#60618

4-25-77

MAP 59-11
Par. 85

BOOK 5393 PAGE 514

1048/849

IN THE FOURTH CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE

NEOMI RUCKER)

VS.) NO. 60040 Consolidated with NO. 77876

DAVE RUCKER, JR.)

FINAL DECREE

The above cause was heard the 31st day of January, 1977, before the Honorable Benson Trimble, Circuit Judge, upon the testimony of the principals, of corroborative witnesses, the exhibits filed, argument of solicitors and the entire record, whereupon the Court took the case under advisement and thereafter filed its written Memorandum Decision dated 1 February 1977 which is made a part of the record and pursuant to which the Court finds that the allegations of plaintiff's Petition are sustained by the proof, that is to-wit: that the defendant, Dave Rucker, Jr., has been guilty of such cruel and inhuman treatment or conduct towards plaintiff, Neomi Rucker, as renders it unsafe and improper for her to cohabit with him or to be under his dominion and control; and that the allegations of the defendant's Cross Complaint are not sustained by the proof and that the remaining issues in the case should be disposed of as hereinafter provided.

Thereafter each of the principals, through their respective counsel, filed proposed decrees differing in computation of arrearage, whereupon the Court appointed a Special Master to determine that issue only. Subsequently the defendant filed a Motion seeking to compel plaintiff to return to him a reel-to-reel tape player, a 19" portable black and white television set and a record player, and plaintiff filed a Motion to credit house note payments made by her on the arrearage, for possession of the house, and for entry of the final decree, which Motions were heard by the Court on 7 April 1977 upon the testimony of the parties, arguments of counsel and the entire record. Thereupon the Court took said Motions under advisement and rendered

Ex #1 to test. of Neomi Rucker
before S.M. on 2/7/79
D. Miller Cardwell Jr., Probate Master

its Memorandum Opinion filed 11 April 1977 which is made a part of the record and of this Decree and pursuant to all of which the Court finds that the final decree should be and the same is hereby made and entered as follows:

IT IS ORDERED, ADJUDGED AND DECREED that the bonds of matrimony heretofore subsisting between said plaintiff and said defendant be and the same are hereby forever and perpetually dissolved and for nothing held and that said plaintiff, Neomi Rucker, be and she is hereby awarded an absolute divorce from said defendant, Dave Rucker, Jr., and is restored to all the rights and privileges of an unmarried person.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, as alimony to the plaintiff and/or equitable division of the property of the parties, the residence held by the parties as tenants by the entirety and located on 3917 Augusta Drive, Nashville, Tennessee, which is more particularly described as follows to-wit:

> Land in Davidson County, Tennessee, being Lot No. 446, Haynes Manor, Sec. III, as of record in Book 4175, page 11, Register's Office for Davidson County, Tennessee.
> Said Lot No. 446 fronts 75 feet along the westerly side of Augusta Drive and runs back between lines 185 feet on the northerly line and 177.6 feet on the southerly line to a broken line at the rear, measuring 77.3 feet thereon.
> Being the same property conveyed to Dave Rucker, Jr., et ux by deed from Cumberland Builders, Inc., of record in Book 4385, page 340, said Register's Office of Davidson County, Tennessee.

be and the same is hereby vested an undivided two-thirds in said plaintiff, Neomi Rucker, and the remaining undivided one-third in the said defendant, Dave Rucker, Jr., as tenants in common and, to that extent, the interest of defendant, Dave Rucker, Jr., is divested out of him and vested in the plaintiff, Neomi Rucker.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any and all right, title and interest of said defendant, Dave Rucker, Jr., in and to the 1972 Satellite Plymouth automobile plaintiff is now driving, together with all household furniture and equipment belonging to the parties, including that located in the above home at 3917 Augusta Drive and also including the stove that is

now being used by the defendant, Earl Rucker, brother of the defendant, Dave Rucker, Jr., be and the same is hereby divested out of said defendant, Dave Rucker, Jr., and is vested in the plaintiff in fee simple and the defendants will deliver all such personal property in their possession into the possession of the said plaintiff, Neomi Rucker, forthwith.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said post-trial motion of defendant is denied and that the above-said items of property mentioned therein will be and become the property of plaintiff along with the other personal property mentioned above.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the amount of arrearage in payment of alimony and child support to be assessed against defendant will be determined by the Special Master, James Price, Esquire, in accordance with said Memorandum Decision dated 1 February 1977 and this Decree; that defendant shall be liable for one-third of the housenotes heretofore paid by the plaintiff on said residence during the period of time he has been in the household and she was forced to make said payments to prevent foreclosure, and that said amount be included in the arrearage found by the Master. The case will remain under advisement for a finding of the arrearage but otherwise this decree will operate as a final decree.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that insofar as said real estate of the parties is concerned, if they come to an agreement by and between the solicitors insofar as a buy or sell arrangement by and between the parties is concerned, this will be approved by the Court so that the property will not have to be sold and the proceeds distributed in proportion to their new ownership as tenants in common as set forth above. Pending any such sale each party shall have a right to possession of said real estate in accordance with the interest herein vested in such party and each party is enjoined from molesting, harming or interfering with the other in the peaceable exercise of said

right of posssession or from excluding or attempting to exclude the other from said real estate.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Cross-Complaint be and the same is hereby dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, in addition to all other fees heretofore paid or awarded to him by either of the parties, the plaintiff's solicitor, Avon N. Williams, Jr., Esquire, be and he is hereby awarded a reasonable counsel fee for his services in representation of the plaintiff and the minor child in this proceeding in sum of $2,500.00 to be paid by the defendant, Dave Rucker, Jr., and said counsel fee is hereby established as a lien against the equity of said Dave Rucker, Jr., in the above described real estate at 3917 Augusta Drive, Nashville, Tennessee, until said fee is paid in full. Upon default of the defendant, Dave Rucker, Jr., in any of said payments as hereinabove directed by the Court in this case, execution may issue. All costs of the cause are taxed against the defendant, Dave Rucker, Jr., for which execution may issue.

Enter this 25 day of April, 1977.

s/ Binson Grimes
CIRCUIT JUDGE

APPROVED FOR ENTRY

Avon N. Williams, Jr.
Attorney for Plaintiff

J. W. Rutherford
Attorney for Defendant

CERTIFICATE

The undersigned certifies that copy of the foregoing Decree was mailed to J. W. Rutherford, Esquire, Attorney for the Defendant, Nashville Bank and Trust Building, Nashville, Tennessee 37219, this the 13th day of April, 1977.

1932 02/08 10.00- CHECK

F. I. 3 2 9 8.

BOOK 5393 PAGE 518 IDENTIF. REFERENCE

FEB 8 11 57 AM '79

FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY, TENN.

Docket No. 60040 Minute Book 104B Page 849

STATE OF TENNESSEE

I, GEORGE L. ROOKER, *Clerk of the Circuit Court for the County of Davidson, in the State aforesaid, do certify that the foregoing is a* ~~correct transcript~~ true copy *of the record and proceedings had in said Court in the case heretofore prosecuted and determined therein, between* Neomi Rucker *Plaintiff, and* Dave Rucker, Jr. *Defendant, as same remain of record in said Court.*

IN TESTIMONY WHEREOF, *I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the* 16th *day of* January *in the year one thousand nine hundred and* Seventy-Nine *and in the* 203rd *year of American Independence.*

GEORGE L. ROOKER, *Clerk.*

By Barbara Eddings D. C.

Form #GR-117