

RAGAN v. RAGAN was a 1958 Missouri appellate court decision. Famous WatchTower Society attorney, and former WatchTower Vice-President, Hayden C. Covington represented Agnes Vernie Ragan in this appeal, which Covington lost. With regard to Covington's representation on appeal, the very last paragraph in this lengthy appellate opinion is a nice place to start this summary:

"Since plaintiff properly raised no constitutional question in the trial court and properly presented no such question in this court, we have neither reason nor excuse to accept the invitation of plaintiff's counsel to browse through the judicial pastures of other jurisdictions from California to New Hampshire for examination of cases involving the [Jehovah's] Witnesses and their doctrines. Nevertheless, with freedom of religion so basic to our way of life and so cherished by all free people, we would deem it a duty and count it a privilege to deal with plaintiff's purported point in the exercise of our discretionary power to consider 'plain errors affecting substantial rights' under Supreme Court Rule 3.27, if plaintiff's constitutional guaranties of freedom of religion had been denied by the judgment under review. However, we can discover no basis for plaintiff's charge that the decree nisi was based upon her religious beliefs and practices. On the contrary, the record shows that every objection of plaintiff's counsel to inquiries concerning those matters was sustained by the trial judge, who in some instances pointedly commented that such inquiries were not material or relevant. There was ample evidence to justify and support the award of custody of the two children to defendant, wholly disregarding plaintiff's religious beliefs and practices, and certainly our affirmation of the decree nisi, upon review de novo, is in no wise and to no extent predicated upon or influenced by any religious consideration. The simple truth is that there has been and is no constitutional question in this case.

Elmer Lee Ragan and Agnes Vernie Ragan were married in 1931. In addition to an 8 year old daughter and a 5 year old son, the Ragans also had two sons who were adults by the year 1957. The Ragan family lived in Fordland, Missouri, where they operated a grocery and farm supply business out of the same building in which they lived.

In October 1955, Agnes Vernie Ragan joined the Jehovah's Witnesses. In May 1956, she left her husband and children, and thereafter remained separate and apart from them until October 1956, when the family was briefly reunited. During this period of separation, Agnes Ragan engaged in the Jehovah's Witnesses "missionary work" of "placing literature". She also found time to pursue two lawsuits seeking financial support from her husband.

When the second such lawsuit came on for trial in October 1956, the circuit judge, distressed by the tragedy unfolding before him, patiently talked with the parties in his chambers, persuasively urged them to reunite "for the sake of the children," and hopefully effected what we shall refer to as a reconciliation. At that time, the parties entered into an informal "agreement" that (as paraphrased by Agnes Ragan in its simplest terms): "I was to take care of the home and the children, and he (Elmer Ragan) was to take care of the business." According to Agnes Ragan, the specific provision that (as she put it) "I was to have no part in the business" was prompted by her complaint about working long hours in the store.

However, Elmer Ragan said that he insisted upon this provision because of Agnes Ragan's secret and unauthorized abstractions of cash from the store: "I couldn't trust her in the store no more." Per the "agreement", Agnes Ragan was to attend two meetings of the Jehovah's Witnesses each week, a one-hour meeting for "Bible study" each Tuesday evening at a farm home two miles from Fordland, and a two-hour meeting each Sunday evening at Kingdom Hall in Springfield, but was not to participate otherwise in the Jehovah's Witnesses' "activities," which Elmer Ragan charged had caused Agnes Ragan to neglect and abandon both her husband and their children.

This "reconciliation" was short-lived. Within 2-3 weeks, tempers flared and trouble erupted again, by reason of Agnes Ragan's alleged failure to come home immediately after the meetings ended. Instead, she allegedly was not coming home until 11:00 o'clock or later on several nights. Additionally, Elmer Ragan alleged that during the period from the reconciliation in October to the final separation on January 20, 1957, Agnes Ragan's mind was so occupied and

her time was so consumed with the reading of WatchTower literature and activities that she failed to dress and feed the children properly, frequently left them "just running wild around the store" - "just doing whatever they wanted to do," and was so unconcerned about them that she "many a time" answered his inquiries about the children with "I don't know - go see about them"; that she would not engage in conversation

without bringing up the Jehovah's Witnesses and attempting to answer every question "with scripture". Further, Agnes Ragan spoke disparagingly of "anyone by the name of Ragan" in general and of her husband in particular, because, not being Jehovah's Witnesses, they were "no ways near the same type and kind of people" but were "an altogether different class or breed"; that she told the children that, "if they listened to me (their father), it was wrong and lie"; and that, in short, she was "very cold and indifferent" - "a long ways from a wife" to defendant and not "motherly with the children."

On an evening in November, 1956, Elmer Ragan waited up until 10:30P.M. for Agnes to return from her meeting, "went on to bed," heard no knock or telephone call, and did not see Agnes until she returned home the following morning, when Agnes curtly remarked: "I would have been at home if you would have let me in". Agnes gave no explanation of where she had spent the night. During the trial, Agnes testified that she had "returned a little after ten," that there had been no response to her knocks on the locked door or to her call from the nearby telephone exchange, and that accordingly she had sought lodging for the night with neighbors of the same religious faith.

The final separation followed an altercation on the night of Sunday, January 20, 1957, after plaintiff had returned from Springfield "around 10:30 or a little after." According to Elmer Ragan, he was upstairs putting the two minor children to bed, when Agnes knocked on the downstairs door. Probably taking his good time, by the time he went downstairs to let Agnes in, she was beating and kicking the door. After that point, both parties gave widely different versions of the multiple physical attacks both probably made on each other. Interestingly, the then 18 year old son testified in Elmer's favor. At any rate, Agnes left the marital

home permanently that night.

At trial, Elmer Ragan, and others testified that Agnes Ragan had a bad temper. The then 19 year old son testified that his mother "was always abusive" toward his father and "was always in a mad state of condition." Two neighbor women related separate conversations with Agnes in which Agnes had admitted that "when she (Agnes) got mad there wasn't nothing she wouldn't say or do." According to Elmer, Agnes "would hardly ever just talk" to the children - "she would slap them, kick them first, and then tell them what she wanted." Both Elmer and son Don described an illustrative incident involving Robert Keith, the five-year old child. "Little Bobby set a water pitcher at the table, and didn't set it on there good, and it fell off, and she just screamed and said, 'you little devil,' and kicked him and cried and so forth for about an hour or more and slapped him a time or two because the kid made a mistake." In describing his mother's reaction to the broken pitcher, Don said that she "had a sort of a screaming fit, and kicked him (Bobby), and went into a mad rage." An employee who worked at the Ragan store, testified that he had seen plaintiff "kick the children in the stomach, in the back" - "almost anyplace, it didn't make much difference, I don't think."

Three neighbor women staunchly supported Elmer Ragan's assertion that Agnes had neglected the children. Two of these neighbors had seen the young Ragan children playing on a nearby railroad right of way several times and had sent them home, and the third neighbor recounted an incident in which she "went and got Bobby (5 years old at time of trial) off the highway and a big truck just barely missed him." All of this occurred while Agnes was at home. Nine witnesses for Elmer testified that the children had better care while Agnes was gone from May to October 1956, and after the final separation in January 1957, than while she was at home. Agnes also had six "witnesses" testify on her behalf, but as the trial judge noted, "not a single witness testified on her behalf on the all-important issue as to her care of the children."

More interesting was the testimony of three other local residents who all knew Elmer and Agnes. One man testified that he had seen Agnes and an unidentified "somebody" drinking beer at a Springfield bar. A woman

testified that was returning from church between 10:00 and 10:30 P. M. on a Sunday night during December, 1956, when she came upon a parked, unlighted automobile stopped in the middle of a lonely road. Fearful that she could not pass this parked automobile, she "got out of my car and walked to the window" of the parked automobile for the purpose of asking the driver to move. She smelled "liquor or beer," and saw Agnes and an unidentified man in the parked automobile, spoke to Agnes by name, and received an answering "hello." Another local man testified that "around three or four weeks" prior to the trial on June 3, 1957, he was driving over a dirt road near Springfield, between 11:30 P.M. and midnight, when the headlights on his slowly-moving automobile shone on a parked, unlighted automobile, facing toward him. "I seen Agnes in it, and I thought Elmer might have been there too, so I stopped and went up to the car, and I seen it wasn't Elmer, and just spoke to Agnes, and just turned around and walked back to my car, and took off."

The appellate judges who heard this case could barely contain their despise for the LIES of WatchTower Attorney and Vice-President Hayden Covington. Note this paragraph from the appellate opinion:

"The tenor of plaintiff's argument on appeal is exemplified by these bold, sweeping affirmations in the opening paragraph:

'There is not the slightest suggestion that [Agnes Ragan] was guilty of any immorality. The record nowhere even faintly suggests that she did not properly care for her children. The evidence shows that she was diligent in providing them with religious guidance. Nowhere can it be found in the record that she neglected her children.'

On this false premise (asserted in the teeth of a record fairly bristling with testimony to the contrary), plaintiff contends that, while 'both parties were qualified' to have custody of the children, 'lack of proof of disqualification made mandatory the award to the mother.' But, sound and fury are sorry substitutes for fact and evidence, and plaintiff's counsel cannot, by his own bootstraps, lift himself and his client above the transcript here presented.

Although our courts have said many times that, "all other things being equal," custody of a child of tender years should be awarded to the mother ... , the paramount and controlling consideration in every child custody case, to which all other principles and presumptions must yield, is the welfare of the child.

"In the homely language of the old adage, "the proof of the pudding is in the eating"; ... And, upon our independent and painstaking review of the entire record in the instant case ... with primary concern for the welfare of the children involved ..., we are convinced beyond peradventure of doubt that the judgment of the trial court, awarding custody of the two children to [Elmer Ragan], was justified and proper, finds ample support in the evidence, and should not be disturbed."