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GEORGE L. ROOKER, CLERK
D. Spurlock D.C.

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

May. 15.9

BENJAMIN FRANKLIN CARNEY

vs. NO. 86D-2623 Pa. 165

ELAINE (JOHNSON) McNAB CARNEY

FINAL DIVORCE DECREE BOOK 7476 PAGE 818

THIS CAUSE came to be heard on the 10th of August, 1987, and later on February 1, and February 8, 1988, before the Honorable Muriel Robinson, Judge of the Fourth Circuit Court, upon the original pleading and Answer and Counter-Complaint thereto with Answer filed by Counter-Defendant, testimony of witnesses heard in open court and the entire record from all of which the Court took the matter under advisement and issued its findings in a Memorandum dated February 10, 1988, which is as follows:

"MEMORANDUM

This cause came on for hearing on the 10th day of August, 1987, and later on February 1, and February 8, 1988, upon the original pleading and answer and counter-complaint thereto with answer filed by counter-defendant, testimony of witnesses heard in open court and the entire record herein. From all of which after argument of counsel the Court took said matter under advisement and now finds as follows through this memorandum opinion.

The Court awards the Counter-Complainant, Elaine McNab Carney, an absolute divorce from the original complainant, Benjamin Franklin Carney, upon the grounds of cruel and inhuman treatment based upon the proof, statement of respective counsel and the fact the Court finds this marriage is unsalvageable. The original complaint is dismissed as it regards granting the divorce to the husband.

The wife shall receive the following property:

1. The personal property of Elaine McNab Carney as per Exhibit #5.

2. The wife shall retain the installment deed note from the sale of 258 Bonnalynn Drive, Hermitage, Tennessee with the $43,000.00 balloon payment.

3. The wife shall retain the Fidelity Federal Savings account of approximately $2,300.00 plus interest due thereon.

4. The wife shall retain her checking account in the amount of $7,000.00.

5. The wife shall be awarded in fee subject, to the mortgage thereon, the property located at 209 Bonnaview Drive, Hermitage, Tennessee and any right, title or interest the husband has therein is hereby divested from him and reinvested in the wife.

6. The wife shall receive from husband the $18,000.00 Certificate of Deposit plus interest thereon.

7. The wife shall retain her pension free and clear of the claim of the husband.

8. The husband shall pay to the wife the sum of $1,000.00 of her interest in the four (4) cemetery lots at Hermitage Memorial Gardens.

9. As further property division the wife shall receive the sum of $22,500.00 for her contribution and preservation of the husband's property located at 4352 Lebanon Road during the marriage of the parties to the date of separation.

10. The wife shall be awarded her automobile.

The husband shall receive the following:

1. All remaining cash funds now held in his name.

2. The balloon note on the 210 Gayland Drive Property.

3. All rents from the Lebanon Road Property.

4. All furniture exhibited on Exhibit #4.

5. The four (4) cemetery lots at Hermitage Memorial Gardens.

6. The husband shall retain in fee simple the real property located at 4352 Lebanon Road, Hermitage, Tennessee along with all improvements thereon free and clear of any claim of the wife.

7. The husband shall retain his automobile.

The wife shall vacate the Lebanon Road premises within 30 days of the date of this memorandum's resulting order.

The husband shall pay to the wife's attorney of record Howard Butler the sum of $1,245.00.

The attorney of record for the wife has filed a motion for a lien against the wife's share of the marital estate which the Court hereby grants.

The husband shall pay the cost of this cause for all of which let execution issue if necessary.

The attorney for the wife shall prepare an order according to this memorandum.

/S/ Muriel Robinson
MURIEL ROBINSON, JUDGE

Dated: 2-10-88"

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED, that Elaine McNab Carney shall be and is hereby awarded an absolute divorce from Benjamin Franklin Carney on the grounds of cruel and inhuman treatment and restored to all of the rights and privileges of an unmarried person.

IT IS FURTHER ORDERED that Elaine McNab Carney shall be and is hereby awarded the personal property as set forth Exhibit #5, the Fidelity Federal Savings Account of

approximately $2,300.00 plus interest due thereon, her checking account in the amount of $7,000.00, the Certificate of Deposit at Fidelity Federal in the amount of $18,000.00 plus interest thereon, her pension free and clear of any claim by Benjamin Franklin Carney, the installment deed note from the sale of 258 Bonnalynn Drive, Hermitage, Tennessee, with the $43,000.00 balloon payment, and her automobile, a 1975 Malibu.

IT IS FURTHER ORDERED that all right, title and interest to the real property located at 209 Bonnaview Drive, Hermitage, Tennessee shall be and is hereby divested out of Benjamin Franklin Carney and vested solely in Elaine McNab Carney, subject to the mortgage thereon, said property more fully described as follows:

> Land in Davidson County, Tennessee, being Lot No. 951 on the Plan of Hermitage Hills, Section 8, as of record in Book 3600, page 24, Register's Office for Davidson County, Tennessee, to which plan reference is hereby made for a more complete and accurate legal description.
>
> Being the same property conveyed to B. F. Carney and wife, Elaine J. Carney, by deed from William Kenneth Kleeberg and wife, Clytie C. Kleeberg, of record in Book 5186, page 792, Register's Office for Davidson County.

IT IS FURTHER ORDERED that Benjamin Franklin Carney shall pay to Elaine McNab Carney the sum of $1,000.00 for her interest in the four (4) cemetery lots at Hermitage Memorial Gardens, 110 Shute Lane, Hermitage, Tennessee 37076, and all right, title and interest to said lots, shall be and hereby are divested out of Elaine McNab Carney and vested solely in Benjamin Franklin Carney, said lots more fully described in the Certificate of Interment Rights, number 006662 and 006651, Lot 49"B" Spaces 1,2,3,4 Garden of Faith, according to a map of the said facility filed in the office of the County Recorder of Davidson County, Tennessee.

IT IS FURTHER ORDERED that Benjamin Franklin Carney shall pay directly to Elaine McNab Carney, as further property division, the sum of $22,500.00.

IT IS FURTHER ORDERED that Elaine McNab Carney shall be and is hereby restored to the use of her former name Elaine McNab Johnson.

IT IS FURTHER ORDERED that Benjamin Franklin Carney shall be and is hereby awarded all remaining cash funds now held in his name, the balloon note on the 210 Gayland Drive Property, Nashville, Davidson County, Tennessee, all rents from the real property located at 4352 Lebanon Road, Hermitage, Tennessee, all furniture and property exhibited on Exhibit #4, and his automobile, a 1984 Caprice Stationwagon.

IT IS FURTHER ORDERED that Benjamin Franklin Carney shall retain in fee simple the real property located at 4352 Lebanon Road, Hermitage, Tennessee along with all improvements thereon free and clear of any claim of Elaine McNab Carney, said property more fully described at follows:

> Beginning in the center of the Lebanon Road in the southerly line of the Hermitage tract of land, as the same was processioned by the State of Tennessee in Book 55, page 389, Register's Office for said county, said tract of land west of said road, nee known as the Soldier's Home; thence with the center of said road, south 34½ west 9.25 poles to the northeast corner of the property conveyed to T. L. Baker and wife, by deed from J. M. Hays and wife of record in Book 596, page 176, said Register's Office, thence with said Baker's northerly line, north 88½° west 20.3 poles, more or less to said Baker's northwest corner; thence northwardly 7.875 poles to a stake in the southerly line of the Soldiers Home tract; thence with said line, south 88½° east 25.2 poles to the beginning, containing 1 acres, more or less.
>
> Being the same property conveyed to B. F. Carney and wife, Laura Mae Carney, by Deed from Lewis Anderson Moss dated August 30, 1962, recorded in Book 3431, page 379, Register's Office for Davidson County, Tennessee.
>
> Being also described in a Deed of Correction between Jessie C. Johnson, a widow, and B. F. Carney and wife, Laura Mae Carney, on September 4, 1962, recorded in Book 103, page 68, Register's Office for Davidson County, Tennessee, as follows:
>
> Begin at a fence post in the southwest corner of the property conveyed to B. F. Carney and wife, Laura Mae Carney, from Lewis Anderson Moss of record at Book 1512, page 193, Register's Office for Davidson County, Tennessee; thence North 88° 40' West 176 feet to an iron pin; thence North 1° 27' West 129.4 feet to an iron pin; thence South 88° 40' 176 feet to a fence post; thence in a southerly direction 129.4 feet to point of beginning.

IT IS FURTHER ORDERED that the Benjamin Franklin Carney shall retain sole ownership of the four (4) cemetery lots at Hermitage Memorial Gardens described above free and clear of any claim by Elaine McNab Carney.

IT IS FURTHER ORDERED that Elaine McNab Carney shall vacate the Lebanon Road premises within 30 days of this Order.

IT IS FURTHER ORDERED that Benjamin Franklin Carney shall pay directly to Howard Butler, the attorney of record for Elaine McNab Carney, the sum of $1,245.00.

IT IS FURTHER ORDERED that Carol L. Soloman, the attorney of record for Elaine McNab Carney, shall be and is hereby awarded a judgment on the proceeds awarded to Elaine McNab Carney, as her attorney's fees, the sum of $3,736.95.

IT IS FURTHER ORDERED that Benjamin Franklin Carney shall be and is hereby solely responsible for all outstanding costs incurred incurred in this cause for which execution may issue if necessary.

ENTERED THIS THE 22nd DAY OF Feb, 1988.

JUDGE MURIEL ROBINSON

APPROVED FOR ENTRY:

HOWARD F. BUTLER
Attorney for Elaine McNab Carney
12th Floor, First American Center
Nashville, Tennessee 37219

CAROL L. McCOY
Attorney for Benjamin Franklin Carney
214 2nd Avenue North - 201
P. O. Box 2726
Nashville, TN 37219

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IDENTIFICATION REFERENCE

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DAVIDSON COUNTY, TN

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BOOK 7476 PAGE 823

# 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* Fourth *Circuit Court for Davidson County, Tennessee, on the* twenty-second *day of* February, *1988, in Case Number* 86D-2623 *between* BENJAMIN FRANKLIN CARNEY, *Plaintiff, and* ELAINE (JOHNSON) McNAB CARNEY, *Defendant, as same remains of record in Book* 167C, *Page* 2423 *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* 25th *day of* February *in the year one thousand nine hundred and* eighty-eight *and in the* two hundred twelfth *year of American Independence.*

**GEORGE L. ROOKER,** *Clerk,*

*By* W L Rowland *D.C.*

**Form #GR-117**