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DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO
Case No. 89DR477, Division 10

REPORTER'S TRANSCRIPT

In re the Marriage of:
SANDRA WILFRED,
Petitioner,
and
HARMON WILFRED,
Respondent.

The above-entitled matter commenced on Monday,
October 15, 1990, before the HONORABLE JOYCE S. STEINHARDT,
District Court Judge.

A P P E A R A N C E S

FOR THE PETITIONER: Elaine Edinburg
Attorney at Law

FOR THE RESPONDENT: Harmon Wilfred
Pro Se

GUARDIAN AD LITEM: Susan Dycus
Attorney at Law

1 MORNING SESSION, MONDAY, OCTOBER 15, 1990

2 (The Court was in session, and the following
3 proceedings were had, to wit:)

4 THE COURT: This is 89DR477, In re the Marriage of
5 Wilfred.

6 MS. EDINBURG: Good morning, Your Honor. I am
7 Elaine Edinburg, attorney of record. We appear this morning
8 on Petitioner's contempt citation. Petitioner is seated
9 at counsel's table. We're ready to proceed.

10 MR. WILFRED: Your Honor, I'm Harmon Wilfred. I'm
11 representing myself, pro se. I'm also ready to proceed.

12 MS. DYCUS: Susan Dycus appearing as Guardian ad
13 Litem for the minor child.

14 THE COURT: Okay. The Court has received a Motion
15 for Change of Judge pursuant to Rule 97. That must be
16 addressed before the Court does anything else. So, Ms.
17 Edinburg, are you prepared to respond to that?

18 MS. EDINBURG: Your Honor, I received this, this
19 morning. I'm prepared to orally respond as briefly as
20 possible.

21 THE COURT: Let Mr. Wilfred bring his Motion. I
22 just wanted to know if you were prepared.

23 MS. EDINBURG: Okay. All right.

24 MR. WILFRED: Your Honor, I'm not sure how I go
25 about bringing the Motion. I will say I brought the

1 Motion. I did deliver it to your office this morning to give
2 you time to review it properly so that we can discuss it. I
3 hope that's proper.

4 THE COURT: Is there anything you want to add to it?

5 MR. WILFRED: No, Your Honor.

6 MS. EDINBURG: Your Honor, obviously, I've not had
7 time to thoroughly research Mr. Wilfred's Motion. I realize
8 the Court is in a predicament this morning and must rule on
9 this Motion before you can proceed with the contempt citation.
10 It would be the request of the Petitioner and myself, as her
11 attorney, that you deny Mr. Wilfred's request for change of
12 judge pursuant to Rule 97.

13 Rule 97 requires that the Judge recuse himself
14 when there's evidence that you are biased or prejudiced against
15 a party. It is the opinion of the Petitioner and also myself
16 that this Court has bent over backwards to see that Mr.
17 Wilfred's rights are protected; that throughout the trial when
18 there was an objection or an opportunity for an objection or
19 cross-examination, this Court asked Mr. Wilfred what he wanted
20 to do. Mr. Wilfred sat silent.

21 Mr. Wilfred has created this problem, and he attempts
22 to make all of us the perpetrators of the crime of wrongdoing
23 that unfortunately bring him before the Court for contempt. He
24 has attempted to make me out to have done an illegal search of
25 his house. He attempted to make Mrs. Wilfred out to be the bad

1 person that she was by terminating her relationship. He has
2 now accused other people of wrongly interfering with his right
3 for religious freedom.

4 I will quickly go through some of Mr. Wilfred's
5 allegations, and for the record, let the Court know just how
6 the Petitioner and myself, as her attorney, state them as being
7 misperceived.

8 First of all, the search of the home was an order
9 allowed by you for Mrs. Wilfred to go to the family home.
10 Mrs. Wilfred had not been in the home for 18 months. There
11 were certain records and information that Mr. Wilfred had
12 refused to turn over to this Court despite the motions to
13 compel which were filed. There was an order by this Court for
14 discovery. Mr. Wilfred then stated that he has never had
15 discovery from Mrs. Wilfred, and yet, he took her deposition in
16 excess of two hours.

17 He had the opportunity to review her canceled
18 checks, go through every bill she had paid from the time of
19 separation, and certainly, he had more than ample opportunity
20 to conduct discovery of Mrs. Wilfred. He did it himself. So
21 he was not in any way deprived of the opportunity for
22 discovery.

23 This Court proceeded with the permanent orders after
24 two significant events occurred. Number one, this Court
25 ordered that this matter be set for permanent orders in August

1 or September of 1989, when this Court had found that the case
2 had just sat in your file; and Number two, the Court proceeded.
3 Mrs. Wilfred hired a bankruptcy attorney, who filed a request
4 for relief from stay with the Bankruptcy Court, and I believe
5 that the Bankruptcy Court order is in your file, and ordered
6 that this Court had the right to proceed with permanent
7 orders. So, on both of those accounts, Mr. Wilfred's Motion is
8 totally without validation.

9 With respect to delay of the transcript, I'm sorry,
10 I'm without any information to comment about that. I would
11 note, however, that there was no motion for new trial filed by
12 Mr. Wilfred or by anyone on his behalf, and with or without a
13 transcript, he certainly could have done that within the Rule's
14 time allotted which is 15 days. He also never filed a notice
15 of appeal which had to be filed 45 days from the date you
16 signed the permanent orders, which was June 27th nunc pro tunc
17 to June 7th, so he himself has again erred procedurally in
18 protecting his rights, and now, he has filed a writ to the
19 Supreme Court for mandamus or prohibition excluding you from
20 going forward today when your orders remain in full force and
21 effect. I see this affidavit now this morning for you to
22 recuse yourself as the last attempt Mr. Wilfred can make to
23 delay and thwart the proceedings that are pending against him
24 today.

25 He just does not want to face up to the fact that he

1 has not done properly what this Court ordered him to do. His
 2 due process has been more than protected. I thought you,
 3 during the permanent orders hearing, were incredibly patient
 4 with him when contempt was facing him. You appointed an
 5 attorney to meet with Mr. Wilfred. We stopped all the
 6 proceedings, and the Court appointed an attorney to sit with
 7 him for some 45 minutes to explain what was happening, and yet,
 8 he elected to proceed without counsel and did not ask this
 9 Court to do anything other than enter the orders that you did.

10 He made no statements. He presented no evidence.
 11 He, every step of the way, requestion -- I'm sorry, failed to
 12 request you to do anything. What you ended up doing was
 13 totally consistent with the evidence that you had before you.
 14 And now for him to come to the Court again and make an eleventh
 15 hour desparate appeal for you to recuse yourself, in my
 16 opinion, Your Honor, it's just not fair. It's not fair to the
 17 Petitioner. It's not fair to the minor child. Mr. Wilfred has
 18 not paid one penny, not one penny since we sat in this
 19 courtroom on June 7th. He continues to live in his beautiful
 20 home. He continues to drive his car. He continues to collect
 21 his rent.

22 Here, he's now saying, "Judge, I don't want to come
 23 before you because I want you to recuse yourself," which will
 24 then cause further delay and more harm and prejudice to the
 25 Petitioner, and not to Mr. Wilfred.

1 It would be our request, Your Honor, that you deny
2 this Motion for Change of Judge. There's no evidence in the
3 record, none whatsoever that you are bias or prejudice and
4 that all you did was to read to the evidence that you had
5 before you, and any judge would have done exactly what you did
6 done. I would suspect that many judges would have been less
7 less patient with Mr. Wilfred. He could have had much
8 harder repercussions against him than what you did, and I would
9 request that the Court deny this motion for recusal.

10 THE COURT: Ms. Dycus, do you wish to speak to this
11 motion?

12 MS. DYCUS: Your Honor, just a couple of comments on
13 the issue of freedom of religion. It's a very difficult
14 question for any Court to deal with when there is behavior
15 which concerns the Court and the actor is claiming that those
16 behaviors are a practice of his religion. That is what with
17 both of the Christian witnesses that I presented, I
18 specifically asked them, not necessarily to draw the line where
19 religion becomes mental illness, but I asked them specifically
20 from their knowledge of religion and from their knowledge of
21 Mr. Wilfred, whether he had crossed that line, and the both
22 agreed.

23 One of these witnesses which, in the pleadings filed
24 in the Supreme Court, Mr. Wilfred indicated had violated the
25 privilege by testifying, had been called by Mr. Wilfred at

1 temporary orders. His testimony started with a question about
 2 what his opinions and recommendations were. Now, if there was
 3 a privilege there, it was waived. In addition, he did not
 4 object. None of the witnesses said that Mr. Wilfred's religion
 5 was ipso facto craziness. They did say that Mr. Wilfred was
 6 having mental problems, that wasn't necessarily related to the
 7 religion.

8 I don't know where that line is, Your Honor, but I
 9 think the evidence was very clear that it was crossed, and this
 10 Court made no finding that Charismatic religion is crazy. This
 11 Court only made a finding that Mr. Wilfred's behavior was
 12 inappropriate.

13 THE COURT: This matter comes before the Court on
 14 Rule 97. And as I stated when we started, the Court has a duty
 15 when such a motion is filed, to hear first, before any other
 16 matters are heard, the Rule 97.

17 The Rule states, "A judge shall be disqualified in an
 18 action in which he is interested or prejudiced, or has been of
 19 counsel for any party, or is or has been a material witness, or
 20 is so related or connected with any party or his attorney as to
 21 render it improper for him to sit on the trial, appeal, or
 22 other proceeding, therein. A judge may disqualify himself on
 23 his own motion for any of said reasons, or any party may move
 24 for such disqualification and a motion by a party for
 25 disqualification shall be supported by affidavit. Upon the

1 filing by a party of such a motion, all other proceedings in
2 the case shall be suspended until a ruling is made thereon.

3 That's what we've done right here. This Court has
4 sat on this matter, on pretrial matters, on some motions to
5 compel, and, indeed, in a permanent orders hearing.

6 Mr. Wilfred has filed many legal documents. He
7 filed a Complaint in the Federal District Court at the eleventh
8 hour before the last trial attempting to sue this Court and
9 everybody in this room that's involved with this particular
10 case to see if he could stop the action. The Federal District
11 Court declined to give jurisdiction.

12 This time he filed a Petition for Relief in the
13 nature of prohibition and mandamus to the Supreme Court,
14 apparently. I don't know exactly what date it was filed with
15 the Supreme Court, but it was filed in my division on
16 October 9th. On October 11th, the Supreme Court on writ
17 denied that prohibition.

18 The Court has carefully reviewed the Motion to
19 Recuse. The Court finds nothing in the Motion to Recuse that
20 is actually truthful other than the fact that I sat here and
21 heard the case.

22 Delay of transcript. Mr. Wilfred lays on the
23 shoulders of the Court. I will tell Mr. Wilfred, that I had no
24 indication or knowledge that he had asked for a transcript
25 until he filed his writ of prohibition with the Supreme Court.

1 I have never discussed this case with my clerk post trial --
2 with my court reporter, and I was totally unaware that Mr.
3 Wilfred had ordered a transcript, and I vehemently deny that I
4 stopped the court reporter from working on the transcript, and
5 I'm offended only by the fact that Mr. Wilfred has made an
6 accusation against me that is totally untrue.

7 The court reporter has many duties. She has to
8 assign those duties as her priorities, and I have nothing to do
9 with that.

10 The denial of due process, there was no denial of due
11 process. Mr. Wilfred has received due process in this court as
12 laid out by Counsel for the Petitioner.

13 There was no illegal search and seizure. There was
14 no violation of his constitutional rights regarding religion.
15 The Court never said some of the things Mr. Wilfred seems to
16 think that I said.

17 Everything that has been done in this matter,
18 everything has been on the record. There are court documents
19 to substantiate anything that I said or did not say, and the
20 Court finds that she's not prejudiced. I don't feel prejudiced.
21 I don't feel biased. I have no -- I'm not related to anyone
22 in the courtroom. I don't know anyone here. I've never
23 discussed this case ex parte with anyone. I have no reason to
24 recuse myself, so the Rule 97 will be denied.

25 Now, Mr. Wilfred, this matter comes before the Court

1 on a contempt citation. and I have some things I need to do
2 when someone comes before the Court on a contempt citation. All
3 of which have to do with due process. You're entitled to have
4 counsel at a contempt citation hearing. If you wish to obtain
5 counsel, the Court will reset the matter so that you can obtain
6 counsel. Do you wish to obtain counsel?

7 MR. WILFRED: Your Honor, I can't afford counsel.

8 THE COURT: All right. If you cannot afford counsel,
9 the Court will appoint counsel to represent you. You will have
10 to meet the indigency guidelines, however. You will have to
11 submit a financial affidavit to that attorney, and that
12 attorney will determine whether you can afford it or not. If
13 you can't afford counsel, and this is a borderline case, then
14 the other way we go is you can see several attorneys who will
15 allow you to slow pay, pay out the amount so we can get you
16 counsel, and the Court will be happy to do that.

17 MR. WILFRED: Thank you, Your Honor. I would
18 appreciate that. I appreciate the opportunity to look into
19 that.

20 THE COURT: Okay. If you will give me your telephone
21 number.

22 MR. WILFRED: 794-1612.

23 THE COURT: 794-1612. The matter will be continued
24 for the appointment of counsel.

25 MR. WILFRED: Thank you.

1 THE COURT: I need to tell you, you will not be served
2 again. When we continue a contempt citation, your being in
3 open court and my telling you the date is the same as if you
4 were served. If you fail to appear at the next date, a bench
5 warrant will be issued for your arrest.

6 MR. WILFRED: I understand.

7 THE COURT: So, let's get a date right now.

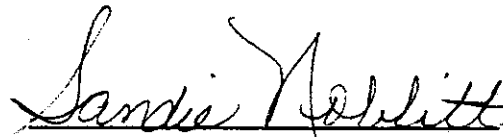
8 (Whereupon, further proceedings concerning the next
9 court date were reported, but not herein transcribed.)

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1 REPORTER'S CERTIFICATE

2 The above and foregoing is a true and accurate
3 transcription of my stenotype notes to the best of my ability
4 in my capacity as the Official Shorthand Reporter, Division 10
5 Arapahoe County District Court, Englewood, Colorado.

6 Dated this 15th day of October, 1990.

7 

8 Sandie Noblitt
9 Court Reporter
10 Division 10

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