

State of New Hampshire Supreme Court

IN THE MATTER OF

JAMES J. MILLER

and

JANET S. TODD

N.H.Sup.Ct. No. 2009-0806

MOTION TO CLARIFY ISSUES TO BE ADDRESSED ON APPEAL

NOW COMES James J. Miller, by and through his attorney, Joshua L. Gordon, and respectfully requests this honorable court to clarify the issues to be addressed on appeal.

As grounds it is stated:

1. On November 9, 2009, James Miller filed a discretionary notice of appeal. On December 23, 2009, this Court declined acceptance. On January 4, 2010 Mr. Miller filed for reconsideration of the declination. On February 4, 2010 this Court granted reconsideration and accepted the appeal.

2. This has resulted in an ambiguity regarding what issues are to be addressed in the appeal.

3. In Mr. Miller's motion for reconsideration, he presented two prayers for relief:

(a) reconsideration of the declination of his notice of appeal – that is, to hear the appeal on its merits; and also

(b) an opportunity to more fully address the matters presented in the motion – that is, to hear issues regarding whether Supreme Court Rule 3 discriminates against appeals filed by unmarried parents.

See MOTION TO RECONSIDER DECLINATION OF DISCRETIONARY APPEAL, p. 11 (Jan. 4, 2010).

4. This Court's order granting reconsideration states that the "motion for reconsideration is granted," and that the "[c]ase is accepted and will be scheduled for oral argument." ORDER (Feb. 4, 2010).

5. It is thus unclear whether this Court wishes to hear argument on only the merits of the appeal, or on both the merits and issues regarding Rule 3. No position is being advanced in this motion – Mr. Miller merely seeks clarification.

WHEREFORE, James J. Miller respectfully requests this honorable Court to clarify whether it wishes to hear argument on only the merits of the appeal, or on both the merits and issues regarding Rule 3.

Respectfully submitted
for James J. Miller
by his attorney,

Dated: February 8, 2010

Joshua L. Gordon, Esq.
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I hereby certify on this 8th day of February 2010, a copy of the foregoing is being forwarded to Elaine K. Dolph, Elizabeth B. Olcott, Esq., and John P. Carr, Esq.

Dated: February 8, 2010

Joshua L. Gordon, Esq.