

Case No. 227-195                      Record Book 463                      Page 395  
STATE OF WISCONSIN    :    CIRCUIT COURT    :    MILWAUKEE COUNTY

ELVA TURNER,  
Plaintiff,

NO. 227-195

-vs-

JUDGMENT OF ANNULMENT

ROBERT H. TURNER,  
Defendant

**FILED**

DEC 28 1950

*Fred Jaeger*  
Clerk

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This action having been brought on for trial on the 6th day of November, 1950, at the regular October Term, 1950, of this Court before the Honorable August E. Braun. Judge of said Court, and the Court having filed its findings of fact and conclusions of law from which it satisfactorily appears and wherein the Court finds that the plaintiff is entitled to a judgment of annulment of the purported marriage of the parties,

Now, on motion of Elizabeth C. Leis, plaintiff's attorney,

IT IS ADJUDGED AND DECREED:

That the purported marriage of the plaintiff Elva Turner and the defendant Robert H. Turner, entered into at Dubuque, Iowa, on the 19th day of April, 1950, is null and void and that said marriage is hereby annuled.

That the care and custody of the minor child of said parties, Linda Turner ~~Lindemann~~, born as the result of the said purported marriage of the parties at Milwaukee, Wisconsin, on January 8, 1949, and whose birth was erroneously registered as \_\_\_\_\_ Lindemann, the said name "Lindemann" being the maiden name of the plaintiff, is awarded to the plaintiff.

Dated at Milwaukee, Wisconsin Dec. 28th, 1950.

BY THE COURT,

FRED J. JAEGER

Clerk

*Ray L. Dundas*  
Deputy Clerk

Approved December 18, 1950.

*April M. Symon*  
Ass't. Divorce Counsel

# The State of Wisconsin

CIRCUIT COURT, }  
Milwaukee County. } ss.

Findings O. K. *PP*  
Judgment Fee Paid *11-6-50*  
Statistical Report Filed *11-6-50*

ELVA TURNER  
Plaintiff.  
vs.  
ROBERT H. TURNER  
Defendant.

**FILED**

DEC 28 1950

*Fred J. Jeger*  
Clerk

Findings of Fact and  
Conclusions of Law.

At a regular term of said court begun and held at the Court House in the City of Milwaukee, in said County, on the 2nd day of October, 1950, and on the 6th day of November, 1950, during said term. Present the Honorable August E. Braun Circuit Judge, presiding.

The above entitled action having been duly noticed for trial, and the same having been duly placed upon the October, 1950, Term Calendar of said court, and the same having come on in its regular order to be heard before the court;

And it appearing that this is an action for divorce and that the summons and complaint in this action could not be personally served on the defendant, for the reason that said defendant is not a resident of the State of Wisconsin, as more fully appears by the return of the sheriff for said Milwaukee County, attached to the original summons on file herein;

And it further appearing that said original summons and duly verified complaint herein were filed in the office of the Clerk of said Court on the 25th day of May, 1950, and that thereafter, to-wit: on the 6 day of June, 1950, the plaintiff's attorney made and filed an affidavit stating, among other things that personal service could not be obtained upon the defendant within the State of Wisconsin, although due diligence has been exercised so to do, and that defendant's last known Post Office address is as follows, to-wit:.....

2422 W. Keefe avenue, Milwaukee, Wisconsin, but that the defendant has since left the State of Wisconsin and that his whereabouts were unknown at the time of the commencement of this action, for which reason mailing of a copy of the summons and complaint were omitted, pursuant to the statute in such case made and provided;  
And it further appearing by the affidavit of.....

~~on file herein that a true copy of said summons and complaint were on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, duly deposited in the Post Office addressed to said defendant at said last known address; and it further appearing that said summons was duly published in the~~

Daily Reporter..... a newspaper likely to give notice to the defendant, once a week for three weeks and that the day of first publication was on the 26<sup>th</sup> day of May, 1950, and that the day of the last publication was on the 9<sup>th</sup> day of June, 1950, as appears by the affidavit of N. N. Stalcomby..... on file herein.

~~And it further appearing that a copy of the summons and complaint were delivered to the defendant personally without the state on the..... day of....., 19....., as appears more fully by the affidavit of..... on file herein.~~

And it further appearing that on the 13 day of June, 1950, and within ten (10) days after service on the defendant, a copy of said complaint were duly served on the Honorable Jeremiah J. Kelly, the Divorce Counsel for said Milwaukee County, as appears by the admission of such service endorsed upon the original summons and complaint on file herein;

And it further appearing that twenty days have elapsed since the date of the service of the summons and complaint upon said defendant and that said defendant has failed to answer or demur to said complaint, and that said defendant has in no manner appeared herein, and is now in default, as more fully appears by the affidavit of Elizabeth C. Leis Esq., the attorney for the plaintiff, on file herein;

And the plaintiff appearing in person and by Elizabeth C. Leis attorney, and the State of Wisconsin appearing by Joseph M. Syman, Esq., Assistant Divorce Counsel for said Milwaukee County, and the defendant failing to appear either in person or by attorney, and after hearing the testimony and proofs submitted, and the said Joseph M. Syman, Esq., Assistant Divorce Counsel, having appeared in open court on behalf of the public, made a fair and impartial presentation to the court and fully advised the court as to the merits of the case and the rights and interests of the parties and of the public, and being fully advised in the premises; ~~and the judge having informed the parties hereto appearing in court that the judgment to be entered herein so far as it affects the status of the parties, will not become effective until one year from the date of the granting thereof, I~~ August E. Braun, the judge before whom this action was tried, do make these findings of fact and conclusions of law, as follows, to-wit:

## FINDINGS OF FACTS

~~First. That for more than two years next preceding the commencement of this action the..... has been a continuous and bona fide resident of the State of Wisconsin.~~

Second. That on the 19th day of April, 1950, at the City <sup>48</sup> ~~of~~ Dubuque in the State of Iowa, the plaintiff and defendant/ <sup>50</sup> purportedly intermarried ~~and since that time have been and now are husband and wife~~

Third: That said purported marriage ceremony was performed by one B. C. Ziemer, a person not authorized to perform marriages in the state of Iowa; that prior to said ceremony, neither of the parties had secured an license to marry nor had submitted to any blood tests, as required by the code of the State of Iowa; that at the time of said purported marriage, both parties were residents of the

to the state of Wisconsin, where, at Milwaukee, Wisconsin, they thereafter lived as husband and wife until their separation in August, 1948.

Third. That the issue of said marriage and the age thereof are as follows, to-wit:

Linda Turner, born January 8th, 1949, whose birth was erroneously registered as ~~Linda Lindemann~~ Linda Lindemann, the said name "Lindemann" being the maiden name of the plaintiff, Elva Turner.

and I find as

### CONCLUSIONS OF LAW

First. That the plaintiff is entitled to judgment <sup>a nulling the purported marriage of</sup> ~~wholly dissolving the bonds of matrimony~~ heretofore subsisting between the plaintiff and the defendant, and forever freeing the plaintiff and defendant from the obligations thereof; providing, however, that said judgment so far as it affects the status of the parties shall not be effective, except for the purpose of an appeal to review the same, until the expiration of one year from the date of the granting of said judgment or decree.

the parties, entered into at Dubuque, Iowa on April 19th, 1948

~~Second. That neither of the parties to this action shall marry again until one year after the granting of said judgment or decree and the marriage of either of the parties to this action solemnized before the expiration of one year from the date of the granting of said judgment or decree herein shall be null and void.~~

Second. That the care and custody of said child, Linda Turner, is awarded to the plaintiff.

Let judgment be entered accordingly.

Dated, Milwaukee, Wisconsin, this 27 day of December, 1950.

By the Court,

*Aug. L. Brown*  
Circuit Judge.

Findings approved this 18<sup>th</sup> day of

December, 1950

*Joseph M. Dymna*  
Assistant Divorce Counsel.

Case No. 227-195

THE STATE OF WISCONSIN  
CIRCUIT COURT

Milwaukee County.

ELVA TURNER

vs.

ROBERT H. TURNER

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW.

DIVORCE SERVICE BY PUBLICATION  
ANNULMENT

FILED

DEC 28 1950

*Frank J. Jager*  
Clerk

filed 11-30-50

Nov. 6<sup>th</sup> 1950  
(trial date)

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY

ELVA TURNER,

Plaintiff,

CASE NO. 227-195

-vs-

MEMORANDUM TO THE COURT

ROBERT H. TURNER,

Defendant

STATEMENT OF FACTS

The plaintiff and defendant, residents of Milwaukee, Wisconsin, on April 19, 1948, went to Dubuque, Iowa, where a marriage ceremony took place. The marriage was performed by a person not authorized to perform marriages; no marriage license had been secured by either party, nor blood tests taken. The person officiating at the ceremony did not issue a certificate of marriage in the form prescribed by Iowa statute. A memorandum, thereof, however, was given to the plaintiff, signed by the two witnesses to the ceremony. The parties immediately returned to Milwaukee, where they lived together as man and wife until the separation of the parties in August, 1948. A child, Linda, whose birth is registered as Linda Lindemann (plaintiff's maiden name) was born on January 8, 1949. The birth was registered as illegitimate.

STATUTES APPLICABLE

IOWA CODE:

595.3. License. Previous to the solemnization of any marriage, a license for that purpose must be obtained from the clerk of the district court of the county where the marriage is to be solemnized.

595.9. If the clerk issue a license in violation of the provisions of Sec 595.8....If a marriage is solemnized without its (a license) being procured, the clerk so issuing the same, and the parties married, and all persons aiding them, are guilty of a misdemeanor.

595.10 Marriages must be solemnized by: 1) A justice of the peace, or the mayor of the city or town where the marriage takes place; 2) Some judge of the supreme, district, superior or municipal court of the state; 3) Some minister of the gospel, ordained or licensed according to the usage of the denomination.

595.11 Non-statutory solemnization - forfeiture. Marriages solemnized with the consent of the parties, in any other manner than as herein prescribed, are valid, but the parties thereto and all other parties aiding and abetting them, shall forfeit to the school fund the sum of \$ 50.00 each, but this shall not apply to the person conducting the marriage ceremony, if within 15 days thereafter he makes the required return to the clerk of the district court.

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It is respectfully submitted that pursuant to the statutes above set forth and hereto applicable, the marriage of the parties was valid and that the Court make findings herein that said marriage is valid and that the Complaint for annulment be dismissed.

ELIZABETH C. LEIS

PLAINTIFF'S ATTORNEY

This is to certify I have united  
in marriage Elva A. Lindemann and  
Robert J. Turner this 19<sup>th</sup> day of  
April, 1948.

John Giesner

B. C. Giesner

Justice of Peace  
Dubuque Co., Iowa..

(926 Elm St.)  
Dubuque

Circuit Court 7, Milwaukee County

Plaintiff's

~~Defendant's~~

NOV 6 1950

Exhibit

for Ident.

LAWRENCE W. NELSON

Official Reporter

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY

ELVA TURNER,

Plaintiff,

-vs-

ROBERT J. TURNER,

Defendant

COMPLAINT

FILED

MAY 25 1950

Fred J. Jueger  
Clerk

Now comes the plaintiff above named by her attorney ELIZABETH C. LEIS and as and for a complaint against the defendant, alleges as follows:

1. That the plaintiff resides at 2847 South 84th Street, in the city of West Allis, Milwaukee County, state of Wisconsin.
2. That the present whereabouts of the defendant are unknown; that the last known post office address of the defendant was 2422 West Keefe avenue, Milwaukee, Wisconsin.
3. That on the 19th day of April, 1948, the plaintiff and the defendant entered into a purported marriage ceremony at the city of Dubuque, state of Iowa.
4. That one child was born as the issue of said purported marriage, Linda Lindemann, born at Milwaukee, Wisconsin on January 8, 1949.
5. That no previous action for divorce or annulment has been commenced by either of the parties hereto.
6. That the parties own no real or personal property.

FIRST CAUSE OF ACTION

7. That the purported marriage of the parties at Dubuque, Iowa on April 19th, 1948 was null and void for the reason that the parties had not obtained any license for the performance of said marriage, contrary to the laws of the State of Iowa and that in further violation of said laws, said ceremony was performed by a person who was not duly authorized to solemnize or perform marriage ceremonies.

