

BATTAGLIA v. BATTAGLIA was a 1958 New York appellate court decision. Limited details only. This case evidently involved some unusual details not available to me. This custody and blood transfusion case involved the couple Mario and Valeria Battaglia of Latham, New York. Mario was a retired jockey who operated a barbershop. The year 1957 apparently was a whirlwind for this family. This couple had a newborn baby, who apparently had a medical condition which either did require, or at least presented a likelihood of requiring blood transfusions. Around the same time that Valeria Battaglia gave birth to Michael, she joined the Jehovah's Witnesses, a religion which forbade blood transfusions. Valeria Battaglia evidently attempted to keep her newborn son from receiving the necessary blood transfusions. That apparently led to this divorce and custody action between the parents.

The parents had been married in the Presbyterian Church. Baby Michael was baptized in the Presbyterian Church soon after his birth in September or October 1957. Valeria Battaglia joined the Jehovah's Witnesses soon thereafter. Mario Battaglia soon thereafter filed for divorce claiming that Valeria Battaglia was spending all her time going to Jehovah's Witnesses meetings, and doing door-to-door recruiting, rather than spending time taking care of her newborn son. Valeria Battaglia apparently moved out of the marital residence. It is unclear whether she took the newborn with her. The details regarding the need for blood transfusions for Michael, and what Valerie did to prohibit such is also unclear.

At any rate, custody of seven month old Michael was awarded to Mario Battaglia, who apparently was in his 40s, since a comment from the appellate opinion mentions that he had already reared a son from a previous marriage from infancy through college. Thereafter, Valerie Battaglia appealed. In affirming the trial court's custody award, the appellate court stated in part:

"During the fall of 1957, the petitioner joined a religious sect known as Jehovah's Witnesses. Largely as a result of the change in petitioner's religious faith, a clash developed between the parties which led to their ultimate separation. Respondent claims that the petitioner has been absorbed

by activities in her newly embraced faith, attends meetings of the sect, and engages in work for it, as a result of which she has allegedly neglected the child.

"Respondent has also contended that one of the tenets of Jehovah's Witnesses bars blood transfusions, however essential such device may be deemed by medical experts. He has claimed that petitioner would not permit a blood transfusion for the child even though the child's life might be thereby saved, and further contends that the sect accepts the principle that the death of the child constitutes 'saving the child'.

"Petitioner, of course, enjoys her constitutional right to freedom of religion and may practice the religious faith of her choice without interference. She has not, however, the right to impose upon an innocent child the hazards to it flowing from her own religious convictions. The welfare of the child is paramount. If medical science requires a blood transfusion to preserve the child's life, the child should not be deprived of life because the mother's religious persuasion opposes such transfusion.

"The child has a right to survival and a chance to live and the court has a duty to extend its protecting arm to the child. It is of no concern to the court what religious preference the parents may elect. The best interests of the child are the primary concern in all custody conflicts and not the desires of either the mother or father. In this case, the father has demonstrated great interest in and affection for the child. He has previously had the custody of an infant son from a prior marriage, whom he has reared and who is now a college student. ... "