30C/2169

FILED

1985 MAY 28 PM 3:45

IN THE PROBATE COURT FOR DAVIDSON COUNTY, TENNESSEE

MATILDA MARSHALL McPEAK,)
)
Complainant)
)
-vs-)
)
JOHN ALSTON McPEAK,)
)
Defendant)

D. Bayne D.C.

No. 84D-3883

BOOK 6629 PAGE 354 - 164

DIVORCE DECREE

This cause came on to be heard on the _____ day of May, 1985, before the Honorable James R. Everett, Jr., Judge, upon the Complaint for Absolute Divorce heretofore filed in this cause, upon the Agreed Order withdrawing responsive pleadings filed thereto, upon the written Child Custody and Property Settlement Agreement executed by the parties, upon the testimony of witnesses presented in open Court, upon statement of counsel, and upon the entire record in this cause, from all of which the Court finds that the Complainant, Matilda Marshall McPeak, and the Defendant, John Alston McPeak, have experienced such irreconcilable differences in this marriage as would render further cohabitation improper;

It is, therefore, ORDERED, ADJUDGED and DECREED that the bonds of matrimony subsisting between the Complainant, Matilda Marshall McPeak, and the Defendant, John Alston McPeak, be absolutely and forever dissolved and that the Complainant, Matilda Marshall McPeak, be granted an absolute divorce and be vested with all the rights and privileges of an unmarried person.

It further appearing to the Court that the parties hereto have entered into a written Child Custody and Property Settlement Agreement, and the Court affirmatively finds that the parties have made adequate and sufficient provision by said Agreement for the support, maintenance and education of the minor child of the parties and for the equitable settlement of any property rights between the parties, said Agreement providing as follows:

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IN THE PROBATE COURT FOR DAVIDSON COUNTY, TENNESSEE

MATILDA ELIZABETH McPEAK,)
) K Rooker D.C.
Complainant)
)
-vs-)
)
JOHN ALSTON McPEAK,)
)
Defendant)

No. 84D-3883

BOOK 6629 PAGE 355

CHILD CUSTODY AND
PROPERTY SETTLEMENT AGREEMENT

THIS AGREEMENT made and entered into this 17th day of May, 1985, by and between Complainant, MATILDA ELIZABETH McPEAK, hereinafter called Wife, and Defendant, JOHN ALSTON McPEAK, hereinafter called Husband, both citizens and residents of Davidson County, Tennessee;

W I T N E S S E T H:

WHEREAS, the parties hereto have encountered marital difficulties which are apparently irreconcilable; and,

WHEREAS, the above captioned action for absolute divorce between the parties is now pending in the Probate Court of Davidson County, Tennessee, styled Matilda Elizabeth McPeak -vs- John Alston McPeak, being case No. 84D-3883; and,

WHEREAS, the parties hereto are mutually desirous of adjusting all issues in said action relative to child custody, support, alimony and division of property insofar as they are able without the concurrence of the Court;

NOW, THEREFORE, for good and sufficient consideration, including the mutual covenants and agreements hereinafter contained, the parties hereto mutually agree as follows:

1. Husband and Wife agree that Wife shall be permitted to retain the absolute custody and control of the minor child of the parties, Anna McMillan McPeak. Wife agrees to grant to Husband the following specific visitation privileges with said minor child: (a) For the period extending from June 1, 1985, through August 31, 1985, visitation privileges on two weekends

each month from approximately 9:00 a.m. on Saturday morning until approximately 6:00 p.m. on Saturday evening with the parties reserving the right to substitute Sunday by mutual agreement; and, (b) for the period extending from September 1, 1985, through November 30, 1985, visitation privileges on two weekends of each month from approximately 10:00 a.m. on Saturday morning until approximately 6:00 p.m. on Sunday evening; and, (c) presuming a good relationship has been established between Husband and minor child through the exercise of the privileges hereinabove described, visitation privileges after December 1, 1985, on two weekends of each month from approximately 6:00 p.m. on Friday evening until approximately 6:00 p.m. on Sunday evening; and, (d) commencing with the summer vacation period of 1986, visitation privileges during the summer months for a period of two weeks to be exercised in two one-week increments; and, (e) commencing with Christmas in 1986, visitation privileges for a period of three days during the Christmas holiday season with the provision said privileges shall not include Christmas Eve or Christmas Day until the minor child is ten years of age and with the provision that said privileges shall include Christmas Eve or Christmas Day on an alternating basis from year-to-year thereafter; and, (f) visitation privileges on Father's Day, July Fourth, Labor Day, and Thanksgiving Day on an alternating basis from year-to-year, the alternation schedule to be established by the parties. Husband agrees to be individually responsible for picking up and returning the minor child at the times indicated, and he agrees to furnish to Wife at least twenty-four-hour advance notice of his inability to exercise any of said visitation privileges. Further, Husband agrees that during the predominate period of each visitation, he will be personally available to supervise and secure the safety and well-being of said minor child. Further, Husband agrees that during the exercise of any of said visitation privileges, he will not consume any non-prescriptive drugs, nor will he consume alcohol during the operation of a motor vehicle

or at other times in such quantity as would impair his functions and pose problems in securing the safety of the minor child. Additionally, Husband agrees that he will not permit another female with whom he is maintaining a relationship while unmarried to reside with him on an overnight basis while the minor child herein involved is visiting with him.

2. Husband agrees to pay to Wife the sum of Three Hundred Seventy-Five Dollars ($375.00) per month as child support for the support, maintenance and education of the minor child of the parties. Husband agrees that each of said child support payments shall be paid into the office of the Probate Court Clerk of Davidson County, Tennessee, on or before the fifth day of each month, commencing with a first payment due on June 1, 1985, and Wife agrees to pay the Court costs associated with the handling of said child support payments by the Court.

3. Wife agrees to maintain health insurance coverage on the minor child of the parties, and Husband agrees to be individually responsible for the payment of any medical, dental, and drug related expenses which may be incurred in behalf of said minor child and which may not be covered by Wife's health insurance plan.

4. Husband agrees to maintain a term life insurance policy on his life in the face amount of Twenty-Five Thousand Dollars ($25,000.00) with Wife being designated as beneficiary in trust for the use and benefit of said minor child. The parties agree that the obligation herein shall continue so long as Husband is required to maintain child support payment as hereinabove described. Wife as Trustee shall maintain said insurance proceeds in a Trust account and shall be authorized to use such portion of the principal and income as may be necessary for the support, maintenance and education of the minor child of the parties. At such time as said minor child reaches her majority, the Trust shall terminate and the entirety of the insurance proceeds shall be distributed to said child in fee.

5. Husband and Wife own as tenants by the entirety their residence located at 4217 Wallace Lane in Nashville, Tennessee. Husband agrees to relinquish to Wife all his right, title and interest in said real estate, and he agrees to execute a Quitclaim Deed divesting his interest in same to Wife. Wife agrees to assume individual responsibility for the payment of the outstanding first mortgage obligation owed to Commerce Union Bank and an indebtedness to Nashville Electric for insulation and a heat pump, and she agrees to hold Husband harmless from any loss he may incur as the result of her failure to maintain payments on said obligation. Husband agrees to return to Wife immediately upon execution of this document all keys to the residence Wife is receiving.

6. Husband presently owns individually in his name a tract of business property located on Old Hickory Boulevard in Davidson County, Tennessee, and a farm located in Decatur County, Tennessee. Wife agrees to relinquish to Husband any right, title or interest she may have in said real estate. Husband agrees to assume sole responsibility for all indebtednesses owed on said real estate, and he agrees to hold Wife harmless from any loss she may incur as the result of his failure to maintain payments on said obligations.

7. The parties agree that Wife shall be permitted to individually retain all items of furniture, appliances and household furnishings located in the home of the parties at 4217 Wallace Lane in Nashville, Tennessee, with the exception of the following items which Husband shall be permitted to individually retain: Canopy bed with box springs and mattress; antique organ; stained glass lamp; antique clock with painted front; old chair, table and chest-of-drawers from Husband's mother; diningroom table; and Husband's personal clothing and books. Husband shall be permitted to individually retain all items of furniture, appliances and household furnishings presently in his possession and located outside the residence of the parties hereinabove described. Husband shall return Wife's legal size filing cabinet in his office.

8. The parties agree that Wife shall be permitted to individually retain the 1978 Pontiac owned by Husband and the 1966 Jaguar automobile owned by Wife. Further, Husband shall be permitted to individually retain the 1973 El Camino, the 1969 Camaro, and the 1972 Plymouth, all of which are owned individually by Husband. Each of the parties agree to execute such documents of transfer as may be necessary to divest their interest in the respective vehicles to the other party. Husband agrees to return Wife's keys to the 1966 Jaguar and his keys to the 1978 Pontiac. Husband acknowledges that there is one monthly payment remaining as an encumbrance against the 1978 Pontiac automobile Wife is receiving, and Husband agrees to be individually responsible for making said payment as scheduled so said vehicle can be released free and clear of any encumbrance to Wife.

9. Wife agrees to relinquish to Husband any right, title or interest she may have in livestock owned by Husband and located on his farm in Decatur County, Tennessee, together with any right, title or interest she may have in Husband's veterinary practice, together with the assets associated therewith.

10. Husband has just recently incurred an obligation for repairs to the roof of said residence, and Husband agrees to assume sole responsibility for the satisfaction of said indebtedness and agrees to hold Wife harmless from any loss she may incur as the result of his failure to maintain payments on any of the obligations described in this paragraph. Husband agrees, with the exception of the obligations on the home of the parties as is hereinabove described which are being assumed by Wife, he will assume individual responsibility for the payment of all indebtednesses which he has individually incurred during the course of this marriage or which he has jointly incurred with Wife during the course of this marriage, and he agrees to hold Wife harmless from any loss she may incur as the result of his failure to satisfy said obligations. Wife agrees to assume sole responsibility for any indebtednesses she has individually incurred, and she agrees to hold Husband harmless from any loss

he may incur as the result of her failure to maintain payments on said obligations. Further, Husband agrees to assume individual responsibility for any income tax liability for tax returns filed jointly by the parties prior to the execution of this Agreement, and he agrees to hold Wife harmless from any loss she may incur as the result of his failure to maintain payments on said obligations.

11. Husband agrees to pay to Complainant's counsel, within a period of ninety (90) days from date of entry of the Divorce Decree in this cause, the sum of Seven Hundred Fifty Dollars ($750.00) as an attorney's fee in this cause, and Husband agrees to pay the Court costs in this cause.

12. In the event it becomes reasonably necessary for either party to institute legal proceedings to procure the enforcement of any provision of this Agreement, he or she shall also be entitled to a judgment for reasonable expenses, including attorney's fees, incurred in the successful prosecution of said proceedings.

13. It is understood and agreed between the parties that this Agreement is entered into without undue influence, fraud, coercion, or misrepresentation, or for any reason not herein stated. The provisions in this Agreement and their legal effect are fully known by each of the parties, and each party acknowledges that the Agreement is fair and equitable and that it is being entered into voluntarily.

It is understood and agreed that these presents contain the entire agreement between the parties hereto and that this agreement or pertinent portions thereof may be incorporated in Decree form should the Court see fit to decree a divorce between the parties. Further, each of the parties reserve the right to petition the Court for proper modification of provisions remaining within the jurisdiction of the Court upon a change of circumstance.

Nothing herein is intended, nor shall be construed, as infringing upon the prerogative of the Court having jurisdiction of this cause; the sole and only purpose of this Agreement being the mutual desire of the parties to make an advantageous disposition of their jointly owned personalty and to make suitable and adequate provision for their child.

IN WITNESS WHEREOF, the parties hereto set their hands on the day and date first above written, each retaining a copy hereof, the receipt of which is hereby acknowledged.

Matilda Elizabeth McPeak,
Wife

John Alston McPeak,
Husband

Mark Hartzog
Attorney for Complainant

Larry L. Roberts
Attorney for Defendant

STATE OF TENNESSEE

COUNTY OF WILLIAMSON

Personally appeared before me, NANCY M. PITNER, a Notary Public in and for said County and State, the within named Matilda Elizabeth McPeak, with whom I am personally acquainted, (or upon sufficient evidence provided) and who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand and official seal at Franklin, Tennessee, this the 17th day of May, 1985.

My Commission Expires:
July 23, 1988.

Nancy M. Pitner
Notary Public

STATE OF TENNESSEE

COUNTY OF Davidson

Personally appeared before me, Catherine T. Langston, a Notary Public in and for said County and State, the within named John Alston McPeak, with whom I am personally acquainted, (or upon sufficient evidence provided) and who acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS my hand and official seal at Nashville, Tennessee, this the 17th day of May, 1985.

My Commission Expires:
1/15/88

Catherine T. Langston
Notary Public

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It is, therefore, ORDERED, ADJUDGED and DECREED that the Child Custody and Property Settlement Agreement, as executed by the parties and as is herein stated, is in all respects approved and ratified in full and said Agreement shall be given full force and effect in all respects between the parties hereto as an Order of this Court.

The cost of this cause shall be paid by the Defendant, for which execution may issue, if necessary.

ENTER this 28 day of May, 1985.

James R. Everett, Jr.
Judge

APPROVED FOR ENTRY:

HARTZOG, HARRIS & SILVA

By
Mark Hartzog
Attorney for Complainant

C E R T I F I C A T E

I, Mark Hartzog, hereby certify that a true and exact copy of the foregoing Divorce Decree has been mailed to the Honorable Larry L. Roberts, attorney for the Defendant, on this the 21st day of May, 1985.

Mark Hartzog, Attorney

28240

IDENTIF. REFERENCE

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AUG 13 3 03 PM '85

FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY, TN

AREA CODE (615) OFFICE 244-7271

Mail

HARRY McNUTT
ATTORNEY AT LAW

OMER ELLIS BRABSON, McNUTT, STEPHENSON, MORISON & TOMLIN
CHANCERY BUILDING, 421 CHARLOTTE AVE., NASHVILLE, TN 37219

STATE OF TENNESSEE

I, **GEORGE L. ROOKER,** *Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the Order heretofore entered in the* Probate *Circuit Court for Davidson County, Tennessee, on the* 28th *day of* May, *19* 85, *in Case Number* 84D-3883 *between* Matilda Marshall McPeak *Plaintiff, and* John Aston McPeak *Defendant, as same remains of record in Book* 30C, *Page* 2169 *of the Minutes of said Court.*

IN TESTIMONY WHEREOF, *I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the* 13th *day of* Aug *in the year one thousand nine hundred and* 85 *and in the* 210th *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By K. Ayer *D.C.*

Form #GR-117