

McFARLANE v. McFARLANE was a 1989 New York appellate decision. Cecil McFarlane and Elizabeth McFarlane were divorced in 1983. Elizabeth McFarlane was granted custody of the parties' two minor daughters, now ages 14 and 10. The children have been raised in their mother's religion - Roman Catholicism. Cecil McFarlane is a Jehovah's Witness. Cecil McFarlane had been granted overnight visitations with his daughters pursuant to a February 1985 court order. During such scheduled visitation periods, Cecil McFarlane took his daughters to his Kingdom Hall of Jehovah's Witnesses. This action caused the older daughter to start refusing to visit him. The younger daughter has merely stated that she does not want to attend WatchTower religious services with her father.

In August 1987, Cecil McFarlane filed a petition with Family Court seeking to modify the prior visitation order to permit additional time with his daughters. The children's Law Guardian requested that any amended visitation agreement contain a provision whereby the children would not visit the petitioner on Sundays and religious holidays. Thereafter, the parties and the Law Guardian agreed to stipulate to an amended visitation agreement which included such a provision. However, when the stipulation was read into the court record by Elizabeth McFarlane's counsel on March 18, 1988, he omitted mention of the parties' agreement that visitation with the father would not take place on Sundays or religious holidays, and that the children would not be taken to his Kingdom Hall of Jehovah's Witnesses. The petitioner subsequently submitted a proposed order to the Family Court which embodied the stipulation entered on the record. The court amended the proposed order to reflect the parties' agreement that the children would not be taken to his Kingdom Hall of Jehovah's Witnesses. Cecil McFarlane objected to the court's amendment. This appellate court ruled: "A stipulation can be amended on the grounds of mutual or unilateral mistake. ... The court properly exercised its discretion by amending the visitation order to reflect the full extent of the parties' original agreement regarding religious worship."