the performance or occurrence shall on the trial establish the facts showing such performance or occurrence.

(d) **Official document or act.** In pleading an official document or act it is sufficient to aver that the document was issued or the act done in compliance with law.

(e) **Judgment.** In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it. A denial of jurisdiction shall be made specifically and with particularity and when so made the party pleading the judgment or decision shall establish on the trial all controverted jurisdictional facts.

(f) **Time and place.** For the purpose of testing the sufficiency of a pleading, averments of time and place are material and shall be considered like all other averments of material matter.

(g) **Special damage.** When items of special damage are claimed, they shall be specifically stated.

(h) **Statute of limitations.** In pleading the statute of limitations it is not necessary to state the facts showing the defense but it may be alleged generally that the cause of action is barred by the provisions of the statute relied on, referring to or describing such statute specifically and definitely by section number, subsection designation, if any, or otherwise designating the provision relied upon sufficiently clearly to identify it. If such allegation is controverted, the party pleading the statute must establish, on the trial, the facts showing that the cause of action is so barred.

(i) **Private statutes; ordinances.** In pleading a private statute of this state, or an ordinance of any political subdivision thereof, or a right derived from such statute or ordinance, it is sufficient to refer to such statute or ordinance by its title and the day of its passage or by its section number or other designation in any official publication of the statutes or ordinances. The court shall thereupon take judicial notice thereof.

(j) **Libel and slander.**

(1) **Pleading defamatory matter.** It is not necessary in an action for libel or slander to set forth any intrinsic facts showing the application to the plaintiff of the defamatory matter out of which the action arose, but it is sufficient to state generally that the same was published or spoken concerning the plaintiff. If such allegation is controverted, the party alleging such defamatory matter must establish, on the trial, that it was so published or spoken.

(2) **Pleading defense.** In his answer to an action for libel or slander, the defendant may allege both the truth of the matter charged as defamatory and any mitigating circumstances to reduce the amount of damages, and, whether he proves the justification or not, he may give in evidence the mitigating circumstances.

Rule 10. Form of pleadings and other papers.

(a) **Caption; names of parties; other necessary information.** All pleadings and other papers filed with the court shall contain a caption setting forth the name of the court, the title of the action, the file number, the name of the pleading or other paper, and the name, if known, of the judge to whom the case is assigned. In the complaint, the title of the action shall include the names of all the parties, but other pleadings and papers need only state the name of the first party on each side with an indication that there are other parties. A party whose name is not known shall be designated by any name and the words "whose true name is unknown." In an action in rem, unknown parties shall be designated as "all unknown persons who claim any interest in the subject matter of the action." Every pleading and other paper filed with the court shall also state the name, address, telephone number and bar number of any attorney representing the party filing the paper, which information shall appear in the top left-hand corner of the first page. Every pleading shall state the name and address of the party for whom it is filed, this information shall appear in the lower left-hand corner of the last page of the pleading.

(b) **Paragraphs; separate statements.** All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

(c) **Adoption by reference; exhibits.** Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading, or in any motion. An exhibit to a pleading is a part thereof for all purposes.

(d) **Paper quality, size, style and printing.** All pleadings and other papers filed with the court, except printed documents or other exhibits, shall be typewritten, printed or photocopied in black type on good, white, unglazed paper of letter size (8½" x 11"), with a top margin of not less than 2 inches above any typed material, a left-hand margin of not less than 1 inch, a right-hand margin of not less than one-half inch, and a bottom margin of not less than one-half inch. All typing or printing shall be clearly legible, shall be double-spaced, except for matters customarily single-spaced or indented, and shall not be smaller than pica size. Typing or printing shall appear on one side of the page only.

(e) **Signature line.** Names shall be typed or printed under all signature lines, and all signatures shall be made in permanent black or blue ink.

(f) **Enforcement by clerk; waiver for pro se parties.** The clerk of the court shall examine all pleadings and other papers filed with the court. If they are not prepared in conformity with this rule, the clerk shall accept the filing but may require counsel to substitute properly prepared papers for nonconforming

IN THE DISTRICT JUVENILE COURT
FOR WEBER COUNTY, STATE OF UTAH

FILED

STATE OF UTAH, in the intrest of

FORD, Joshua W.

A person under eighteen years of age

)
) RECORD of objection
)
) RULES OF EVIDENCE, Rule 4
)
) Case No. 717256
)

DEC 13 1986

Juvenile Court
First District

UTAH law; Husband and Wife 30-1-17.2 The children born to partys after the date of the marriage, shall be deemed the legitimate children of both of the parties for all purposes.

JOSHUA is a legitimate child.

LEGITIMACY is determined by 30-1-17.2 , not blood tests.

PARENTAGE beyond finding Joshua legitimate is not relevant

LEGAL FATHER

Winfield D. Schoolcraft

Winfield D. Schoolcraft
5115 N C Street
Springfield Or. 97478

WINFIELD D. SCHOOLCRAFT
675 GREEN St.
SALT LAKE CITY, UT. 84102

537-1331

IN THE DISTRICT JUVENILE COURT
FOR WEBER COUNTY, STATE OF UTAH

| | | |
|----------------------------------|---|--------------------------|
| STATE OF UTAH, in the intrest of |) | RECORD of OBJECTION 1991 |
| JOSHUA W. FORD |) | Case Number 717256 |
| A person under 18 years of age |) | |

PREFACE

I WINFIELD D. SCHOOLCRAFT OBJECT to social workers, guardian ad litem, private attorneys, and foster parents who, under color of state law, conspire together for the purpose of depriving me of my "LIBERTY INTEREST" in the raising of my son Joshua.

I WINFIELD D. SCHOOLCRAFT OBJECT to;

- .Corruption in the Dept. of Social Services
- .The degeneration of honesty
- .Moral turpitude
- .And just plain wickedness

INDEX

I I OBJECT to SLANDER
II MORGAN
III I OBJECT to MICHAEL FORD the FABRICATION
IV I OBJECT to the INVASION of PRIVACY
V I OBJECT to OFFICIOUS PERVERTING of TRUTH
VI The CRITTENDENS

I

A hearsay recording of the delusions of a mental patient as recorded by a person not accredited, along with other suggestive matter of no substance has been given to Ms. Jeni Mowery, social worker Salt Lake County for the home study of the Schoolcrafts By Pam Wilson social worker Weber County for the purpose of destroying Ms. Mowery's objectivity.

I OBJECT to unsubstantiated gossip and slander used in this or any other manner.

I OBJECT to any report influenced by unsubstantiated and prejudicial gossip or slander as evidence to the court.

II

After checking maps and driving in the car the area of Morgan I found probable cause to believe that anyone living in the area called Morgan must live in Morgan County.

I OBJECT to Mr. Gridley's statement in court Nov 1 1990, while discussing a change of venue, Mr Gridley stated that the Crittendens still live in Weber County. I OBJECT to the willingness of both of the foster parents John and Colleen Crittenden to allow Mr. Gridley to prevaricate on there behalf. I OBJECT to Stanley Swedin social worker and Jan Arrington guardian ad litem being in accord with the Crittendens and Mr. Gridley on an issue like this one as it is their responsibility to know where my son Joshua resides.

III

I OBJECT to Michael Ford the fabrication still haunting the pages of the latest documents, briefs by guardian ad litem and the petition by Mr. Gridley for the foster parents. But, Michael Ford has not and can not be documented.

.Michael Ford can not testify

.Michael Ford can not Take a blood test

.Michael Ford can not pay child support

.No one has ever seen Michael Ford

.No one has ever talked with Michael Ford

Because , Michael Ford was and still is the fabrication of Web-

er County officials Stanley Swedin and guardian ad litem Jane A. Marquardt. This fabrication is still being carried on, and has collected additional conspirators in Jan Arrington the new guardian ad litem, Findley P. Gridley attorney for the Crittenden family, and Pam Wilson, social worker.

To assume for Michael Ford the rights of biological father was to deliberately and with purpose create an atmosphere in which to set aside the legal presumption of paternity for Winfield Schoolcraft. This was and still is fraud.

Even if the name Michael Ford was to appear in some unsubstantiated manner, the person of Michael as seen in the Weber County's case against Winfield Schoolcraft is pure fabrication.

IV

I OBJECT to invasion of privacy. US Code annotated amend 7-14, Zone of Privacy 1,3,4,5,9. Concepts from the ninth Amendment as follows:

The scope of right to privacy is determined by applying commonly accepted standards of social propriety, and include those aspects of individuals activities and manner of living that would generally be regarded as being of such personal and private nature as to belong to himself and to be of no proper concern to others, and extends to protecting against intrusion, exposure of not only things which might result in actual harm and damage, but also to things which might result in shame or humiliation, or merely violate ones pride in keeping his private affairs to himself.

THE RIGHT TO PRIVACY CAN BE VIOLATED BY COMPELLING PUBLIC INTEREST ONLY.

The atmosphere created and the fraudulent rights of Michael Ford were used by Weber County people as a tool to invent cause to order blood tests of Winfield Schoolcraft denying him his legal presumption of paternity of Joshua Ford.

I OBJECT to the fraudulent invasion of privacy. I OBJECT to any losses of paternal rights by fraudulent means.

CALIFORNIA accords right to privacy the same constitutional status as an inalienable right, on a par with defending life and possession of property. 740 P2d 404.

RIGHT TO BODILY PRIVACY is constitutionally protected, and violations of that right may be redressed in cause of action under civil rights statute U.S.C.A. Const. Amend. 4, 42, U.S.C.A. 1983 Creamer V Rafferty 699 P2d 908.

V

I OBJECT to the officious actions of those who would pervert the truth.

In the document titled "Brief of Guardian Ad Litem for J.W.F." the fraudulent and fictitious Michael Ford plays a large part, and I have dealt with that in section III of this work. However; the mentioning of "Michael Ford and Linda Schoolcraft" as if they had some union or bond between them is also part of the misrepresentation. Michael Ford and Linda Schoolcraft is found twice on page 2 and once on page three. I OBJECT to the implied relationship that did not exist.

Jan Arrington is not totally responsible for this aspect of the case, but she is following the lead of the original conspirators, Stanley Swedin and Jane Marquardt.

In the paragraph on the bottom of page 5, Ms. Arrington says that the psychological that Winfield Schoolcraft submitted and other material that is too privileged too be seen reveal serious concerns regarding Mr. Schoolcrafts fitness as a parent for Joshua. In that psychological Dr. Boblitt indicates no reason why Mr. Schoolcraft should not raise his son. This 1986 finding was confirmed by Dr. Leslie M. Cooper, PH.D. January 10, 1991. I OBJECT TO THIS GROSS MISREPRESENTATION BY MS. ARRINGTON.

VI

On January 3, 1991 in open court Stanley Swedin testified that in a past hearing (in Judge Newey's Court) on this same case of Joshua W. Ford, the foster parents brought a number of their friends in support of their interest in Joshua. Stanley Swedin did not deny that this group took over for a period of time, in that the court room had the atmosphere of a town hall meeting.

Such behavior by people with no legal interest in the proceedings is not usually tolerated by the court.

The Crittendens were not foster parents long enough to claim any parent child bonding; and the fact that their party of friends were tolerated is evidence that the Crittendens were part of the conspiracy from the beginning with Stanley Swedin and Jane Marquardt.

Dated this _____ Day of February, 1991

Winfield Schoolcraft

PSYCHOLOGICAL EVALUATION

=====

IN SUPPORT OF PETITION FOR CUSTODY

Petition for custody filed Aug 28, 1986

First Dist. Juvenile Court
2550 Washington Blvd.
Ogden Utah 84402

RE: Joshua W. Ford

=====

By & For;
Winfield D. Schoolcraft, Presumed Father.

Psychological Evaluation by;
Wm. Edgar Boblet, Ph.D.
720 - 13th Street - Suite D
Modesto California 95354

FILED

OCT 1

Juvenile Court
First District

← Oct 15 1986

WM. EDGAR BOBLITT, PH.D.

INCORPORATED
CLINICAL PSYCHOLOGIST
(PV 3658)
DIPLOMATE AABM

720 - 13TH STREET - SUITE D
MODESTO, CALIFORNIA 95354

209/522-9320

PSYCHOLOGICAL EVALUATION

NAME: Winfield D. Schoolcraft

DATE OF BIRTH: 12-8-37 AGE: 47 DATE TESTED: 9-17-86

REFERRED BY: Self

DATE OF REPORT: 9-23-86

TESTS ADMINISTERED: Structured Interview, the Ammons Quick Test of Intelligence, and the Minnesota Multi-phasic Personality Inventory (MMPI).

BACKGROUND INFORMATION: Mr. Schoolcraft states that his wife Linda left him when she was two months pregnant and went to the state of Utah where she gave birth to his son, Joshua. As yet Mr. Schoolcraft has not seen the boy. He is eager to achieve custody and raise his child. He states that the child was abandoned by the mother in the state of Utah. He states that his wife has severe problems with alcoholism and that she has suffered from epileptoid symptoms. He states that they were married for 14 months before the child was born and that they remained married though he does not know her current whereabouts. This is the second marriage for Mr. Schoolcraft. Mr. Schoolcraft states that he has been employed as a mechanical engineer and was recently laid off from his work at a local cannery. He is going to Springfield Oregon where his parents and brother live and will seek work there. He is also expecting that his mother will help provide child care when he achieves custody of his child.

Mr. Schoolcraft states that he was born in Oakland but that his earliest memories are of Modesto, California, from the age of two years and onward. He states that he is the eldest in a sibship of two. He states that he enjoyed good childhood health. He states that both of his parents are living and their marriage is intact. He states that school was easy for him and that he had no academic problems. He states that after graduating high school he enlisted in the United States Air Force where he was an instructor in basic electronics. He was discharged three years later with the rank of Airman Third Class. He states that he enjoyed teaching. He states that at the age of 23 he married his first wife and at that time he was employed as a railroad switchman. The marriage lasted 20 years and there were three children. He states that she was unfaithful to him and that she had a tendency to drink. Mr. Schoolcraft states that he has not used

alcohol since his Air Force days and that he quit smoking 12 years ago. All of the children from his first marriage are grown and living independently. He states that after the dissolution of his first marriage he worked as a mechanical engineer in the Modesto area and met his second wife three years after his divorce. He states that he will eventually seek a divorce from his second wife because of her difficulties with alcoholism.

Mr. Schoolcraft states that he remains in generally good health though he suffers some back problems. He states that he sleeps well and has a good appetite. His favorite activities include tinkering with electronic equipment and inventing electronic apparatus. He states that he has always liked children. He states that currently he is rooming with a cousin in Modesto. He has some female friends who have children. He states that his daughter and grandchildren are here in town and that he visits with them.

BEHAVIORAL OBSERVATIONS: On the day of testing Mr. Schoolcraft was well dressed and well groomed and resembled his stated age of 47. He is tall and slender. He spoke employing a good vocabulary and appeared to be of above average intelligence. He seems to have a wide range of interest. He appears to have appropriate social skills. He was oriented with regard to time, place, and person. His speech was clear and no abnormal thought content was elicited. He related easily to the examiner and appeared to be trying to do his best on the various test tasks.

TEST RESULTS:

Ammons Quick Test of Intelligence
Mental Age = 19 plus
IQ = 110

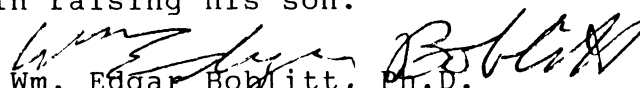
MMPI: See Below

TEST INTERPRETATION: Results of the Ammons Quick Test of Intelligence indicate that Mr. Schoolcraft is functioning in the bright average range of intelligence classification when compared to other Americans his age. His intelligence score is at the 75th percentile indicating that his intelligence is higher than that of 75% of the population of American adults.

Mr. Schoolcraft's responses to the MMPI indicate a valid profile. It is clear that he understood the test items. There was no indication of psychopathology. The profile further indicates that he is slightly more concerned than the average person about his physical health. It is also apparent that he views his life with an average mixture of optimism and pessimism. There were also

indications that he is mildly independent and nonconformist but that he conforms reasonably to social codes and mores. He has a combination of practical and theoretical interests. He appears to be normally outgoing and gregarious.

SUMMARY AND RECOMMENDATIONS: Mr. Schoolcraft appears to be a man of somewhat above average intelligence who has no significant psychopathology. There seems to be an adequate balance in his interests, both theoretically, and socially. He is mildly nonconformist but is capable of conforming social norms and mores. This examiner sees no reason why he would have undue difficulty in raising his son.


Wm. Edgar Boblitt, Ph.D.
Licensed Clinical Psychologist
PV3658

WEB:jk

DAVID L. McCANN, M.D.*
General Psychiatrist
Certified by the American Board of
Psychiatry & Neurology, Inc.
Medical Director,
CPC Olympus View Hospital
* A Professional Corporation

ANDREW W. FISHER, M.D.
General Psychiatrist
Certified by the American Board of
Psychiatry & Neurology, Inc.

LESLIE M. COOPER, Ph.D.
Clinical Psychologist
Clinical Professor of Psychology

JOHN B. ELLISON, ACSW
Licensed Clinical Social Worker
Individual, Family, Group Therapy, Hypnotherapy



General Psychiatric Evaluation and Treatment
Biological and Neuropsychiatry
Psychological Testing and Evaluation
Individual Psychotherapy
Conjoint and Family Therapy
Group Psychotherapy
Stress Management & Clinical Meditation
Alcohol & Drug Dependency Treatment
Workers' Compensation Evaluations
Behavior Modification for Weight Control
Image Therapy
Hypnotherapy

REPORT OF PSYCHOLOGICAL EVALUATION

CONFIDENTIAL

NAME: BELLE & WINFIELD SCHOOLCRAFT
SEX: MALE

DATE OF REPORT: 01/10/91
DATE OF TESTING: 12/31/90

Winfield D. Schoolcraft, a 53-year-old white male, and his wife of two years, Belle M. Schoolcraft, a 61-year-old white female were seen for a psychological evaluation of their personality functioning upon the presentation of a court order from the District Juvenile Court for Weber County, State of Utah filed January 3, 1991 in the matter of Joshua W. Ford, a person under eighteen years of age. Mr. and Mrs. Schoolcraft were separately administered the Minnesota Multiphasic Personality Inventory (MMPI) on December 31, 1990, and seen in separate interviews on January 7, 1991.

Winfield D. Schoolcraft

Interview

He was appropriately dressed and groomed. He did not appear to be anxious or agitated but spoke firmly and with conviction. He appeared to be comfortable with the interviewer. He not only answered the questions, but spontaneously elaborated upon his responses, and volunteered additional information. He reacted socially in an appropriate manner. He employed an above-average vocabulary, and the topics discussed suggested that he has a wide range of interests, hobbies, and skills. No abnormal thought content nor abnormal mannerisms or behavior were observed.

He related much of the history set forth in a previous psychological evaluation dated September 23, 1986 by William Edgar Boblitt relating to Mr. Schoolcraft's interest and attempt to gain custody of Joshua W. Ford, whom he believes and claims to be his

son. That history will not be again repeated here.

He reported that since that time he was divorced from his second wife, Linda. He was married to his present wife, Belle, on November 9, 1988 in Eugene, Oregon. They moved to Utah, and he has been remodeling an apartment for them to live in. He has found employment through temporary services, but anticipates that he may soon be permanently employed by OEC Diasonics. He reported that he can obtain employment more easily here than in Oregon or California, and anticipates remaining living in this area.

He indicated a strong moral, intellectual, and emotional commitment to obtaining custody of "his multi-racial dark-skinned son, Joshua." While the first impression obtained in hearing him talk about this commitment is one of an obsessive and almost irrational drive, when understood in the light of his personality dynamics, I believe this impression is incorrect. He sincerely adheres to what might be termed fundamentalist religious beliefs. He has a strong adherence to the values of supporting, caring and being responsible for family members.

He claimed to be in good health, although he is reported to suffer with some back problems. He reported having a high energy level, and "if he had a fault it would probably be that he could easily be a workaholic." He has three children from a previous marriage and 3 grandchildren, so is not unfamiliar with the responsibilities involved in raising a child. He denied the use of alcohol, drugs, or tobacco. He denied any serious illnesses or disabilities. When asked in detail, he reported none of the symptoms of depression, anxiety, paranoia, or other abnormal emotional conditions, nor were any such symptoms observed during the interview. I detected no prejudices or biases that might suggest a problem toward caring for a multi-racial child.

Test Results

The (MMPI) was administered to Mr. Schoolcraft on December 31, 1990. The validity scales indicated that he was cooperative, understood the instructions, and answered the questions in a consistent manner. The profile was valid for clinical interpretation. The clinical scale profile did not correspond to a two-point code typical of most adults receiving clinical evaluations. Therefore, this report is based on single scale scores of adults receiving similar evaluations.

The profile is an essentially normal profile indicating no psychiatric, psychological, or emotional pathology. The following interpretive statements are suggestive of styles of responding that are well within a normal range.

He is uncompromising with very high and rigid standards of conduct. He tends to avoid unacceptable feelings, impulses, and behaviors. He tends to view himself, others, and the world in a somewhat simplistic manner (e.g., good-bad). He subscribes to a number of fundamentalist religious beliefs, and presents himself as a very religious person. He is likely to approach new situations with caution, feeling vulnerable to being criticized and judged. He is not psychologically minded, and may be resistant to psychological interpretations of his functioning.

He tends to be somewhat overly-sensitive to the words and actions of others and may, at times, be somewhat suspicious. This can sometimes lead to power struggles within family and work settings.

He tends to be restless, independent, and occasionally (from other's point of view) nonconforming. He seeks variety, and stimulation. He is capable of being appropriately assertive and of identifying and expressing anger in a modulated and appropriate manner. He appears verbal, likable, and competitive. He is generally free of emotional turmoil.

He is vigilant about protecting himself from physical or emotional dangers. He appears hopeful, wishful, optimistic, extroverted, and enthusiastic. Like most people, he has a persistent (but disguised?) need to be liked and accepted by others and will typically emphasize the good or "nice" aspects of life to the exclusion of the negative, unpleasant or harmful.

Like other men with similar profiles, he balances interests in sports, physical activity, and practical matters with art, music, literature, and science. Under normal conditions, he can enjoy indoor as well as outdoor activities, both as a participant and as an observer. He can be sensitive, inquisitive, introspective, conversational and verbally expressive.

He generally demonstrates an average degree of comfort and ability in social situations.

Belle M. Schoolcraft

Interview

She also was appropriately dressed and groomed. She was pleasant, cooperative, responsive, and friendly throughout the interview. She was somewhat less forceful in the interview, and gave the impression that she was being cooperative with the procedures in support of her husband. Nonetheless, she presented

herself in an assertive manner. No abnormal thought content nor abnormal mannerisms or behavior were observed.

She said that she had met Mr. Schoolcraft at a Pentecostal church, and that their spiritual experiences have been very meaningful and important to them. She indicated strong support of her husband's attempt to obtain custody of "his child." She reported having been married twice before, and had six children, all of whom are now grown, and 15 grandchildren. She stated that she is, consequently, not unfamiliar with what is involved in raising a child. She is aware of the responsibilities associated with obtaining custody, and spoke with candor and awareness of the potential relevance of her and her husband's age and their stage of life, yet manifested a sincere excitement and acceptance of the challenge that it might bring.

She claimed to be in good health, having had a thorough physical examination two years ago, with no findings of any major physical problems. She noted that she feels she has abundance energy and stamina for someone her age. She said that she enjoys being busy, and not only sews and cooks, and keeps the house, but also has actively supported her husband in business ventures. She denied any serious illnesses or disabilities. I detected no prejudices or biases that might have suggested a problem in caring for a multi-racial child. When asked in detail, she reported none of the symptoms of depression, anxiety, paranoia, or other abnormal emotional conditions, nor were any such symptoms observed during the interview.

Test Results

The (MMPI) was administered to Mrs. Schoolcraft on December 31, 1990. The validity scales indicated that she was cooperative, understood the instructions, and answered the questions in a consistent manner. The profile was valid for clinical interpretation. The clinical scale profile did not correspond to a two-point code typical of most adults receiving clinical evaluations. Therefore, this report is based on single scale scores of adults receiving similar evaluations.

The profile is an essentially normal profile indicating no psychiatric, psychological, or emotional pathology. The following interpretive statements are suggestive of styles of responding that are well within a normal range.

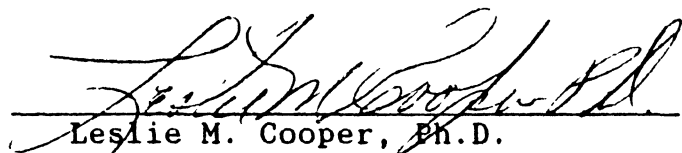
She is usually candid and adaptable with a resilient ego-defense system, but an uncertain self-concept and only partially effective coping mechanisms.

Like other women with this profile, she is able to balance practicality with idealism. She enjoys talking about ideas, feelings, and accomplishments, but has little interest in mechanical objects or in how things actually work. Relationships are very important to her. She prefers gentle and sensitive companions who can relate to the complexity of her feelings. She enjoys beauty, and finds it important to be attractive. She is easily upset by the aggressive actions of others, and seeks protection against physical danger. She becomes fearful and angry if she feel overpowered by others. She can enjoy a variety of activities but will not take risks that might physically harm her or be painful.

She generally demonstrates an average degree of comfort and ability in social situations, although she may, at times, appear somewhat reserved, modest, and self-effacing.

Summary

The present MMPI results for Mr. Schoolcraft are not significantly different from the results obtained in 1986, and consequently the same conclusions made then are valid at this time. I detected no significant psychopathology in either Mr. or Mrs. Schoolcraft. I discovered no reasons of a psychological or emotional nature why they should not be able to raise Joshua if they were awarded custody.


Leslie M. Cooper, Ph.D.
Clinical Psychologist

WINFIELD D. SCHOOLCRAFT
675 Green Street
S.L.C., Ut. 84102
Phone 537-1331

A COMPLAINT alleging
misconduct

MR. JACK GREEN
Liability Management
120 North, 200 West
S.L.C., Ut.
Phone 538-4466

RE: Stan Swedin, DFS
2540 Washington Blvd.
Ogden, Ut.

Mr. Jack Green:

I am attaching to this letter some documents which include my Civil Rights Complaint to the Federal Court and others.

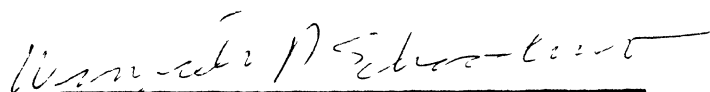
The basic point of view which I hold, and I am sure that I would not be alone in this, is that it is misconduct for a public official to fabricate false testimony for any court, for the purpose of removing a child (Joshua) from the marital situation in which he was born. The man, Stanley Swedin claimed to be the father of Joshua was called Michael Ford; and even if this name should appear in some unsubstantiated manner, the person and rights of Michael Ford were and still are the fabrication of Stanley Swedin and Jane Marquardt, because Michael Ford cannot testify, take a blood test, pay child support, be talked with, or be seen. To assume for Michael Ford the rights of biological father was to deliberately and with purpose create an atmosphere in which to set aside the legal presumption of paternity for Winfield Schoolcraft. This was and still is fraud.

The foster parent, John Crittenden, testified in open court February 14, 1991, Weber County Juvenile, that he and his wife became foster parents for the sole purpose of adopting my son Joshua. The Crittendens became foster parents in 1986, several years ago. Stanley Swedin also testified that he was aware of the intentions of the Crittendens toward my son.

The State of Utah, through its' representatives in Weber County, has acted with a bias in favor of the Crittendens; who now appear to have legal standing because of the long delays in the processes involved.

I thank you for considering this and the attached documents, as I am seeking any remedy possible.

Dated the 5th day of March 1991



WINFIELD D. SCHOOLCRAFT



DEPARTMENT OF HUMAN SERVICES
OFFICE OF LIABILITY MANAGEMENT

Norman H. Bangerter
Governor

Norman G. Angus
Executive Director

Jack L. Green
Director

120 North 200 West Room 304
P.O. Box 45500
Salt Lake City, Utah 84145-0500
(801) 538-4178

March 14, 1991

Wenfield D. Schoolcraft
675 Green Street
Salt Lake City, Utah 84102

Dear Mr. Schoolcraft:

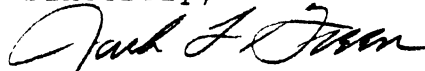
I have reviewed the material you gave me when we met on March 5th and have researched some of the case files. The Division of Family Services has a responsibility in a situation such as yours to develop the best long-term care for the child. Since the courts have repeatedly ruled that your interests are no greater than those of the foster parents, the best long-term care for the child is to remain with the foster parents. The court's ruling that you are not the biological father probably could have been made without the blood tests since the child (Joshua) is mixed race (black) and both you and Linda are caucasian. A fact you neglected to mention in our discussion.

It appears that Division of Family Services' representatives acted prudently in placing the abandoned child, whose parents could not be located, in state care in a foster home. The caseworker's only lead for possible paternity was a name (Michael Jay Ford) which appeared on an application for assistance completed by Linda Schoolcraft in August of 1985 (before the child was born). After the child was placed in state custody, caseworkers searched the records and found Michael Ford's name but were unable to locate him. They were unable to find anything else to indicate who the father might be. Your name did not appear on any documentation nor, as I understand, on the birth certificate. When you appeared, there was sufficient reason for caseworkers to question your biological and legal status for custody as well as your ability as an unemployed/underemployed older single parent to care for the child.

March 14, 1991
Page 2

Since you have filed a lawsuit against the caseworkers involved, determination may be resolved by the court as to whether or not the caseworkers did indeed act properly. I feel it would be inappropriate for me to comment further until the lawsuit is settled.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jack L. Green".

Jack L. Green
Director

JLG:plp

WINFIELD D. SCHOOLCRAFT
675 Green St.
S.L.C. Ut. 84102
Phone 537-1331


A COMPLAINT alleging
misconduct

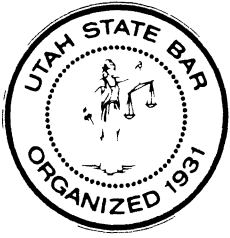
The OFFICE OF BAR COUNSEL
645 S 200 E
S.L.C. Ut. 84111
Phone 531-9110

RE; Jane Marquardt Atty.
2661 Washington Blvd.
Ogden Ut. 84401
Phone 621-3662

1. In 1986 Jane Marquardt introduced much talk about a person she and Stan Swedin of the Dept. of Family Services called Michael Ford. This was done in THE DISTRICT JUVENILE COURT FOR WEBER COUNTY.
2. Michael Ford was called the biological father of Joshua Ford, son of Linda Schoolcraft, who was my wife at the time.
3. Paragraph 8 of the MEMORANDUM DECISION signed by Judge Robert L. Newey in Weber County February 10th, 1987, reads in its entirety as follows;
"8. That Linda Schoolcraft advised Mr. Swedin that a Michael Ford was the father of Joshua Ford on her application for Public Assistance."
4. In open court Feb 14th, 1991, before Judge Van Dyke of Weber County Juvenile Court, Stan Swedin testified that he never met Linda. And to this day in any court, no document supporting the existence of Michael Ford has been filed.
5. Jane Marquardt used the fraudulent Michael Ford as a tool for probable cause, to have the Juvenile Court order blood tests thus depriving me of my legal presumption of paternity.
6. Moreover; After Judge Newey's decision that Michael Ford was hearsay, Jane Marquardt used the fraudulent Ford before the Court of Appeals, and the Utah Supreme Court to influence their decision.
763 P.2d 1217 (Utah App. 1988) J.W.F. v, Schoolcraft
7. Attached are some documents which include my Civil Rights Complaint to the Federal Court.

Dated this 20th day of February, 1991


WINFIELD D. SCHOOLCRAFT



Utah State Bar

Office of Bar Counsel

645 South 200 East • Salt Lake City, Utah 84111-3834
Telephone (801) 531-9110 • FAX (801) 531-0660

Stephen A. Trost
Bar Counsel

Ralph Adams
Assistant Bar Counsel

Investigative Division

Pamela Blevins
Paralegal

Boyd Bryan
Paralegal

April 23, 1991

Winfield Schoolcraft
675 Green Street
Salt Lake City, Utah 84102

Re: Complaint against Jane Marquardt

Dear Mr. Schoolcraft:

I have now had the opportunity to fully review the file with regard to your complaint against Jane Marquardt. As I do not find that she has violated any of her ethical obligations as an attorney, I am dismissing your complaint.

We appreciate your communication with our office.

Sincerely,

Stephen A. Trost
Bar Counsel

SAT/lar:BB

cc: Jane Marquardt

FILED
UNITED STATES
DISTRICT COURT
DISTRICT OF UTAH

JUN 13 11 58 AM '91

United States District Court

MARKUS B. ZIMMER
CLERK
DEPUTY CLERK

Central DISTRICT OF Utah

WINFIELD DUANE SCHOOLCRAFT,
Plaintiff

JUDGMENT IN A CIVIL CASE

v.

UTAH STATE DIVISION OF FAMILY SERVICES, et al.,
Defendants.

CASE NUMBER:

91-NC-5W

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☐ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

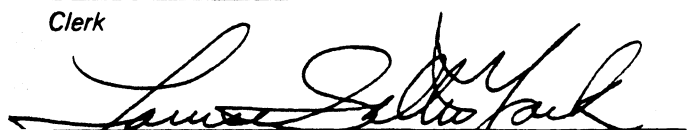
that the plaintiff's cause of action is dismissed with prejudice and on the merits and judgment entered for the defendants.

June 11, 1991

Date

Markus B. Zimmer

Clerk



DEC 27 1991
Mary Noonan
Mary T. Noonan
Clerk of the Court
Utah Court of Appeals

IN THE UTAH COURT OF APPEALS

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Winfield D. Schoolcraft.

F I L E D
(December 27, 1991)

Attorneys: Winfield D. Schoolcraft, Salt Lake City, Appellant
Pro Se
Jan Arrington, Ogden, Guardian Ad Litem for J.W.F.
Findley P. Gridley and Robert K. Hunt, Ogden, for
J.W.F.'s Foster Parents
Carol L.C. Verdoia, Salt Lake City, for State of Utah

BENCH, Presiding Judge:

Inasmuch as the facts of this case have been adequately and fully discussed in the previous opinions of this court and the supreme court, we give but a brief factual background. J.W.F. was born to Schoolcraft's wife, Linda Schoolcraft, while they were separated. They had been separated for a year prior to the birth. Schoolcraft became aware of J.W.F.'s existence approximately one year after the birth when he learned that the State had filed a neglect and abandonment petition against Linda

Schoolcraft and Michael Ford, the putative father of J.W.F.¹ Schoolcraft then filed a petition in juvenile court seeking custody of J.W.F., alleging that he was the presumed father because he was still legally married to J.W.F.'s mother at the time of the birth.

The juvenile court found that Schoolcraft was not the biological father of J.W.F. based upon a blood test and the fact that J.W.F. is partly of African ancestry while both appellant and Linda Schoolcraft are of Anglo-Saxon ancestry. The juvenile court ruled that because Schoolcraft was not the biological father of J.W.F., he did not have standing to seek custody and therefore dismissed his petition.

This court affirmed the juvenile court's denial of standing but the Utah Supreme Court reversed, holding that Schoolcraft had standing to seek custody as J.W.F.'s stepfather. The supreme court remanded the matter to the juvenile court to "determine what custody arrangement would serve the best interests of J.W.F. and act accordingly." *Id.* at 716. On remand, the juvenile court held that it would be in the best interests of J.W.F. to be placed in the permanent custody of J.W.F.'s foster parents in whose care he had been since the juvenile court ruled shortly after his birth that he had been abandoned. Schoolcraft now appeals that ruling.

STANDARD OF REVIEW

It is well settled that we give great deference to the trial court when it makes a custody determination in divorce proceedings.

We should note, also, that the trial court is given particularly broad discretion in the area of child custody¹ determination of the "best interests of the child" frequently turns on numerous factors which the

1. Schoolcraft argues that the juvenile court, this court, and the supreme court, have all erred because the biological father has never been produced or legally proven to exist. This argument misses the point upon which this case now rests. In the initial trial proceeding, the juvenile court found that appellant was not the biological father. This finding was affirmed by this court and by the supreme court. The identity of J.W.F.'s biological father is therefore no longer relevant to the discussion of whether Schoolcraft, as J.W.F.'s legal stepfather at birth, should now have custody.

trial court is best suited to assess, given its proximity to the parties and the circumstances. Only where trial court action is so flagrantly unjust as to constitute an abuse of discretion should the appellate forum interpose its own judgment.

Jorgensen v. Jorgensen, 599 P.2d 510, 511-12 (Utah 1979). This same deference is due a juvenile court's custody decisions for the same reasons. Therefore, the juvenile court's determination of what is in the best interests of J.W.F. will not be overturned by this court on appeal unless "the evidence clearly shows that the custody determination was not in the best interests of the child or that the trial court misapplied applicable principles of law." Smith v. Smith, 726 P.2d 423, 425 (Utah 1986).

ANALYSIS

In essence, Schoolcraft challenges the juvenile court's holding based upon his claim that he had a right to custody of J.W.F. and that the juvenile court should not have awarded custody to the foster parents unless Schoolcraft was found unfit to be a parent.² Schoolcraft argues that since the juvenile court found that "[t]he Schoolcrafts are free of any significant mental or psychopathological disorders, and appear capable of raising a child, in spite of the age differences between themselves and J.W.F.," he was found to be a fit prospective parent. Schoolcraft then concludes that the trial court erred in not granting him custody.

Schoolcraft's argument fails because, as the supreme court expressly declared, he did not have any "presumption of entitlement of custody," by virtue of his status as legal stepfather. In re J.W.F., 799 P.2d at 716. As the juvenile court correctly concluded, the foster family and Schoolcraft were on "equal footing to seek legal custody, neither having any

2. Schoolcraft raises additional issues which were previously decided contrary to Schoolcraft's position either by this court, see In re J.W.F., 763 P.2d 1217 (Utah App. 1988), or the supreme court, see In re J.W.F., 799 P.2d 710. Inasmuch as the rulings on those issues have become the law of the case, we do not revisit them. Dixon v. Stoddard, 765 P.2d 879, 881 (Utah 1988) (decision of supreme court becomes law of the case on remand). Schoolcraft also raises several other issues, but inasmuch as the supreme court remanded only the issue of what custody arrangements would be in J.W.F.'s best interests, we limit our discussion to that issue.

greater legal right under color of law than the other to have the child, and custody should therefore be granted on the basis of what is in the best interest of the child." In cases such as this, where more than one set of prospective parents may seek permanent custody of the same child, there need not be any disqualification of one set or the other as being unfit before custody is awarded. Both sets of prospective parents may be able to provide a fine home for the child. The question for the trier of fact is simply, "In which of two acceptable possible homes would it be in the best interests of the child to be placed?" The juvenile court looked at all the relevant factors brought to its attention and made this truly difficult and weighty decision, which decision we will not lightly disturb.

The issue properly before this court then is whether the juvenile court abused its discretion in holding that it was in the best interests of J.W.F. that he live with the foster parents. The juvenile court gave the following reasons, among others, for its decision:

[The foster parents] are younger and better equipped to raise an active young child than Schoolcrafts are. They have better income, greater demonstrated ability over a long period of home life, and a close bond with J.W.F., who has known no one else as parents. Advantages the [foster parents] offer include good health care; greater familiarity with J.W.F. as his primary care providers; extensive family resources, including association for J.W.F. with a mixed-race child near to J.W.F.'s age who was adopted by [the foster mother's] sister and who is in the role of a "cousin" to J.W.F. To change custody now would be substantially disruptive and damaging to J.W.F.

The forgoing reasons appear particularly relevant to a proper determination of what would be in J.W.F.'s best interests. Schoolcraft does not argue otherwise. Nor does he show what harm would occur to J.W.F. by being placed in the custody of the foster parents. Inasmuch as Schoolcraft has failed to show how the evidence "clearly shows that the custody determination was not in the best interests of the child or that the trial court

misapplied applicable principles of law," Smith, 726 P.2d at 425,
we affirm the trial court's decision.

Russell W. Bench

Russell W. Bench,
Presiding Judge

WE CONCUR: -----

Regnal W. Garff

Regnal W. Garff, Judge

Norman H. Jackson

Norman H. Jackson, Judge

CERTIFICATE OF MAILING

I hereby certify that on this ^{23rd} day of January, 1992,
I mailed true and correct copies of the Writ of Certiorari,
Postage Prepaid, To:

Robert K. Hunt
635 25th Street
Ogden, UT 84401

Jan Arrington
444 26th Street
Ogden, UT 84401

R. Paul Van Dam
Utah Attorney General
Carol L. C. Verdoia
Assistant Attorney General
120 North 200 West, 4th Floor
P.O. Box 1980
Salt Lake City, Utah 84110-1980
Attorneys for appellee

Weber County First District
Juvenile Court #717256
Honorable Stephen A. VanDyke
444 26th Street
Ogden, UT 84401



Winfield D. Schoolcraft
675 Green Street
Salt Lake City, UT 84102