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IN THE FOURTH JUDICIAL DISTRICT COURT FOR UTAH COUNTY
STATE OF UTAH

DAVID LEE HAMBLIN,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Petitioner,)	AND ORDER REGARDING
)	CUSTODY, PARENT-TIME
vs.)	AND RELATED MATTERS
)	
ROSELLE A. HAMBLIN,)	Civil No. 994400557 DA
)	
Respondent.)	Judge Steven L. Hansen

This matter came on pursuant to notice for trial before the Honorable Steven L. Hansen, District Court Judge (hereinafter "Judge Hansen"). On or about December 21, 2001, an Order Granting Motion for Bifurcation was signed by Judge Hansen, together with Findings of Fact and Conclusions of Law for Entry of Bifurcated Decree of Divorce and Decree of Divorce Terminating Marriage. On or about December 24, 2001, the Decree of Divorce Terminating Marriage was entered, which Decree reserved all other issues for trial. Trial was held on December 2, 3, 4, 5, 6, 9, 10, 19 and 20, 2002. Due to the length of the trial, the Court ordered that the custody and visitation issues would be bifurcated from all of the financial issues and that before the parties could have a trial on

the financial issues, they must participate in mediation. Petitioner, David Lee Hamblin (hereinafter "David Hamblin" or "petitioner"), was personally present on each day of the trial and was represented by his counsel of record, Randy S. Kester. Respondent, Roselle A. Hamblin (hereinafter "Roselle Hamblin" or "respondent"), was personally present on each day of the trial and was represented by her counsel of record, H. Russell Hettinger. Kelly Frye Glasser, representing the Office of the Guardian *ad Litem*, was present on each day of the trial.

STIPULATION

Prior to and during the trial, petitioner, respondent and the Office of the Guardian *ad Litem*, by and through their respective attorneys of record, entered into the following stipulations, all of which were approved by the Court and relied upon and utilized by the parties during the course of the trial:

1. Respondent is a fit and proper person to be awarded sole custody and control of the children born as issue of this marriage, who are still minors, to wit: Katherine Helena Winters Hamblin (hereinafter "Katie"), d.o.b. 4-18-86 and Miriam Margaret Easton Hamblin (hereinafter "Mimi"), d.o.b. 3-11-94;
2. Petitioner agrees that custody of Katie and Mimi shall be awarded to respondent and evidence relating solely to the issue of custody shall not be admitted into evidence at trial;
3. Petitioner has relinquished all claims to parent-time with Katie, and Mimi is the only child with whom petitioner seeks parent-time;

4. Due to the nature of the claims and defenses in this matter, respondent shall present her case-in-chief first and then petitioner shall present his case-in-chief. The burden of proof with regard to any specific issue shall not be changed as a result of this stipulation, nor shall the right of either party to present rebuttal evidence be altered;

5. Witnesses in this matter, other than petitioner and respondent, shall be excluded from the courtroom pursuant to Rule 615, Utah Rules of Evidence, until after they have completed their testimony in this matter.

FINDINGS OF FACTS

1. Petitioner, David Lee Hamblin, was born on September 18, 1954, and as of the date of trial was age 48.

2. Respondent, Roselle Anderson Hamblin, was born on May 2, 1953, and as of the date of trial was age 49.

3. On or about July 12, 1976, petitioner and respondent were married at in the LDS Temple located in Salt Lake City, Utah.

4. Petitioner is an extremely intelligent and well-educated individual. Petitioner obtained a B.A. Degree in Psychology with High Honors from Brigham Young University. In 1982, petitioner obtained a M.A. Degree in Clinical Psychology from the University of Arizona. During the period from 1984 to 1986, petitioner served a Clinical Fellowship as a Cornell Fellow at the New York Hospital-Cornell Medical Center. In 1987, petitioner was awarded a Ph.D. in Clinical Psychology from the University of Arizona.

5. In 1980, respondent obtained a B.A. degree in University Studies from Brigham Young University.

6. During the course of their marriage, petitioner and respondent had four children born as natural issue of their marriage, to wit: Rachel Rosa Lee Hamblin, d.o.b. 9-15-80 (hereinafter "Rachel"); Sarah Elizabeth Wilding Hamblin, d.o.b. 3-21-83 (hereinafter "Eliza"); Katherine Helena Winters Hamblin, d.o.b. 4-14-86 (hereinafter "Katie"); and Miriam Margaret Easton Hamblin, d.o.b. 3-11-94 (hereinafter "Mimi").

7. During the course of their marriage, petitioner, respondent and their minor children moved to Provo, Utah, beginning approximately August, 1989, where they maintained their primary marital and family residence continuing through the date of the filing of the petition herein.

8. Upon moving back to the State of Utah in 1989, petitioner accepted employment at Brigham Young University.

9. Beginning approximately January, 1991, petitioner began a private practice as a Clinical Psychologist licensed in the State of Utah, specializing in psychotherapy with religious clients and providing individual, couple, family and group psychotherapy, clinical hypnotherapy and psychodiagnostic assessments.

10. During the course of their marriage, petitioner and respondent acquired a second residence in Spring City, Utah and thereafter, petitioner regularly saw patients in Provo, Utah and in Spring City, Utah.

11. During the course of his post-graduate education and the course of his

private psychology practice, petitioner developed a confusing mixture of psychological and religious theories and practices which included, among other things, that each individual is comprised of countless parts, some of which are good and some of which are evil. Petitioner utilized this theory in his private clinical psychology practice. Part of this theory as it was developed during that time included that the evil parts have to be "cut off" from the individual. Petitioner would "cut off" the evil parts by giving his patients "priesthood blessings", referencing his priesthood office and authority within the LDS Church, following the format for blessings commonly utilized in the LDS Church, and instructing the evil part to leave the patient.

12. During the period between 1991 and January 25, 1999, petitioner taught each of his minor children and respondent about his "parts theories", and used his minor children as "guinea pigs" or "experiments" by conducting psychological therapy with his minor children, including, among other things, the use of hypnosis and giving them priesthood "blessings".

13. Sometime between October, 1997, and February, 1998, petitioner attended a ceremony of the Native American Church, conducted by Oklevueha Earthwalks, Inc., during the course of which petitioner ingested peyote.

14. Pursuant to U.C.A. § 58-37-4 (2)(a)(iii)(Q), peyote is a Class I controlled substance.

15. After attending his first Native American Ceremony, petitioner told his wife and children about his experiences using peyote and encouraged them to attend.

16. The parties took Rachel, Eliza and Mimi with them to at least one Native American Church Ceremony. Petitioner gave each of them, including Mimi, peyote on at least one occasion.

17. Eliza became violently ill as a result of using peyote and Mimi became dizzy and hallucinated.

18. During the course of the marriage, a female patient, (referred to hereinafter as "the Patient"), as part of her therapy, came to live in the family home with the parties and their minor children.

19. While the Patient was living with petitioner and his family in their home in Provo, Utah, petitioner was performing therapy on the Patient, who was suffering from severe mental disorders, including, but not limited to, multiple personality disorder.

20. While the Patient was living with petitioner and his family in their home in Provo, Utah, petitioner involved Rachel, who was a minor at the time, in therapy sessions with the Patient. Petitioner neglected his wife and children in order to devote time to the Patient, and ultimately had sexual contact with the Patient while she was still residing in his home.

21. The above identified confusing mixture of multiple religious and psychological theories and practices created an environment which has caused extreme mental and emotional damage and instability in the lives of Rachel, Eliza and Katie.

22. There is strong evidence that this confusing mixture of multiple religious and psychological theories and practices has also caused Mimi to suffer numerous

psychological symptoms, which symptoms are, according to the expert testimony of Dr. Lawrence Beall, Ph.D. (hereinafter "Dr. Beall"), clinically significant.

23. On or about January 25, 1999 (hereinafter "separation date"), petitioner and respondent separated as a result of ongoing disagreements about the Native American Church, peyote use, petitioner's past involvement of the minor children in his religious and psychological practices, petitioner's perception that respondent betrayed him by orchestrating his arrest for poaching, his perception that respondent had involved the children in his arrest for poaching, as well as their subjective perception of each other's treatment of the other and of the minor children.

24. Petitioner and respondent have lived separate and apart continuously since approximately January 25, 1999.

25. Prior to the date of separation, petitioner and respondent had continuously lived together as husband and wife, and with limited exceptions, each of the minor children lived continuously with petitioner and respondent until the date of separation.

26. On or about March 15, 1999, petitioner filed his Verified Complaint for Divorce seeking the entry of a Decree of Divorce terminating the marriage between petitioner and respondent, and the entry of orders with regard to custody, parent-time, child support, alimony, division of property and responsibility for marital debts, and related matters.

27. On or about May 12, 1999, respondent filed her Answer to petitioner's Verified Complaint.

28. On or about May 12, 1999, respondent filed her Counterclaim in which respondent requested, among other things, that the Court award her sole custody of the minor children.

29. On or about June 2, 1999, a hearing was conducted by Judge Stott, as a result of which a Temporary Order was entered awarding respondent the temporary sole custody of the minor children, subject to visitation by petitioner pursuant to U.C.A. § 30-3-35. Pursuant to the stipulation of the parties, the Court further ordered that the children were not to have contact with petitioner during therapy with his patients and that petitioner was not to conduct any therapy on his children. The Court further ordered that petitioner was not to talk about or engage in actions in the presence of his children regarding the Native American Church or religion.

30. On or about July 20, 1999, the Court entered an order appointing Kelly Frye as the Guardian *ad litem* in this case.

31. As a result of a hearing held December 14, 1999, Judge Stott entered a temporary order requiring both parties to undergo psychological testing and limiting petitioner's contact with his minor children to visits which were to be supervised by Dr. Lois K. Dettenmaier, Ph.D. (hereinafter "Dr. Dettenmaier").

32. Prior to being designated to supervise the visits between petitioner and his minor children, Dr. Dettenmaier acted as a therapist to Mimi and, on a more limited basis, to Katie and Eliza.

33. After December 14, 1999, petitioner's visits with Mimi were all supervised

by Dr. Dettenmaier and her staff.

34. In the summer of 1999, Eliza met with DCFS and did not make any accusations with regard to sexual abuse by petitioner.

35. In June, 2000, Rachel and Eliza Hamblin met with representatives of DCFS and gave detailed statements regarding sexual abuse which had been perpetrated against them by petitioner over a period of several years.

36. Intervening the two DCFS interviews, Rachel and respondent attended a presentation discussing sexual abuse at a conference at BYU.

37. Subsequent to attending the presentation on sexual abuse, at the recommendation of someone at the conference, Rachel and Eliza both attended psychotherapy sessions with Dr. Hugh Allred, a psychologist who utilizes hypnotherapy in the recovery of repressed memories.

38. On or about October 20, 2000, petitioner and the Division of Professional Licensing for the State of Utah (hereinafter "DOPL") entered into a Stipulation and Order (hereinafter "the Agreement"), which Agreement was the result of an investigation conducted on behalf of DOPL by Dee Thorell, an employee of DOPL.

39. In the Agreement, petitioner specifically acknowledged, *inter alia*, the following conduct relevant to a determination by this Court of whether petitioner should have the right to exercise parent-time with his minor children:

a. "[David Lee Hamblin] admits he has had intimate relationships with several patients during clinical therapy sessions and claimed to some of these

patients that the intimacy was therapeutic to them.” (Paragraph 8 of the Agreement);

b. [David Lee Hamblin] admitted his conduct constituted “unprofessional conduct” prohibited by U.C.A. § 58-1-501(2) and Utah Administrative Code R 156-61-502 and agreed that an order could be entered by DOPL revoking his license to practice as a psychologist in the State of Utah;

c. [David Lee Hamblin] agreed that he would not apply for licensure for five (5) years and that if he ever reapplied, DOPL’s entire investigation file would be available to evaluate his character and ability to safely practice as a psychologist in the State of Utah.

40. Among the patients with whom petitioner had sexual relations during his therapy sessions were two adult female patients who testified at trial. Each had suffered significant emotional trauma as a result of their experiences with petitioner and petitioner never contacted them to apologize for his actions.

41. Based upon the testimony of Conrad Gottfredson, who was called to testify by petitioner, and David Leavitt, who was called to testify by respondent, petitioner has the personality and predisposition to set aside and ignore protocols, such as laws, ethical obligations, moral obligations and tenets of his religions if he thinks that it is the right thing to do, and to place his own particular needs and interests above the welfare of his children.

42. Petitioner did not respect the law of the State of Utah in his failure to

encourage and/or require his children to attend school.

43. Petitioner violated the laws of the State of Utah and pled guilty to poaching a deer and illegal transportation of a deer carcass. These animals were used in ceremonies of the Native American Church. Petitioner was twice arrested and prosecuted for these violations of Utah law, but after the second arrest, expressed to David Leavitt that although he understood that the charges against him were a serious matter, that he was following a higher law.

44. Prior to the beginning of trial, Rachel and Eliza had each reached the age of majority.

45. As of the date of trial, Rachel was age 22 years of age, and, as of June 1, 2002 had married. Rachel voluntarily testified at the trial.

46. As of the date of trial, Eliza was 19 years of age. Eliza voluntarily testified at the trial.

47. As of the date of trial, Katie was age 16. Katie did not testify at the trial.

48. As of the date of trial, Mimi was age 8. Mimi did not testify at the trial.

49. Petitioner seriously and over a long period of time sexually abused Rachel, which sexual abuse was established by evidence that was clear and convincing;

50. Petitioner seriously and over a long period of time sexually abused Eliza, which sexual abuse was established by evidence that was clear and convincing.

51. Among the evidence which the Court finds to be clear and convincing with regard to sexual abuse by petitioner of Rachel and Eliza is the following:

- a. Rachel and Eliza are substantially different personalities who demonstrated different emotions and affect as they testified in open court regarding their memories of sexual abuse committed by their father;
- b. Rachel and Eliza had never discussed their accounts of sexual abuse by their father with each other and each testified completely independent of the other;
- c. Rachel and Eliza each gave detailed testimony with regard to sexual abuse perpetrated upon them by their father, which testimony was not only consistent with the testimony given by the other, but also consistent with other statements which they had made outside of court regarding this subject;
- d. The evidence presented did not persuade the court that either Rachel or Eliza had collaborated or conspired with respondent to create a story about sexual abuse to aid respondent in her divorce case;
- e. Neither Rachel nor Eliza had the personality or the type of relationship with respondent which would allow respondent to dominate them or succumb to her influence to the point where they would fabricate allegations of sexual abuse against petitioner;
- f. It is understandable to the court that Rachel and/or Eliza were angry with their father, but there is no credible evidence before the court which would lead the court to conclude that because of anger they would fabricate their testimony regarding sexual abuse perpetrated by petitioner;

g. The disclosure by Rachel and Eliza of sexual abuse perpetrated by petitioner came forward through a delayed process, through fear and shame and the relationship they were placed in, including, but not limited to, the dual role with petitioner as a patient in therapy and as a child with a parent;

h. The testimony of Rachel and Eliza was supported by the evaluation, investigation, analysis and expert opinions of Dr. Beall, who concluded that the evidence he considered mandated a conclusion that they had been sexually abused by petitioner. Dr. Beall was well prepared, thorough and thoughtful. Dr. Beall's report and testimony were based on extensive interviews and tests and as a result of his extensive testing and his extensive interviews, he was, among the experts who considered the allegations made with regard to petitioner, in the best position to evaluate the credibility of the allegations made by Rachel and Eliza;

i. The court is not persuaded by the testimony and opinions of Dr. Lois Dettenmaier, Ph.D. (hereinafter "Dr. Dettenmaier"). As a result of being told the "semen story", Dr. Dettenmaier did not believe that respondent has sexually abused Mimi, but although she had other opportunities to investigate and test, it was not Dr. Dettenmaier's job to do so and accordingly, she did not investigate and test. The conclusions and observations of Dr. Dettenmaier came forth in the setting that she was required to undertake in her assignments as therapist to Mimi, and later, as supervisor of the visits between petitioner and Mimi. Dr. Dettenmaier did not have the benefit of hearing the detailed accounts of sexual abuse

perpetrated by petitioner which Rachel and Eliza provided during their testimony in this court. As a result, she did not follow through sufficiently to provide this court with enough credibility and reliability to her testimony to convince the court that the safety of Mimi would be protected by allowing supervised parent-time to continue;

j. The court is not persuaded by the testimony and opinions of Dr. Darren Featherstone, Ph.D., (hereinafter "Dr. Featherstone"). Dr. Featherstone has not had any contact with these parties nor has he done anything since May, 2000, and he has not followed through with a significant number of follow up tests and evaluations which would be helpful to this court in comparing his conclusions with those of Dr. Beall. Specifically, Dr. Featherstone did not conduct a sexual abuse evaluation with regard to any of the children, nor did he do any testing to evaluate their credibility or the reliability of their statements to him. Further, Dr. Featherstone did not hear the allegations of Rachel and Eliza as reflected in their testimony before this court, and, Dr. Featherstone admitted that if he did have additional facts, then his opinion could, and probably would change.

52. The court did not find petitioner's testimony to be credible. Petitioner has exercised poor judgment on many occasions over the years and has subjected his daughters to dangerous and abusive practices and situations, including, but not limited to, allowing his daughters to ingest peyote, which is an untenable action all by itself.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Court makes the following

Conclusions of Law:

1. David Hamblin cannot be trusted and Mimi would be at high risk to be in his presence and to be allowed to be subjected to his influence;
2. For Mimi to be in the presence of petitioner would put her at risk to suffer the emotional trauma and stress that has plagued her older sisters all of their lives to this point;
3. Until petitioner earns sufficient trust to allow him to be in the presence of Mimi, substantial potential for harm exists for Mimi to be in the presence of petitioner;
4. Mimi is not in a position to determine what is in her best interest;
5. Petitioner has crossed over so many expected boundaries as a parent and he has consistently failed to consider his daughters interests above his own and based upon the finding of sexual abuse, the other multiple boundary violations and petitioner's disregard for the interests of his children, the presumption in favor of parent-time, as set forth in U.C.A. § 30-3-32 and 34 has been clearly and convincingly rebutted.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. Any and all financial issues shall be the subject of separate proceedings and before the parties are eligible to have a trial with regard to the financial issues, they

shall participate in mediation;

2. Petitioner shall be denied any parent-time with Mimi, except as recommended by Dr. Beall in his report, which includes, but is not limited to, emails, cards, tape recordings, or other forms of remote contact as they may arise if the situation improves, under the direction of Dr. Beall or another approved qualified therapist;

3. In order for petitioner to be eligible to be considered for parent-time with Mimi at any time in the future, petitioner shall accomplish the following:

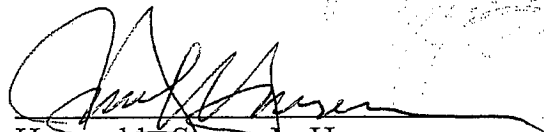
a. Petitioner shall successfully complete a psycho-sexual evaluation as directed by Dr. Beall or another approved qualified therapist; and

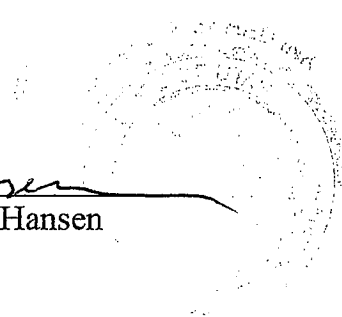
b. Petitioner shall successfully complete therapy under the direction of Dr. Beall or another approved qualified therapist;

4. Respondent, Rachel, Eliza and Katie are hereby restrained and prohibited from making any disparaging remarks in the presence of Mimi with regard to petitioner, this trial, the findings of the court or what happened to Rachel, Eliza and Katie at the hands of petitioner; and

5. Petitioner shall bear any and all costs in any way associated with the psycho-sexual examination and the therapy required by the Court.

Dated this 24 day of Oct, 2003.


Honorable Steven L. Hansen
District Court Judge



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Findings of Fact, Conclusions of Law and Order** was mailed, postage prepaid, and sent by facsimile, on this 22nd day of September, 2003, as follows:

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