

NO. 35734-8-II

IN THE COURT OF APPEALS
FOR THE STATE OF WASHINGTON
DIVISION II

In re the Marriage of
CHERYL ANN GREENLAND
Respondent,
and
GEORGE TRUMAN GREENLAND,
Appellant.

FILED
COURT OF APPEALS
DIVISION II
08 JAN 22
9:03
STATE OF WASHINGTON
BY DEPUTY

ON APPEAL FROM THE
SUPERIOR COURT OF PIERCE COUNTY

Before The Honorable Bryan E. Chushcoff, Judge

REPLY BRIEF OF APPELLANT

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A. STATEMENT OF THE CASE

The facts of this case are fully set forth in the Appellant's Brief.

B. STATEMENT OF THE FACTS

Appellant will rely upon the Statement of the Facts as presented in his Opening Brief.

C. ARGUMENT

I. UNDER *YEAGER*, CHERYL'S FAILURE TO PAY THE DELINQUENT MORTGAGE IN OCTOBER, 2005 DEMONSTRATES THAT ANY CONSIDERATION PROVIDED IN 1999 IN EXCHANGE FOR THE QUIT CLAIM DEED WAS EITHER INADEQUATE OR ILLUSORY.

In the Brief of Respondent, Cheryl argues that *Yeager v. Yeager*¹ is inapplicable to the facts of this case. Cheryl argues that in *Yeager*, the respondent had recently been released from a sanitarium, that she executed the deed to her husband at a meeting at the office of the husband's attorney while she was unrepresented, that the quit claim deed was executed in connection with an effort at reconciliation, and that the court found the attempt at reconciliation was not made in good in good faith. Brief of Resp. at 17-18. These factual distinctions, however, do not overcome the requirement that the transfer of his interest in the property be for adequate

¹ 82 Wash. 271, 144 P. 22 (1914).

consideration and that the transaction be fair and just. *Yeager*, 82 Wash. At 274. Assuming *arguendo* that George received *any* consideration for the quit claim deed, such consideration was inadequate. Cheryl's argument focuses on minor factual differences while overlooking the crux of *Yeager*, which was that there was inadequate consideration where the husband obtained from the wife a deed of property of considerable value, on an agreement to pay her a set amount per month as long she remained married to him, and where the husband then secured a divorce and ceased to make any further payments, making the consideration grossly inadequate. *Yeager*, 82 Wash. At 272-73. Here, Cheryl obtained the quit claim deed, secured by the note and the deed of trust. Cheryl argues that her "promise to pay the note and her promise in the deed of trust constituted sufficient consideration for the quitclaim deed." Brief of Resp. at 17. Cheryl's argument, however, overlooks the fact that at the time the parties separated in October 2005, although the mortgage was delinquent, Cheryl did not pay it herself, showing that the consideration—the promise to pay the note—was either illusory or inadequate. Brief of Resp. at 6. 2RP at 65-66.

The Court in *Yeager* held that the "burden is upon the husband to show that a transfer made to him by his wife for an inadequate consideration

was made freely, and that the transaction was fair and just.” *Yeager*, 82 Wash. at 273. Here, Cheryl has failed to show that if she did in fact provide consideration in exchange for the quit claim deed, that such consideration was adequate.

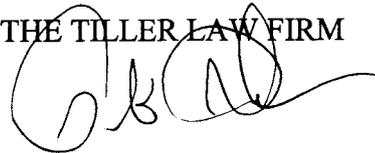
D. CONCLUSION

For the above-stated reasons, and those set forth in George’s opening brief, this Court should grant the relief requested in the opening brief.

DATED: January 18, 2008.

Respectfully submitted,

THE TILLER LAW FIRM

A handwritten signature in black ink, appearing to read 'P. B. Tiller', written over the printed name of the law firm.

PETER B. TILLER-WSBA 20835
Of Attorneys for Appellant

CERTIFICATE

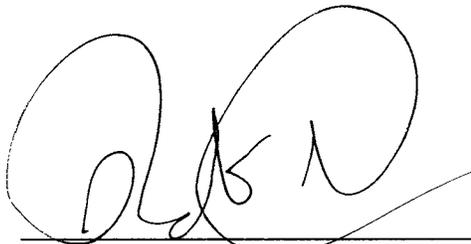
I certify that I mailed a copy of the foregoing Reply Brief of Appellant, postage pre-paid on January 18, 2008, at the Centralia, Washington post office addressed as follows:

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