

2004

# Julie Marie Cline nka Julie Marie Camp v. Earl Laverne Cline, II : Brief of Appellee

Utah Court of Appeals

Follow this and additional works at: [https://digitalcommons.law.byu.edu/byu\\_ca2](https://digitalcommons.law.byu.edu/byu_ca2)



Part of the [Law Commons](#)

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

Earl Cline; Pro Se.

Steve B. Wall; Wall & Wall; Attorney for Appellee.

---

## Recommended Citation

Brief of Appellee, *Cline v. Cline*, No. 20040634 (Utah Court of Appeals, 2004).

[https://digitalcommons.law.byu.edu/byu\\_ca2/5138](https://digitalcommons.law.byu.edu/byu_ca2/5138)

This Brief of Appellee is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at

[http://digitalcommons.law.byu.edu/utah\\_court\\_briefs/policies.html](http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html). Please contact the Repository Manager at [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu) with questions or feedback.

JULIE MARIE CLINE NKA JULIE,  
MARIE CAMP,

VS.

Respondent/Appellant.

[illegible]

Trial Court No. 024902228

REPLY BRIEF TO APPEAL TAKEN FROM THE CONTEMPT RULING OF THE  
JUDICIAL DISTRICT COURT, THE HONORABLE ROBERT K. HILDER

Attorney for Appellee

Earl Cline (Pro Se)  
1565 East 7200 South  
Salt Lake City, Utah 84121  
Appellant

JULIE MARIE CLINE NKA JULIE,  
MARIE CAMP,

VS.

Respondent/Appellant.

Trial Court No. 024902228

REPLY BRIEF TO APPEAL TAKEN FROM THE CONTEMPT RULING OF THIRD  
JUDICIAL DISTRICT COURT, THE HONORABLE ROBERT K. HILDER

Earl Cline (Pro Se)  
1565 East 7200 South  
Salt Lake City, Utah 84121  
Appellant

## TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	iii
NATURE OF THE PROCEEDINGS AND JURISDICTION.....	1
STATEMENT OF THE ISSUE.....	1
STANDARD OF REVIEW.....	1
STATEMENT OF THE FACTS.....	2
SUMMARY OF THE ARGUMENT.....	2
ARGUMENT.....	3

**I. THE SOLE ISSUE TO BE DECIDED BY THIS COURT IS WHETHER OR NOT THE DISCTRICT COURT CORRECTLY HELD EARL CLINE IN CONTEMPT OF COURT FOR CONTINUED VIOLATION OF COURT ORDERS.**

- a. Mr. Cline did not marshal the evidence to show that the District Court Findings of Fact were clearly erroneous.
- b. The District Court used the correct legal standard when it found Mr. Cline in contempt.
- c. While issues of fact are not at issue because Mr. Cline failed to marshal the evidence, the District Court cited more than sufficient evidence to find Mr. Cline in contempt.

**II. MR. CLINE’S ADDITIONAL ARGUMENTS ARE WITHOUT MERIT AND SHOULD NOT BE CONSIDERED ON APPEAL.**

CONCLUSION.....	8
-----------------	---

## TABLE OF AUTHORITIES

### COURT CASES

<u>Coleman v. Coleman</u> , 664 P.2d 1155, 1156 (Utah 1983).....	1
<u>Kelley v. Kelley</u> , 2000 UT App 236, ¶32, 9 P.3d 171, 181.....	2
<u>Marsh v. Marsh</u> , 1999 UT App 014, ¶ 8, 973 P.2d 988.....	3
<u>Stewart v. Coffman</u> , 748 P.2d 579, 580-81 (Utah App. 1988).....	5
<u>Young v. Young</u> , 1999 UT 38, ¶ 15, 979 P.2d 338.....	4

### STATE STATUTES

Utah Code Ann. § 78-2a-3.....	1
-------------------------------	---

### COURT RULES

Utah Rules of Appellate Procedure 24(a)(9).....	3
---	---

---

**IN THE UTAH COURT OF APPEALS**

---

JULIE MARIE CLINE nka JULIE  
MARIE CAMP,

Petitioner/Appellee,

Case No. 20020040634 CA

v.  
EARL LAVERE CLINE, II.,

Trial Court Case No.:  
024902228 DA

Respondent/Appellant.

---

**NATURE OF THE PROCEEDINGS AND JURISDICTION**

This is an appeal from a judgment of contempt for Earl Cline for the violation of court order.

This court has jurisdiction pursuant to Utah Code Ann. § 78-2a-3.

**STATEMENT OF THE ISSUES**

Issue I: Whether there was sufficient evidence to sustain a ruling of contempt by the trial court.

**STANDARD OF REVIEW**

The elements necessary to prove contempt for failure to comply with a court order must be shown through clear and convincing evidence. Coleman v. Coleman, 664 P.2d 1155, 1156 (Utah 1983). The burden is on the defendant to present evidence that shows

compliance with the court order. Id. “The decision to hold a party in contempt of court rests within the sound discretion of the trial court and will not be disturbed on appeal unless the trial court's action is so unreasonable as to be classified as capricious and arbitrary, or a clear abuse of discretion.” Kelley v. Kelley, 2000 UT App 236, ¶32, 9 P.3d 171, 181.

### **STATEMENT OF THE FACTS**

On September 24, 2003, following an evidentiary hearing on Petitioner’s Order to Show Cause, the Honorable Robert K. Hilder Found Earl Cline (“Mr. Cline”) in contempt of court on each of the following issues: (1) Failure to Pay Child Support; (2) Violation of a Restraining Order; (3) Violation of Court Order Against Self-Help and Involvement of the Children in the Exchange of Property; (4) Allowing Child to have Contact with Cline’s brother Alan; (5) Interference with Camp’s Custodial Rights; (6) Violation of the Order to use Only Curbside pickup and drop-off. The detailed order of the Court was entered on November 25, 2005. (Attached as Exhibit A) (“Order”).

On July 29, 2004, Cline filed a notice of appeal.

On September 3, 2004, this court, *sua sponte*, ordered both parties to file a memorandum on summary disposition. This court then denied summary disposition.

### **SUMMARY OF THE ARGUMENT**

The underlying factual issues of the various court orders and protective orders

concerning Cline and his involvement with his children are not at issue in this case. The sole issue to be decided by this court is whether the District Court correctly found that Cline was in contempt of court.

### **ARGUMENT**

#### **I. THE SOLE ISSUE TO BE DECIDED BY THIS COURT IS WHETHER OR NOT THE DISCTRICT COURT CORRECTLY HELD EARL CLINE IN CONTEMPT OF COURT FOR CONTINUED VIOLATION OF COURT ORDERS.**

Mr. Cline is appealing from an order of District Court, dated November 25, 2003, finding him in contempt of court. (Docketing Statement at 1). The only issue before the court at the Order to Show Cause hearing in question was Mr. Cline's violation of various Court orders. "A finding of contempt and the imposition of a jail sentence must be supported by clear and convincing proof that (1) defendant knew what was required, (2) that he had the ability to comply, and (3) that he willfully and knowingly failed and refused to do so." Coleman, 664 P.2d at 1156. However, "The decision to hold a party in contempt of court rests within the sound discretion of the trial court and will not be disturbed on appeal unless the trial court's action 'is so unreasonable as to be classified as capricious and arbitrary, or a clear abuse of discretion.'" Kelly, 2000 UT App 236 at ¶32. quoting Marsh v. Marsh, 1999 UT App 014, ¶ 8, 973 P.2d 988. Furthermore,



An order to show cause is an order from the court, directed to the *defendant* to appear and show cause why he should not be held in contempt for willfully disobeying the previous order of the court. While it is true that an order to show cause will not issue except upon an affidavit that a party has violated or disobeyed the court's orders, once issued, the burden is on the defendant to present evidence with respect to the three elements.

Coleman, 664 P.2d at 1156-1157. Therefore, Mr. Cline had the burden in the district court and now has the burden on appeal to present evidence below that 1) the district court did not have sufficient evidence to find him in contempt, and now that 2) the district court's decision was so unreasonable that it is arbitrary and capricious. Mr. Cline has met neither of these burdens.

**a. Mr. Cline did not marshal the evidence to show that the District Court Findings of Fact were clearly erroneous.**

Rule 24(a)(9) of the Utah Rules of Appellate Procedure requires "[a] party challenging a fact finding" to "first marshal all record evidence that supports the challenged finding." If the Appellant fails to adequately marshal the evidence, "we accept the trial court's findings of fact." See Young v. Young, 1999 UT 38, ¶ 15, 979 P.2d 338. Mr. Cline attempts to argue that the District Court did not properly view the facts entered into evidence at the Order to Show Cause Hearing, and therefore he should not have been found in contempt. However, Mr. Cline has

not marshaled the evidence to challenge any finding of fact. Mr. Cline did not submit a transcript and his Statement of the Case is wholly inaccurate. Therefore, this court must accept all the trial court's findings of fact. As a result, the only argument left for Mr. Cline on appeal is that the trial court used an improper legal standard.

**b. The District Court used the correct legal standard when it found Mr. Cline in contempt.**

As stated above in order to issue a contempt ruling the trial judge must find that 1) the defendant knew what was required, (2) that he had the ability to comply, and (3) that he willfully and knowingly failed and refused to do so. See Coleman, 664 P.2d at 1156. This test must be proven through clear and convincing evidence. Id. A trial court's conclusions of law are reviewed under a correction of error standard. See Stewart v. Coffman, 748 P.2d 579, 580-81 (Utah App. 1988). It is clear from the Court "Order on Contempt Hearing Held September 24, 2003" that Judge Hilder used the correct legal standard. First, the Court specifically states at one point that "The Court finds that Respondent's failure to pay has occurred under circumstances where Respondent knew that he was obligated to pay, had the ability to pay something and did nothing." (Court Order at 3, ¶3). The court specifically addressed the three-prong test.

Mr. Cline argues in his brief that the trial court did not use a clear and

convincing standard, but instead used a preponderance of the evidence standard. (Appellant's Brief 25-26). While it is true that the court uses the words "preponderance of the evidence" this is not the standard articulated for finding Mr. Cline in contempt. In fact, the paragraph Mr. Cline refers to concerns an incident in which the court did not find contempt. (Order at 7, ¶15). Therefore, the court's conclusions as to this "sleeping bag incident" are not even at issue on appeal. Furthermore, at another place in the Order the court used the words "the court finds the evidence is overwhelming." (Order at 2, ¶1). This statement followed by pages and pages of detailed facts that support each contempt finding clearly shows that Mr. Cline was found in contempt through clear and convincing evidence.

**c. While issues of fact are not at issue because Mr. Cline failed to marshal the evidence, the District Court cited more than sufficient evidence to find Mr. Cline in contempt.**

In the fourteen-page Order the trial court lists very specific detail as to why it did or did not find Mr. Cline in contempt on each issue. The detailed facts articulated by the court clearly show that Mr. Cline had knowledge of the various court orders and instructions, that Mr. Cline had the ability to comply, and that he willfully failed to so comply.

First, the Court found Mr. Cline in contempt for not paying child support because he had still failed to pay the arrears of \$2,900 he was order to pay in May of 2003 plus he was behind an additional \$4,000 at the September hearing. (Order

at 2, ¶1-2). The Court found Mr. Cline was able to pay something and willfully did not. (Order at 3, ¶3).

Second, the Court found Mr. Cline in contempt for violating the Restraining Order of April 11, 2002. The Court stated, “There are numerous incidents of contact that clearly go beyond anything that can be reasonably contemplated as reasonable within the restraining order.” (Order 3, ¶4). The Court unmistakably believed there was clear and convincing evidence that Mr. Cline had violated the restraining order.

Next, the Court found Mr. Cline in contempt for violating the Court’s Order dated June 24, 2002 prohibiting using self-help or the children to exchange property. The Court stated, “The evidence is overwhelmingly clear that Respondent used self-help.” (Order 6, ¶14).

Fourth, the Court found Mr. Cline in contempt for violating a restraining order that prohibited the children being in the presence of his brother Alan. Mr. Cline argues in his brief that this was a violation of due process because the juvenile court ordered the children to live with him when he was residing with his parents and Alan. (Appellant’s brief at 32-33). However, the court specifically did not find Mr. Cline in contempt for Robert living with Alan. (Order 8, ¶16). Rather, Mr. Cline was found to be in contempt for not supervising Robert’s contact with Alan. *Id.*

Fifth, the Court found Mr. Cline in contempt for interfering with the Petitioner's custodial rights. The Court specifically found that Mr. Cline, "had the ability to obey the order and forbear from doing that but he did not." (Order 9, ¶17).

Finally, the Court found Mr. Cline in contempt for not following the Court order requiring curbside pick-up of the children. Once again the Court found that Mr. Cline "knew what curbside drop-off and pickup meant" and "violated it" when "he had the ability to not violate it." (Order 10, ¶20).

The evidence is overwhelming and clear that the court correctly found Mr. Cline in contempt on all six counts.

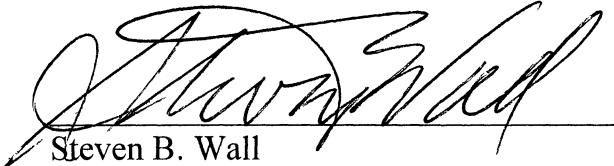
## **II. MR. CLINE'S ADDITIONAL ARGUMENTS ARE WITHOUT MERIT AND SHOULD NOT BE CONSIDERED ON APPEAL.**

Mr. Cline's additional arguments in his brief range from claiming a due process violation to a violation of the 13<sup>th</sup> amendment prohibition against involuntary servitude. Each argument has no application is without factual support and therefore are merit unsupported fact not at issue in this appeal.

## **CONCLUSION**

Based on the foregoing, the Appellee respectfully asks this court to deny Mr. Cline's appeal and uphold the ruling of the district court.

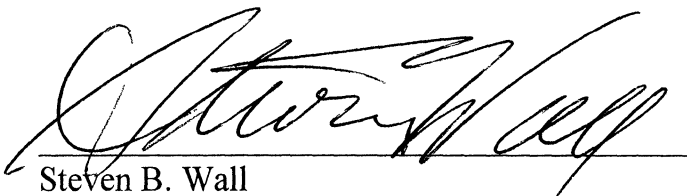
RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of September, 2005.

  
Steven B. Wall  
Attorney for Petitioner/Appellee

**CERTIFICATE OF DELIVERY**

I, Steven B. Wall, hereby certify that I have caused to be hand-delivered eight copies of the foregoing to the Utah Court of Appeals, 450 South State Street, Salt Lake City, Utah 84114-0230, and mailed two copies to the Appellant, this 6<sup>th</sup> day of September, 2005.

Earl Cline  
1565 East 7200 South  
Salt Lake City, Utah 84121

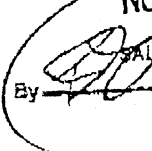
  
Steven B. Wall

# EXHIBIT A

STEVEN B. WALL, NO. 3679  
 WALL & WALL, a.p.c.  
 Attorney for Petitioner  
 4460 South Highland Drive, Suite 200  
 Salt Lake City, Utah 84124  
 Telephone: (801) 274-3100  
 Facsimile: (801) 365-8223

IMAGED

FILED DISTRICT COURT  
 Third Judicial District

NOV 25 2003  
 SALT LAKE COUNTY  
 By  Deputy Clerk

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
 SALT LAKE COUNTY, STATE OF UTAH, SALT LAKE DEPARTMENT

JULIE MARIE CLINE nka JULIE  
 MARIE CAMP,

Petitioner,

vs.

EARL LAVERE CLINE, II,

Respondent.

:  
 :  
 : ORDER ON CONTEMPT HEARING HELD  
 : SEPTEMBER 24, 2003

: ENTERED IN REGISTRY  
 : OF JUDGMENTS

: DATE 06/25/04

: Civil No. 024902228 DA

: Judge Robert K. Hilder  
 : Comm. Michael S. Evans

The above-entitled matter came on for trial of Respondent's contempt on the 24<sup>th</sup> day of September, 2003, the Honorable Robert K. Hilder, District Court Judge presiding. Said contempt was certified for trial by virtue of this court's Order on Petitioner's Order to Show Cause Hearing Held May 1, 2003. The Petitioner was present, in person, and through counsel, Steven B. Wall. The Respondent was present, appearing Pro Se. The Guardian Ad Litem, Michelle Blomquist was present appearing on behalf of the minor children. The parties and other witnesses were sworn and testified concerning the issues involved herein, and the court received into evidence certain exhibits submitted by the parties. Based upon the

Order on Contempt Hearing Held 09/24/03 @J



JD16093988  
 024902228 CLINE,EARL LAVERE II



testimony and evidence received, and the court being fully advised in the premises and the law, does herewith make and enter the following:

FINDINGS OF FACT

a. Respondent's Failure To Pay Child Support As Ordered By This Court On April 11, 2002, May 14, 2002, and June 24, 2002.

1. As to the issue of Respondent's failure to pay child support, the court finds the evidence is overwhelming and it is clear that Respondent has not paid his child support obligation in full. Respondent has paid at times and sometimes he has paid the majority of his support obligation, however, in the last four (4) months he has paid nothing and prior to the date of the Order to Show Cause hearing held on May 1, 2003, he was in arrears in the approximate amount of \$2,900.00.

2. The court notes in the file that Respondent has filed an objection to the Commissioner's recommendation regarding the child support arrearage through May, 2003, however, the court finds that the disputed amount is related to when Office of Recovery Services accepted the order and its effective date. The Commissioner's finding that the amount owing is \$2,998.00 is a correct figure and is to be augmented by \$1,000.00 per month for the months of June through September, 2003, resulting in a total arrearage owed by Respondent through September, 2003, of \$6,997.00.

3. The court finds that Respondent's failure to pay has occurred under circumstances where Respondent knew that he was obligated to pay, had the ability to pay something and did nothing therefore contempt is unavoidable on this issue and therefore the court finds Respondent in contempt of the court's orders of April 11, 2002, May 14, 2002, and June 24, 2002, to pay child support.

b. Respondent's Violation Of The Restraining Order Of April 11, 2002 Restraining Both Parties From Bothering, Harassing, Or Contacting The Other Except To Discuss Issues Regarding The Minor Children And That Contact Shall Only Be By Telephone.

4. The court finds the contact between Respondent and the minor children has been stretched and Respondent had more telephone contact with the children than normally would be the case had the parties been strictly complying with the restraining order but there are numerous incidents of contact that clearly go beyond anything that can be reasonably contemplated as reasonable within the restraining order.

5. The court specifically finds that on April 14, 2002, when Petitioner was picking the children up from Respondent's family's home there was completely inappropriate contact when Respondent came to the Astro Van.

6. The court's order of April 11, 2002, prescribed a curbside dropoff and pickup. Curbside means no contact between the

parties.

7. Respondent acting three (3) days after the Order was announced from the bench, however, before it was entered in writing made contact in two (2) ways that were improper. First, in getting in the car and leaning across and physically touching Petitioner and secondly, getting out of the car and going around to Petitioner's door and making contact that was in no way related to issues regarding the minor children.

8. As to the incident at Genesis which occurred on April 21, 2002, it is up in the air as to who had the right to be there. Respondent deliberately ran into the building to preempt Petitioner in her efforts to visit with Robert and to use the restraining order against her, however, it is hard to say Respondent was doing this in a way that he was knowingly and willfully violating the Order therefore the court does not find this incident as a basis for contempt.

9. As to the incident of Respondent dropping by Petitioner's house to get medicine and coats without contacting Petitioner or getting permission which occurred on April 20, 2002, the court finds this to be an egregious example of Respondent imposing himself and being where he had no right to be. This is not his home and while he was with the children and this is where the children do reside, it was totally inappropriate to let the

children enter the house through the window. Respondent had means to contact Petitioner and others to act on her behalf. Respondent simply did not have the right to avail himself of the opportunity to let the children go in the home without that permission. The court doesn't see how this conduct is significantly different than if the children had left their coats at a friend's house and the friend wasn't home and Respondent allowed the children to break in to retrieve their coats. The underlying point is that at this point in time the parties were separated and now divorced. The parties are separate people and the intimacies and rights of marriage are severed and the parties must act accordingly. To allow the children to go in the home and not make contact was clearly a violation of the court's order.

10. As to the incident concerning interference with Petitioner's telephone lines which occurred on April 29, 2002, and related dates the court finds that the circumstantial evidence is overwhelming that Respondent interfered with the telephone lines, was physically present in the home, broke the lock off the telephone box and the court has no question that Respondent did the aforestated and in so doing was in violation of the April 11, 2002, restraining order.

11. As to the incident at Bishop Bobos with Ron Milar present which occurred on September 4, 2002, the court finds insufficient

evidence of violent grabbing of an arm or anything of the kind but there is evidence of intrusive and intimidating behavior that constitutes a violation of the Restraining Order.

12. As to the incident where Respondent parked at Petitioner's home which occurred on November 8, 2002, the court finds the evidence is inconclusive as to whether Respondent was in fact acting inappropriately or whether he was spending time with his daughter where he was parked. The court does not find this as a basis for a finding of contempt.

13. As to the incident concerning Respondent entering the home twice without permission which occurred on January 12, 2003, the court finds that although no scene was created in front of the children this was a violation of the curbside pickup provision of Paragraph "D" of the April 11, 2002, restraining order. While one entry may have been understandable where no one came out to get the children, two was inexcusable.

c. Respondent's Violation Of This Court's Order of June 24, 2002, Prohibiting Use Of Self-Help And The Minor Children To Exchange Property.

14. The court finds only one incident that unarguably constitutes a violation of the court's order that being the incident involving the retrieval of the Mazda. The evidence is overwhelmingly clear that Respondent used self-help. It is

ludicrous that Respondent would go to the home late at night to get the car. Respondent's actions of using the children to get the code to the garage was damaging and egregious. It is clear from the evidence of where Respondent parked which is undisputed, not exactly where but not in front of the house, that he in fact did have a motive to act surreptitiously and the evidence does not support Respondent's contention that an agreement had been reached. However, even had an agreement been reached this was not the way to go about getting the car. So both in self-help and involving the children Respondent is in contempt of the court's order of June 24, 2002/Paragraph thirteen (13) which restrains Respondent from using the children or self-help during the pendency of the divorce.

15. The court believes that the sleeping bag incident occurred, however, while concerned about the sleeping bag incident, the court is not convinced by a preponderance of evidence that it occurred or that if it did occur that it occurred with the connivance of Respondent. The court is concerned about what happened with the tape recorder, however, the court is not satisfied by a preponderance of evidence that it was instigated by Respondent or that Respondent should be held fully accountable for this incident.

d. Respondent's Violation Of Court's Restraining Order Of April 11, 2002, and November 4, 2002, Prohibiting The Minor

Children Being In The Presence Of Alan.

16. As to the incident of Respondent allowing the minor children to be in the presence of Alan the court finds this is very confused testimony. The order of the juvenile court stated Respondent was to take Robert. This court does not understand the juvenile court's order to say to take Robert and live in the home with Alan if there is nothing that can be done about it. However, because the issue seems to be somewhat resolved as it concerns Robert, the court is not inclined to find Respondent in contempt in terms of the general fact that Robert was living in the home with Alan. The court is also struggling with this evidence to some extent about the presence of the other children in a way that it would be a violation of the order prior to the amended order of November 4, 2002, however, the court finds that as of August of this year the presence of the children with Alan was only to occur as supervised and the court finds the incident of August, 2003, when Alan and Robert were involved in a violent altercation clearly establishes that supervision was not adhered to and that it could have been and it was Respondent's responsibility and he failed to obey the order when he had the ability to do so. Therefore, Respondent is found in contempt of the court's restraining order of November 4, 2002, for this incident.

c. Respondent's Violation Of Court's Order Of April 11, 2002.

Awarding Custody Of The Primary and Physical Custody Of The Minor Children To Petitioner.

17. As to the incident of Respondent's custodial interference at the Valley Mental Health appointment which occurred on April 12, 2002, the court finds that Respondent's appearance at said appointment was in fact an interference of Petitioner's custodial rights as Petitioner, the custodial parent dealt with one of the children's medical appointments and that her ability to deal with these issues and attend the appointment was substantially impaired by Respondent's conduct. The court finds that Respondent had the ability to obey the order and forbear from doing that but he did not.

18. As to the incident when the children were not returned which occurred on November 23, 2002, the court finds that Respondent did not do what he could do to return the children and the fact he took the children to the basketball game claiming he couldn't leave them home alone showed a complete lack of parental obligation and discipline. Respondent had the ability to obey the court's order and failed to comply with said order.

The issue of the incident(s) of interfering with Petitioner's custodial rights have a strong underlying motive of retaliation against Petitioner and secondly a desire to impair the relationship between the children and their mother therefore the court finds



10

Respondent in contempt on the allegations of custodial interference.

f. Respondent's Violation of Court's Order of April 11, 2002, Prohibiting Either Party From Discussing And Involving Children In Divorce Issues.

19. As to the incident of Respondent discussing and involving the children in divorce issues, the court finds that this claim is based primarily on the DCFS reports. The court finds that the testimony is too attenuated to conclude the burden has been met, however, the court in no way is critical of the credibility of the witness on this issue, Ms. Forsyth. The implication is huge that the children have been too involved in this case, the court does not find Respondent in contempt.

g. Respondent's Violation Of Court's Order Of April 11, 2002, Prescribing Curbside Dropoff And Pickup.

20. As to the two (2) incidents involving violations of the curbside dropoff and pickup which occurred on April 14, 2002, and January 12, 2003, the court finds by at least January 12, 2003, Respondent knew what curbside dropoff and pickup meant and Respondent violated it when Respondent had the ability to not violate it and the court finds Respondent in contempt on this issue as to both of these incidents which are discussed in greater factual detail in Paragraph b.

The court having made and entered its Findings of Fact set forth hereinabove, the Court now makes and enters the following:

CONCLUSIONS OF LAW

1. Respondent is in contempt of the court's Order of April 11, 2002, May 14, 2002, and June 24, 2002, for his failure to pay his total child support obligation in full and in a timely manner up through September, 2003.

2. Respondent is in contempt of the court's Restraining Order of April 11, 2002, prohibiting both parties from bothering, harassing, or contacting the other at their residence and/or place of employment by virtue of his conduct on April 14, 2002, April 20, 2002, April 21, 2002, April 29, 2002, September 4, 2002, and January 12, 2003.

3. Respondent is in contempt of the court's Order of June 24, 2002, prohibiting self-help and involvement of the children in the exchange of property by virtue of his conduct in the retrieval of the Mazda automobile from Petitioner's residence.

4. Respondent is in contempt of the court's Order of November 4, 2002, prohibiting the children from having unsupervised contact with Respondent's brother, Alan, by leaving the minor child, Robert unsupervised with Alan in August, 2003, resulting in the minor child, Robert being assaulted by Alan.

5. Respondent is in contempt of the court's Order of April

12

11, 2002, awarding Petitioner primary and physical custody of the parties' minor children by interfering with Petitioner's custodial rights on April 12, 2002, and November 23, 2002.

6. Respondent is in contempt of the court's Order of April 11, 2002, prescribing curbside pickup and dropoff by failing to utilize curbside pickup and dropoff on April 14, 2002, and January 12, 2003.

The court having heretofore made its Findings of Fact and Conclusions of Law does herewith ORDER, ADJUDGE, AND DECREE AS FOLLOWS:

1. That the court believes that Respondent will not comply with the court's orders unless he is severely sanctioned and dealt with in a different manner, something Respondent has not dealt with before. Therefore Respondent is fined \$1,000.00. Said amount is to be suspended so long as Respondent pays his child support.

2. Respondent is ordered to pay Petitioner's attorney fees related in anyway to the Order to Show Cause and this contempt hearing in ~~the~~ <sup>an</sup> amount of ~~\$12,586.75~~ <sup>to be determined RHH</sup>, unless Respondent enters into a settlement with Petitioner to otherwise deal with his requirement to pay said fees. Respondent is sentenced to thirty (30) days in jail, ~~which sentence is suspended based on the conditions set forth herein. RHH.~~

3. Petitioner is awarded judgment against Respondent for child support arrears accrued through September, 2003, in the

13

amount of \$6,997.00.

4. Respondent is ordered to appear before the court once a month for at least six (6) months for a review of his compliance with the court's Order. If Respondent has paid his child support; the custody evaluator fee; desists from inappropriately contacting, harassing, and bothering Petitioner; interfering with Petitioner's custodial rights with the children; and complies with all other orders of the court then the matter will be set for a further review thirty (30) days hence and continuing thereafter on this basis for at least six (6) months. Each review date is a jail commitment date and the court views Respondent's conduct from the date of this hearing hence with zero tolerance. Any violations will result in a minimum commitment of five (5) days.

5. Respondent is ordered to pay the custody evaluator in full and in a timely manner so it doesn't delay the evaluation or Respondent will be in violation of this Order.

6. If either party discusses anything about this hearing or the court's Order they will be in contempt and required to serve a minimum of two (2) days in jail.

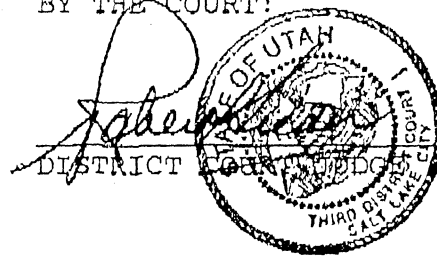
7. To the extent the Guardian Ad Litem can address the issues of the minor child, Robert in these proceedings she is hereby  

---

appointed as Guardian Ad Litem for the minor child, Robert.

DATED this 25<sup>th</sup> day of November<sup>14</sup>, 2003.

BY THE COURT:



CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Order on Contempt Hearing Held September 24, 2003, was ☒ mailed, postage prepaid, [ ] sent via facsimile transmission, [ ] hand-delivered on this 13<sup>th</sup> day of November, 2003, to the following:

Michelle R. Blomquist  
GUARDIAN AD LITEM  
450 South State, #W22  
Salt Lake City, Utah 84114

Earl Lavere Cline, II  
Respondent/Pro Se  
1565 East 7200 South  
Salt Lake City, Utah 84121

A handwritten signature, "Earl Lavere Cline, II", is written over a horizontal line.