31A/260 mail

BOOK 7127 PAGE 967

IN THE PROBATE COURT FOR DAVIDSON COUNTY, TENNESSEE

JERRY WAYNE SMITH)
)
VS.) NO. 84D-384
)
FRANCES ELAINE SMITH)

K Rooker D.C.

Map 33-8
Par 30 Jd

ORDER

THIS cause came on to be heard on the 25th day of March, 1985, before the Honorable James R. Everett, Jr., Judge of the Probate Court for Davidson County, Tennessee, on a Complaint for Absolute Divorce filed by Jerry Wayne Smith and an Answer and Counter-complaint having been filed by Frances Elaine Smith. After testimony of the parties and their corroborating witnesses, the Court entered a Final Decree as to the issues of the granting of the divorce, custody, and visitation. As set out in paragraph 4 of the Final Decree, the Court took under advisement the issues of contempt of court against Jerry Wayne Smith and failure to pay support, child support arrearages, the amount of child support, the provision for health insurance, life insurance, distribution of personal property, distribution of real property, and other marital properties, whether Jerry Wayne Smith's quitting of his job with the United States Post Office in August 1984 and subsequent activities amounts to voluntary unemployment, the wife's attorney's fees, and whether or not the temporary restraining order against Jerry Wayne Smith should become a permanent injunction. The Court further entered a Memorandum Opinion dated June 4, 1985, and

IT IS, THEREFORE, ORDERED as follows:

1. Since as of the date of the hearing of March 25, 1985, Jerry Wayne Smith was not regularly employed, he should be responsible for payment to the Wife as child support one-third of any funds coming into his hands from whatever source and that he should make a monthly accounting to the Court concerning said

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IDENTIFICATION REFERENCED

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FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY, TN

funds with said accounting to be made retroactive to and include the month of March 1985 as well as all subsequent months.

2. The setting of a specific amount of child support shall be reserved until it is shown to the Court that the Husband, Jerry Wayne Smith, is regularly employed.

3. The Husband, Jerry Wayne Smith, shall further make the parties' minor children beneficiaries of any life insurance policies on his own life, which he may have now or may have in the future as well as make the minor children beneficiaries of any health insurance policies which he now has or may have in the future.

4. As to the division of property and alimony, it is further ordered that the house and lot owned by the parties at 429 Gates Road in Goodlettsville, Davidson County, Tennessee, is marital property and that the Wife, Frances Elaine Smith, shall receive the parties' entire interest in said real estate with the Husband, Jerry Wayne Smith's interest in said real estate being awarded to the Wife as alimony in solido, a better description of which is contained in Book 5057, Page 534 of the Davidson County Register's Office as follows:

> BEING Lot No. 72 on the plan of Gateway Subdivision, Sec. I, as of record in Book 3300, pages 47 to 52 inclusive, REgister's Office for said County.
>
> SAID lot fronts 75 feet on the northwesterly side of Gates Road, and extends back between parallel lines, 186 feet to a dead line.
>
> BEING the same property conveyed to Mr. & Mrs. Jerry Wayne Smith by deed from Morris W. Phillips and wife, Linda Faye Phillips of record in Book 5057, Page 534, said Register's Office.
>
> This conveyance is subject to all and any easements and rights of way of public record and to restrictions of record in Book 3370, Page 121 as amended by an instrument of record in Book 3398, Page 438, said Register's Office.

Any and all interest which the Husband, Jerry Wayne Smith, shall have in said house and lot at 429 Gates Road in Goodlettsville, Davidson County, Tennessee, shall be divested from the Husband

and vested in the Wife for her sole and separate use and the Wife shall assume the remaining mortgage indebtedness on said real estate.

5. All household furniture, furnishings, appliances, and other items of personal property in the parties' home at 429 Gates Road in Goodlettsville, Davidson County, Tennessee, shall be divested from the Husband and vested in the Wife for her sole and separate use.

6. The Wife shall receive as her own property the 1974 Monte Carlo automobile and any interest the Husband may have in said vehicle shall be divested from him and vested in the Wife for her sole and separate use. Likewise, the Husband shall receive as his sole property the 1976 Jeep vehicle and any interest the Wife may have in said vehicle shall be divested from her and vested in the Husband for his sole and separate use.

7. As to the charge of Contempt, it is the Court's opinion that this matter should remain under advisement until a later time since the Husband has been ordered to pay TWO THOUSAND ONE HUNDRED FORTY AND NO/100 DOLLARS ($2,140.00) to the Wife on March 1, 1985.

8. Joe P. Binkley, Jr., Counsel for the Wife, Frances Elaine Smith, has previously submitted an Affidavit supporting a fee request in the amount of FOUR THOUSAND AND NO/100 DOLLARS ($4,000.00), and it is the Court's opinion that the Husband should pay the entire fee. It is further ORDERED that Joe P. Binkley, Jr., shall have an recover a judgment in the amount of FOUR THOUSAND AND NO/100 DOLLARS ($4,000.00) attorney's fees against the Husband in this cause, Jerry Wayne Smith, for which let execution issue if necessary.

9. All court costs incurred in these entire proceedings shall be paid by the Husband, Jerry Wayne Smith, for which let judgment be entered and execution issue if necessary.

ENTERED this 24 day of June, 1985.

J U D G E

JOE P. BINKLEY, JR.
Attorney for Wife
174 Third Avenue, North
Nashville, Tennessee 37201
615/244-8630

CERTIFICATE

I hereby certify that an exact and true copy of the foregoing Order has been forwarded to Laurence A. Deas, Attorney for Husband, 140 North Main Street, Goodlettsville, Tennessee 37072 this 19th day of June, 1985.

JOE P. BINKLEY, JR.

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* Circuit Court for Davidson County, Tennessee, on the 24th *day of* June, *19* 85, *in Case Number* 84D-384 *between* Jerry Wayne Smith *Plaintiff, and* Frances Elaine Smith *Defendant, as same remains of record in Book* 31A, *Page* 260 *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* 4th *day of* Feb *in the year one thousand nine hundred and* 87 *and in the* 211th *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By L Dyer *D.C.*