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147-16-105

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

BOOK 5199 PAGE 572

VESTA MAE BROOKS CUNNINGHAM	)	
	)	
VS.	)	NO. 93539
	)	
JOHNNY CLIFTON CUNNINGHAM, SR.	)	

FINAL DECREE

This cause came on to be heard on the 27th day of March, 1979, before the Honorable Benson Trimble, Judge of the Fourth Circuit Court for Davidson County, Tennessee, on the Complaint for Absolute Divorce filed by Vesta Mae Brooks Cunningham, and the Answer filed by the defendant, Johnny Clifton Cunningham, Sr., the case being placed on the contested docket for trial. At the commencement of the trial of the case counsel for the parties announced to the Court that there would not be any real contest as to the divorce itself and that the main issues in controversy were division of property, alimony, child support, and attorneys' fees. It was further announced to the Court by agreement of counsel that since the parties had been unable to secure an adequate stipulation regarding medical proof from plaintiff's physician, Dr. George B. Crafton, that after trial of the case, either an adequate stipulation would be provided or Dr. Crafton's deposition would be taken and provided to the Court, at which time the matter would be set by agreement for final argument and disposition by the Court.

Upon agreement of counsel certain letters from Dr. George B. Crafton were submitted in lieu of Dr. Crafton's sworn deposition and on the 22nd day of May, 1979, the matter was set for oral argument in Chambers. After consideration of the testimony of the parties, their corroborating witnesses, medical letters from Dr. George B. Crafton, and other exhibits, as well as argument of counsel, the Court is of the opinion, and

It is, therefore, ORDERED as follows:

1. The defendant, Johnny Clifton Cunningham, Sr. has been guilty of such cruel and inhuman treatment or conduct towards the plaintiff, Vesta Mae Brooks Cunningham, so as to render further cohabitation unsafe and improper for

her to remain under his dominion and control. Therefore, the plaintiff, Vesta Mae Brooks Cunningham, is awarded an absolute divorce and restored to all the rights and privileges of an unmarried person.

2. Custody of the parties' minor children will be vested in the plaintiff, Vesta Mae Brooks Cunningham, with reasonable visitation privileges afforded the defendant, Johnny Clifton Cunningham, Sr.

3. The Court has considered mostly carefully the amount that would be equitable for the defendant to pay as far as child support and/or alimony would be concerned. The Court must take into consideration the earning capacity of the defendant at this time. The Court, therefore, feels that the amount of $400.00 each month should be paid by the defendant to the plaintiff and that one-half of said amount will be designated as alimony and one-half shall be set for the child support. When the youngest child reaches the age of eighteen, the amount of alimony in the amount of $200.00 will continue thereafter for a period of twenty-four years, this being the length of time that the parties were married and living together.

4. Due to the statement of the defendant that he will no longer receive overtime and in the event he may change his mind after this final judgment and begin working overtime, the Court is of the opinion that the plaintiff, Vesta Mae Brooks Cunningham, will be entitled to one-third of any amount of overtime the defendant may receive and that this one-third amount be paid by the defendant to the plaintiff on a monthly basis at the same time he makes his regular alimony and child support payments, as heretofore stated.

5. The plaintiff will be awarded all household furniture and funishings located in the house and lot at 370 Fairlane Drive in Nashville, Davidson County, Tennessee, as well as the lawn mower, tools and other items that are located on the property for the upkeep of said property. Any interest the defendant may have in the said items will be divested from him and vested in the plaintiff for her sole and separate use. The plaintiff shall hold the defendant harmless for any indebtedness remaining on the property located at 370 Fairlane Drive in Nashville, Davidson County, Tennessee.

6. The defendant shall be awarded the 1957 Chevrolet automobile, the 1962 Ford truck, the 1976 Ford truck, the D9 bulldozer, and the welding machine, as testified to by the parties. Any interest the plaintiff may have in same will

be divested from her and vested in the defendant for his sole and separate use.

6. The Court is further of the opinion that the house and lot located at 370 Fairlane Drive in Nashville, Davidson County, Tennessee, where the plaintiff and the minor children are presently living will become her sole and separate property and no there will be no resulting claims thereto insofar as the defendant is concerned and the plaintiff will be responsible for the mortgage payment commencing with the first day of June, 1979. Any interest the defendant may have in said house and lot will be divested out of him and vested in the plaintiff for her sole and separate use. Description of said property is as follows:

> Being Lot No. 328 on the Plan of Fairlane Park, Section III of record in Book 2331, pages 145 and 146, Register's Office for said County.
>
> Said Lot No. 328 fronts 73 feet on the north side of Fairlane Drive and runs back between lines, 161 feet on the west line and 226 feet on the east line to a dead line in the rear on which it measures 97.7 feet.
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> Being part of the property conveyed to Fairlane Homes Company by deed from Crosby Land Company, of record in Book 2600, page 263, said Register's Office.
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> This conveyance is subject to plan and easements of record in Book 2331, pages 145 and 146, and subject to restrictions of record in Book 2598, page 491, all in said Register's Office.

7. The Court is of the opinion that the defendant shall be awarded the property now located in Waverly, Tennessee, with no resulting claim hereto insofar as the plaintiff is concerned. The defendant will be responsible for any indebtedness that may owe on said property and hold the plaintiff harmless on said indebtedness. A better description of said property is as follows:

> Lying and being situated in the 2nd Civil District of said County and State, and being Lot No. 32 of the Sykes View Subdivision, a plat of which is recorded in Plat Book 2, page 127, of the Register's Office of Humphreys County, Tennessee, and more particularly described as follows, to-wit:
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> BEGINNING at a stake in the NWC of Lot No. 31, the same being on the east side of Parker Avenue; thence north 4 deg. 40' East 100 ft. to a stake; thence south 85 deg. 20' East 170 ft. to a stake; thence south 4 deg. 40' West 100 ft. to a stake; thence north 85 deg. 20' E 170 ft. to a stake, the point of beginning.
>
> BEING the same property conveyed to grantors by deed of record in Deed Book _____, Page ___, Register's Office for Humphreys County, Tennessee.

8. The Court feels that Joe P. Binkley, Jr., attorney for the plaintiff, is entitled to a fee in the amount of $1500.00 which shall be assessed against the defendant, Johnny Clifton Cunningham, Sr. for which let judgment be entered and execution issue if necessary, if some agreement as to partial payment cannot

be agreed upon by and between the attorneys of record for the parties.

9. The costs of this cause are assessed against the defendant, Johnny Clifton Cunningham, Sr. for which let execution issue if necessary.

JOE P. BINKLEY, JR.
Attorney for Plaintiff

CERTIFICATE

I hereby certify that a true and exact copy of the foregoing Final Decree has been forwarded to Mr. Robert L. Jackson, Attorney, 216 Third Avenue, North, Nashville, Tennessee 37201 this 18th day of JUNE, 1979.

JOE P. BINKLEY, JR.

F. 52299 DIVORCE
IDENTIF. REFERENCE
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FELIX A. JOHNSON, REGISTER
DAVIDSON COUNTY, TENN.

6-25-79

6-25-79 112C/1783

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* Vista Mae (Brooks) Cunningham *Plaintiff, and* johnny clifton Cunningham, Sr *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* 17th *day of* Sept. *in the year one thousand nine hundred and* 79 *and in the* 204th *year of American Independence.*

GEORGE L. ROOKER, *Clerk*

By L. Cope, *D. C.*

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