

IN THE SUPREME COURT OF IOWA

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SUPREME COURT NO: 21-1968

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LINNHAVEN, INC and ACCIDENT FUND NATIONAL  
INSURANCE COMPANY/UNITED HEARTLAND  
Petitioners-Appellants,

vs.

ROGER BLASDELL, SURVIVING SPOUSE OF  
HEATHER BLASDELL  
Respondent-Appellee.

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APPEAL FROM THE IOWA DISTRICT COURT  
IN AND FOR POLK COUNTY  
THE HONORABLE CELENE GOGERTY

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APPELLEE'S FINAL BRIEF and  
REQUEST FOR ORAL ARGUMENT

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**STATEMENT OF THE ISSUE PRESENTED FOR REVIEW**

- I. The District Court Correctly Determined that Roger Blasdell Did Not Desert His wife, and That The Agency Misapplied the Law to the Facts When Making Such Finding.

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**ROUTING STATEMENT**

This case involves questions relating to existing legal principles and transfer to the Iowa Court of Appeals would be appropriate pursuant to Iowa Rule of Appellate Procedure 6.1101(3).

**STATEMENT OF THE CASE**

Appellee Roger Blasdell (“Blasdell”) is the claimant in an Iowa workers’ compensation claim, seeking death benefits as the surviving spouse of Heather Blasdell as a result of injuries she sustained while employed by her former employer, Linnhaven, Inc., insured by Accident Fund National Insurance Company/United Heartland (collectively referred to as Linnhaven). Blasdell filed an arbitration petition with the agency on June 30, 2017. A hearing was held on May 15, 2018. On July 12, 2019, 423 days after the hearing, an Order of Delegation of Authority was

issued assigning deputy workers' compensation commissioner Stephanie J. Copley to issue a proposed decision "due to the present unavailability of deputy workers' compensation commissioner Erica J. Fitch." The deputy workers' compensation commissioner issued an Arbitration Decision on August 6, 2019, denying benefits, finding that Blasdell deserted his wife and was not entitled to survivor benefits. (App. p. 238). It should be noted the deputy workers' compensation commissioner issuing the decision was not the deputy that presided over the hearing. Blasdell filed an appeal of the decision on August 23, 2019. In his appeal brief Blasdell stated the matter should be dismissed and reheard pursuant to Iowa Administrative Code §17A.15(2) (App. pp. 240-242). On April 27, 2020, at the delegation of the Commissioner, another deputy commissioner ordered claimant to show cause as to why portions of the hearing involving demeanor should be reheard, and defendants an opportunity to respond to same.

After responsive pleadings by the parties, and Blasdell's Motion for Rehearing filed on May 7, 2020, the deputy workers' compensation commissioner issued an Order for Rehearing on May 18, 2020, remanding the case back to the deputy workers' compensation commissioner who issued the Arbitration Decision on August 6, 2019. The rehearing was conducted on July 20, 2020. The only evidence introduced at rehearing was Blasdell's testimony. On July 24, 2020, the deputy workers' compensation commissioner issued a "Rehearing Decision re: Demeanor" again

denying Blasdell benefits. Blasdell appealed to the Commissioner on August 13, 2020. An appeal decision was issued on June 8, 2021, and again denying benefits. Blasdell sought judicial review of the final agency determination.

The District Court held that the Agency misapplied the facts to the law and the finding Blasdell abandoned his wife was unjustifiable and did not have a basis in fact.

Linnhaven brings this appeal.

### **STATEMENT OF FACTS**

Roger Blasdell seeks death benefits as the surviving spouse of Heather Blasdell, who suffered from a work-related injury on November 5, 2012, while working for Defendant Employer Linnhaven, Inc., insured by Defendant Accident Fund/United Heartland. In an Arbitration Decision dated December 12, 2014, Deputy Workers' Compensation Commissioner Erin Pals found Heather sustained work-related injuries to her right ankle and back, which had resulted in a permanent aggravation of her pre-existing depression and anxiety (App. pp. 12-13). The Deputy further found her ongoing work-related psychological problems were so significant that she was unable to work (App. p. 13). These determinations were affirmed in an Appeal Decision dated May 20, 2016. Pursuant to an order of delegation, Deputy Workers' Compensation Commissioner Michelle McGovern affirmed and adopted the presiding deputy's decision with the following relevant additional analysis. Deputy McGovern concluded, "From a mental point of view,

claimant is not functional in the competitive labor market. It is the mental component of her condition that is standing in the way of claimant's ability to seek and hold gainful employment." (App. p. 23). On September 9, 2016, Heather died as a result of an overdose of the medications prescribed for her work-related psychological condition.

Roger and Heather Blasdell met each other in 1997 and got married in 2008. (App. pp. 253-254). They were still married at the time of Heather's death in September 2016, having been married for eight years at that time. The date of Heather's work injury was November 5, 2012. They were clearly married at the time of Heather's work injury. When they got married, they lived together along with Heather's son, Austen, in Ryan, Iowa. (App. p. 254). Thereafter, in early 2010 the three of them moved to a house in Delhi. Roger and Heather used all of their assets including income taxes, 401k and the title of their truck to put a down payment on the house in good faith, as they were renting to buy. At that time, both Roger and Heather were employed on a full-time basis. (App. pp. 254-256). In late December 2010, Heather lost her job. She looked for employment as a medical assistant around where they lived and unfortunately, she wasn't having any luck. As a result, Heather looked for employment around the Clinton, Iowa area. (App. pp. 256-257). Heather made the choice to leave contrary to what Roger wanted. Heather moved to Clinton but she did not take any of her possessions other than clothes and the truck. She lived

in Clinton for a few months but didn't have any success finding employment there either. (App. pp. 257-258). As a result, they were no longer able to afford the house in Delhi. Roger stayed there for about 3-4 months after Heather went to Clinton but realized he could not afford to make the payments without Heather's assistance. Austen continued to live with Roger and after leaving the house in Delhi, they moved to Manchester. (App. p. 258). Although Heather did not move back in with Roger, she would come to visit Roger and Austen by coming home on the weekends. (App. pp. 258, 261). They continued to maintain frequent contact through the years up until the time of her death. (App. p. 262). Austen confirmed this via his own testimony at the time of the hearing. (App. pp. 218-220). Roger had a relationship with Angela Lee. They met in late 2011 and were just friends which continued through 2012. They became more involved sometime in 2013. Angela Lee confirmed Roger and Heather had regular contact in her deposition testimony. (App. pp. 96-97, Depo pp. 8-9). Roger was fully aware of Heather's November 5, 2012 work injury while she was working for Linnhaven and provided some financial assistance to her after she was injured. Roger and Austen also paid for Heather's funeral and burial expenses. (App. pp. 258-262).



## ARGUMENT

### **I. The District Court Correctly Determined that Roger Blasdell Did Not Willfully Abandon His Wife, Heather and She Was Not Without Fault, and That The Agency Misapplied the Law to the Facts When Making Such Finding.**

#### **A. Preservation for Appellate Review**

Blasdell agrees Linnhaven preserved error by timely filing their Appeal of the District Court's Order on Judicial Review. It should be noted at this point that the ONLY issue on appeal is whether Blasdell deserted his wife, thereby preventing him from getting survivor benefits due to her death. Linnhaven briefed the previously-raised issues of the delegation of authority by the agency and an estoppel argument made by Blasdell. However, Blasdell did not appeal these issues and therefore they are not before this Court. Additionally, the District Court held that since the Agency never reached the issue as to whether Heather's death related back to her work-injury, that issue is to be remanded back to the Agency. Any arguments about causation in this Appeal are beyond the scope of the appeal.

#### **B. Standard and Scope of Review**

The threshold issue in this case is whether Blasdell deserted his wife to justify denying him survivor benefits pursuant to Iowa Code Section 85.42. The petition was timely under Iowa Code Section 85.26. "Given the binding findings of the commissioner, we next consider the question of whether the application of law to these

facts was "irrational, illogical, or wholly unjustifiable." Iowa Code § 17A.19(10)(m). "When an agency has been clearly vested with the authority to apply law to fact, we will only disturb the agency's application if it is irrational, illogical, or wholly unjustifiable." Clark v. Vicorp Rests., Inc., 696 N.W.2d 596, 603-04 (Iowa 2005). An agency's decision is "irrational" if it is "not governed by or according to reason." Sherwin-Williams Co. v. Iowa Dep't of Revenue, 789 N.W.2d 417, 432 (Iowa 2010). If the decision is "contrary to or devoid of logic," it is "illogical." *Id.* A decision is considered to be "unjustifiable" "when it has no foundation in fact or reason." *Id.* Menard, Inc. v. Scheffert, 860 N.W.2d 925 (Iowa App. 2014).

**A. The Agency's application of the law to the facts regarding whether Blasdell willfully deserted his wife was not supported by substantial evidence and was irrational, illogical and wholly unjustifiable.**

The appeal deputy concluded, "The record indicates that Roger and Heather intended to terminate their marriage relationship in January of 2011." (App. p. 277). There is no evidence in the record to support this finding by the Agency. What the record correctly reflects is that in January of 2011 the Blasdells were having financial issues, as Heather had lost her job, and they could no longer afford the home they were renting to buy. Heather took it upon herself to move out to find a job, while Roger remained there for a few months with Austen, Heather's son. Due to the finances, Roger and Austen then also relocated. The appeal deputy's interpretation of the record

is without foundation. The hearing deputy quickly moves to dispose summarily of two of the central issues when he states:

As noted in the record, the separation between Heather and Roger occurred due to financial reasons. Given this fact, it is found that Roger's willful separation from Heather was without the fault of Heather.

(App. p. 277).

The appeal deputy essentially determined the marriage was over in January of 2011 (App. p. 277). The only event that had occurred at that time was Heather had left their home at Delhi. This does not constitute proof Roger had willfully deserted Heather, or that Heather was without fault.

**i. The Law**

Iowa Code Section 85.42 which addresses survivor death benefits in workers' compensation cases states:

85.42 Conclusively presumed dependent.

The following shall be conclusively presumed to be wholly dependent upon the deceased employee:

1. The surviving spouse, with the following exceptions:

a. When it is shown that at the time of the injury the surviving spouse had willfully deserted the deceased without fault of the deceased, then the surviving spouse shall not be considered as dependent in any degree.

b. When the surviving spouse was not married to the deceased at the time of the injury

“Fault” is not defined in the Code. Using the 2020 edition of the Merriam-Webster Dictionary, the meaning of “fault” is “responsibility for wrongdoing or failing” Merriam-Webster.com/dictionary/fault (emphasis added).

Therefore, in order to deny Blasdell survivor benefits, the facts must be that at, Blasdell had WILLFULLY DESERTED his wife WITHOUT FAULT OF HIS WIFE.

The District Court defined the issue very succinctly when it stated:

A spouse is not required to receive support in order to be considered wholly dependent. Iowa Code Section 85.42(1). The law presumes Claimant wholly dependent on Heather. *Id.* This presumption is subject to the desertion exception, however. *Id.* At 85.42(1)(a). To be clear, in order for this exception to apply, Claimant had to have deserted Heather. *Id.* If Heather deserted Claimant, Claimant would still be eligible for survivor’s benefits *Id.* Likewise, if neither party deserted one another, Claimant is eligible for survivor’s benefits. *Id.* If both parties deserted the marriage, then it cannot be said Heather is without fault, so Claimant would still collect. *Id.* Therefore, the only question the Court need decide is whether Claimant deserted Heather. Iowa Code Section 85.42(1)(a).

Unfortunately, Iowa Code Section 85.42 is an antiquated statute governed by concepts of fault prior to no-fault divorces. As such, we are looking at a 1917 case to govern what constitutes a marriage relationship in the 21<sup>st</sup> century. With the advent of no-fault divorces, the agency scrutinizing marital relationship is inappropriate.

In *James Black Dry Goods, Co. v. Iowa Ind. Commissioner*, 186 N.W. 657, 172 Iowa 23 (1919), the Supreme Court interprets Section 85.42. The *Black* court found that there are five elements necessary to constitute “willful” desertion:

- 1) There is a design to forsake the other spouse without cause, thereby breaking up the marital union;

- 2) Deliberate intent to cease living together;
- 3) Abnegation of all duties of the marital relation;
- 4) The actual ceasing of cohabitation; and
- 5) The intent to desert.

Id. at 664; Id. at 25.

## **ii. The Facts Supported by Substantial Evidence**

Defendants did not bear its burden of proving “at the time of injury” Roger willfully deserted Heather. Roger maintained his relationship with Heather from the time Heather moved to Clinton (January 2011) until she died. The facts show a continued relationship at least until Heather’s death on November 5, 2016. These facts include, and should be received, in the context of the hearing deputy’s demeanor determination, wherein she finds Roger “to be a generally credible witness,” and “his demeanor reflects positively on his case.” (App. p. 264):

- 1) Roger married Heather on August 23, 2008, and they never divorced (App. p. 195; App. pp. 253-254);
- 2) They never divorced because neither of them wanted it. (App. p. 86, Depo. p. 19);
- 3) Angela Lee knew Roger still communicated with Heather (App. pp. 96-97, Depo. pp. 8-9);
- 4) Roger gave money - - usually in \$50 - \$100 allotments - - to Heather on a weekly basis after Heather moved out (App. p. 86, Depo. pp. 19-20; App. pp. 199-200; App. pp. 261-262);
- 5) Roger stayed in weekly contact with Heather both in person and by phone, to discuss personal matters; Id.

- 6) Heather occasionally (5 times a year) gave money to Roger after separation (App. pp. 212-213);
- 7) Roger and Heather split tax liability (App. p. 86, Depo. pp. 19-20);
- 8) Roger and Heather shared tax returns (App. pp. 200, 213);
- 9) Roger and Heather shared emergency designates (Id. at 201-202);
- 10) Roger and Heather shared car insurance (App. p. 205);
- 11) Roger and Heather shared the electric bills (App. p. 209);
- 12) Roger saved his last communication with Heather, after Heather's death (App. p. 211);
- 13) Roger and Heather had a continuing relationship after separation (App. p. 95, Depo. pp. 13-14);
- 14) They met each other in 1997, almost twenty years before death (App. p. 253-254);
- 15) They were married three years (8/23/08) before she left (January 2011) and before her injury – November 5, 2012) (App. p. 195);
- 16) Heather chose to move out only due to financial reasons. (App. pp. 195-196);
- 17) Sharing joint expenses (health insurance) (App. p. 84, Depo. p. 10); (listed on car insurance) (App. p. 84, Depo. p. 11; App. p. 200); (life insurance beneficiary) (App. p. 84, Depo. p. 10);
- 18) Payments of expenses by both (App. pp. 86-87, Depo. pp. 19-21; App. pp. 199, 208, 210);
- 19) Roger continued to care for Heather's son, Austen (App. pp. 197, 208, 216-217; App. pp. 257-258);
- 20) They never filed for a divorce over the entire 56-month period (January 2011 separation to September 9, 2016, date of death); and
- 21) Heather chose to move to Clinton from the Delhi home (App. p. 258).

Despite Linnhaven's REPEATED statement that "Blasdell admitted he separated from Ms. Blasdell because he did not want to pay for her expenses" which they state he says in his deposition, (App. p. 86, Depo. p. 18), that is NOT what he said and is certainly not what happened. He his actual testimony was that after she lost her job he was paying the majority of the expenses and couldn't handle paying the rent by himself. (App. p. 86, Depo. p. 18). Roger would submit a central question to the issue of willful desertion is who left who? Heather chose to leave, move to Clinton, and leave her son Austen with Roger. How does Heather leaving the relationship and moving to Clinton, Iowa, constitute willful desertion by Roger? Moving on to the element of whether there was "fault" attributable to Heather, once again, she chose the affirmative action of leaving Roger and moving to Clinton, Iowa. How does that not constitute fault on behalf of Heather? Neither of these archaic statutory burdens are met regarding a finding to deprive Roger of benefits.

Everything was going fine with their relationship until Heather lost her job, could not find any employment in the Delhi area and she moved to Clinton, Iowa.

Roger testified regarding the financial issues:

Q. Well, why did you separate?

A. It was mostly financial. She lost her job at, I believe, Fitzgerald's Eye Center.

Q. Okay, And because of that, what?

A. I - - I wasn't - - it was around Christmastime, and then I - - we had - - we couldn't afford the place anymore because our rent was pretty close to \$800, and without her working, I wasn't able to do it on my own.

Q. All right. And then so who left?

A. Heather left, actually.

Q. And where did she go, if you know?

A. I believe she went to Clinton, Iowa for a while.

(App. pp. 196-197).

Roger provided greater detail regarding this issue at the rehearing:

Q. As we've been discussing, we're going to go back in time with regard to your relationship with Heather. You were married in what year?

A. In 2008.

Q. And how long had you been together prior to that?

A. We originally met each other in '97.

Q. And did she have a son?

A. Yes, she did.

Q. And who was that?

A. Austin Burrige.

Q. And is that who testified in the original hearing as well?

A. I believe so, yes.

Q. And how old was Austin when you first met him?

A. He was four months old.

Q. And when you were married in 2008, I assume you and Heather were living together?



- A. Yes, that's correct.
- Q. And where was Austin?
- A. Austin lived with us as well at our home.
- Q. And where was the home at that time?
- A. At 1361 330<sup>th</sup> Street, Ryan, Iowa.
- Q. And where is Ryan in relationship to, say, Manchester?
- A. It would be south of Manchester about 15 miles.
- Q. Now, at some point in time you and Heather began living at a home in the Delhi area?
- A. Yes, that is correct.
- Q. And did Austin live with you?
- A. Yes, he did.
- Q. And how was that home acquired?
- A. We pretty much used all of our assets, including income taxes, 401K, and the title of our truck.
- Q. And what was that for?
- A. That was for down payment in good faith for our home that we were renting to buy.
- Q. And how long did you end up staying there?
- A. We stayed there approximately a year.
- Q. And do you recall when you first started living there?
- A. That would have been in 2010, approximately, around February, March, when we got our income taxes and stuff.
- Q. And was Heather employed at a job at that time on a full-time basis?

A. Yes. She was at an eye care place. I believe it was Peterson's here in Cedar Rapids.

Q. And were you employed on a full-time basis?

A. Yes, I was. I was employed at Henderson's in Manchester Iowa.

Q. All right. And what happened with regard to your having to give up that place?

A. Well, financially we had both of our incomes, and we had everything in. We had a pretty - - our payment was \$900 a month, and Heather ended up losing her job at the eye care place, and that was right around - - that was in December of 2010, shortly before Christmastime.

Q. And as a result of her losing her job, did the two of you have any discussion about being able to continue to afford that place?

A. Yes. She looked for employment around our area because she was a medical assistant, and that's what she earned her degree in, and she was looking for employment to use that degree. And unfortunately, in the area that we lived in, it's very a small-town community, and she wasn't having any luck there, and from there she ended up finding - - or talking with one of her high-school friends and looked for employment around the Clinton, Iowa area. It's approximately - - it's my hometown, pretty much. I lived across the river in Illinois.

Q. Okay. And how far away was Clinton from Delhi?

A. It is about an hour and a half drive.

Q. And what kind of discussion did you have about her leaving to go to Clinton?

A. I believed we could figure out a way to work it out and, you know, we're going to be together, we'll figure it out. And she felt as if she could find employment elsewhere, and it wasn't what I wanted, but it's what she had to do in order to try and keep the house in Delhi.

Q. And as a result did she end up going to Clinton?

A. Yes. She moved there for a few months, I believe, and didn't have success finding employment there either.

Q. Did she move there with her possessions?

A. No, she didn't take any of her possessions. I ended up - - yeah, she didn't take anything, other than clothes and the truck.

Q. And what did Austin do?

A. He remained with me. He was enrolled at the West Delaware High School in Manchester.

Q. After she left, you stayed there how much longer?

A. I stayed there about three, four months. Yeah, I realized that I could not afford to make the payments without her assistance.

Q. And whose choice was it to leave - - for her to leave to go to Clinton?

A. That was her own choice. She believed she could find employment there.

(App. pp. 253-258).

Defendants have attempted to construe testimony of Roger to reflect he separated from Heather due to financial differences, specifically not wanting to pay for her expenses. The Defendants' construction is an obvious attempt to characterize Roger's actions as willful desertion with no fault on behalf of Heather. Roger would submit Heather bears responsibility for their separation, she was not without fault.

iii. **Application of the law to the facts shows Blasdell did not willfully desert his wife without his wife having some "fault."**

Defendants failed to bear its burden of proving that "at the time of the injury" Roger had "willfully deserted" Heather, without Heather having some "fault." It is difficult to reconcile the reference to "at the time of the injury" in this situation given

that the time of the original injury from which her death arose was November 5, 2012 but she did not pass away until 2016. However, regardless of what date we look at in determining whether Blasdell willfully deserted his wife, the facts remain the same regarding Heather and Roger's relationship at the time of the injury. Heather had moved out of the family home due to a financial decision. At the time of the injury, Heather and Roger were not living together, but they were still married. The Deputy focused almost entirely on "financial dependence" and concluded Blasdell and Heather "intended to terminate their marriage on January 11, 2011" when Heather left Blasdell and her own son. However, the fact is, the legal marriage was still in place. Neither had sought or obtained a divorce because neither one wanted it. (App. p. 86, Depo. p. 19). The appeal deputy erred in finding Roger and Heather intended to terminate their marriage relationship in January of 2011, which was when Heather left.

Here, Roger's conduct never constituted enough to be "willful" or even a "desertion" in at least four of the *Black* elements:

- 1) Roger did not develop a design to forsake Heather. The two of them used available assets to put in a down payment on a home in Delhi (App. p. 255). They were both employed full-time, and Heather's son, Austen, resided with them. Heather lost her job in late 2010. She looked for local employment in her profession and found nothing. As a result, Heather decided to look for work in Clinton. It was not what Roger wanted. She moved to Clinton and did not take her possessions, other than some clothes (App. pp. 256-257). Her son remained with Roger. He also continuously helped her to the end.

- 2) Roger did not have intent to leave the family home. He was forced to move after Heather chose to move out.
- 3) Roger did not abnegate all of his marital duties. He met with or talked to Heather weekly and gave her money weekly. He was maintaining his relationship and duty to Heather and taking care of her son.
- 4) Roger did not have intent to desert. Roger wanted Heather to stay. Heather chose to leave.

Heather's actions are properly read as "responsible for a failing". Due to Heather's decision - - contrary to Roger's wishes - - Heather moved out. They never thereafter co-habited. It led to Roger alone caring for her son, Austen, who was 14 years old.

Roger and Heather were buying a house for their joint occupancy. In order for Roger and Heather to pay for the house, they needed both incomes (App. p. 196; App. p. 256). Unfortunately, in late 2010, Heather lost her job. The couple sought work for Heather or some other means to pay the rent. Heather did not get a replacement job. Roger wanted Heather to stay (App. p. 257). Instead, Heather, in January 2011, chose to move miles away to Clinton (App. pp. 195-196; App. pp. 256-258). Heather returned occasionally, but never returned to stay (App. pp. 85-86, Depo. pp. 16-17). Roger and Heather's son, Austen remained in the Delhi house until late 2011 or early 2012. By that time, Roger could not make rent on his own. Roger and Austen moved to the Potter Street house in Manchester. Id. at 85.

During 2011-2012, Heather cohabited with Kyle Kamar in the months prior to her November 5, 2012 date of injury while her own son was living with Blasdell (App. pp. 205-206; App. p. 85, Depo. pp. 15-16). Heather assumed fault when she chose to separate herself from Roger. The necessary element of “willful desertion” regarding the actual ceasing of cohabitation was solely the responsibility of Heather. The finding of Roger’s willful desertion should fail by this fact alone. Therefore, Roger should be entitled to benefits.

Linnhaven makes much-ado about Blasdell’s testimony not being supported by any documents, such as that Heather was a beneficiary for his health insurance and life insurance, was listed as a driver of his vehicles, saw her weekly, paid her cash, and spoke to her on the phone. His testimony IS the evidence and there is no evidence to the contrary. These facts should be viewed, in the context of the hearing deputy’s demeanor determination, wherein she finds Roger “to be a generally credible witness,” and “his demeanor reflects positively on his case.” (App. p. 264).

### **CONCLUSION**

Pursuant to Iowa Code Section 85.42, as properly examined by the District Court, the only way Blasdell can be denied survivor benefits is if he deserted Heather and she had no fault in the situation OR they were divorced. At no time did Blasdell desert his wife Heather. Heather made the choice to leave the family home and to leave her son with Blasdell. They never divorced each other because neither one

wanted that. The evidence supports a continuous relationship, even if it it's not the typical marital relationship seen in 1917. The Agency's determination that Blasdell and Heather intended to terminate their marriage when she moved out in 2011 is not supported by the facts and is irrational, illogical, or wholly unjustifiable.

**REQUEST FOR ORAL ARGUMENT**

Respondent-Appellee Blasdell hereby requests Oral Argument to further discuss the issues on appeal.

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS

1. This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) or (2) because:

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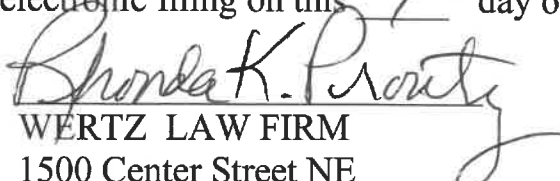
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CERTIFICATE OF FILING

I, Rhonda K. Prouty, an employee of Wertz Law Firm, attorneys for the Appellee, certify the attached Final Brief and Request for Oral Arguments, was filed with the clerk of the Iowa Supreme Court via electronic filing on this 9<sup>th</sup> day of March, 2022.


  
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CERTIFICATE OF SERVICE

I, Rhonda K. Prouty, an employee of Wertz Law Firm, attorneys for the Appellee, certify the attached Final Brief and Request for Oral Arguments filed with the Clerk of the Iowa Supreme Court was forwarded to all counsel via the electronic filing system and email on this 9<sup>th</sup> day of March, 2022, and by U.S. Mail for any party not registered to receive notice of filings via the ECF process.

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