Map 83-G
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IN THE FOURTH CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE

DOROTHY MARIE HARWELL]
]
]
VS.] No. 82D-1557
]
]
WILLIAM EMERSON HARWELL]

BOOK 8031 PAGE 812

FINAL DECREE

This cause came on to be heard on this the 5th day of September, 1989, before the Honorable Muriel Robinson, Judge, upon application of the defendant/husband for absolute divorce pursuant to an opinion of the Court of Appeals filed on August 12, 1988, and and bearing appeal number C.A. No. 88-98-II. From a review of all of the evidence presented to the Trial Court in this case, the testimony of the parties, and a review of the entire record, it appears to the Court that the parties have been separated for more than three (3) calendar years and that there are no minor children of the union. Notwithstanding the fact that the Trial Court has previously awarded the plaintiff/wife an order of separate support and maintenance based upon the uncontradicted testimony and fact that since 1983, the defendant/husband has been involved in an adulterous relationship with a woman by the name of Olene Grisham, that the defendant/husband left the home of the parties and that the plaintiff/wife was the innocent spouse, the Trial Court, pursuant to the opinion of the Appellant Court as hereinabove referred to, is ordered to award the defendant/husband an absolute divorce upon the grounds that the parties have not lived together as husband and wife for more than three (3) consecutive years and that no minor children exist of the marriage. It is therefore ORDERED, ADJUDGED and DECREED that the defendant/husband, William Emerson Harwell, is awarded an absolute divorce from the plaintiff/wife, Dorothy Marie Harwell, upon the grounds that the parties have not lived together as husband and wife for the last three (3) consecutive years and that no minor children exist of the marriage. The bonds of matrimony heretofore existing between

the parties are forever and perpetually dissolved, and the parties are restored to all rights and privileges of unmarried persons.

Upon the further directive of the Court of Appeals as set forth in the opinion hereinabove referred to specifically as follows:

> "Upon remand, the trial judge is directed to make an equitable property settlement and award suitable support and maintenance to the wife, pursuant to T.C.A. §36-5-101, which does not leave her in a worse financial situation than before the divorce."

The Court specifically finds as follows:

(1) That the defendant husband continues to have an adulterous relationship with one Olene Grisham.

(2) That although the defendant/husband and Olene Grisham contend that the defendant/husband is only an employee of the business owned by Olene Grisham, that it is apparent to the Court that the defendant/husband has unrestricted access to all of the business owned by Olene Grisham, including but not limited to, the use of vehicles owned by the business, the use of an apartment located on the business property, and that the husband is the recipient of gifts made to him by the owner of the business, Olene Grisham.

(3) That it is further evident to the Court that the husband is employed by the said business owned by Olene Grisham, that the husband totally controls when and under what circumstances that he works, and that the husband is currently enjoying a lifestyle better than that which he enjoyed when he was married to the wife.

(4) That the lifestyle of the wife is not equal to that which she enjoyed prior to the separation of the parties, but is less than what she enjoyed prior to the separation of the parties. Further, that due to the misconduct of the husband, and solely to the misconduct of the husband, that the wife is the innocent spouse and that as the result of the husband's misconduct that the wife is presently in a worse financial situation that she was prior to the separation of the parties.

(5) That all of the findings previously made by the Court in its order entered as the result of a hearing on the 23rd day of November, 1987, are unchanged.

Based upon the aforementioned findings, it **ORDERED, ADJUDGED and DECREED** as follows:

(1) That the husband will continue to pay to the wife the sum of One Hundred ($100.00) Dollars per week as alimony in futuro payable until the death or remarriage of the wife and with the specific understanding that the Court finds that the wife is unable to become rehabilitated and that such payments are not designated as rehabilitative alimony. Said payments shall continue to be due and payable on Monday of each week subsequent to the entry of this decree.

(2) That the wife is awarded her 1978 Oldsmobile automobile and that the husband shall continue to pay all automobile insurance payments on said automobile that he has been ordered to pay by previous order. The husband will execute any and all documents as may be necessary to convey title of the automobile into the name of the wife.

(3) That it is the responsibility of the husband to continue to maintain the wife as a beneficiary under his hospital and health insurance policies so as to continue to provide the wife with health and medical insurance coverage comparable to that coverage that she presently has. Should the husband let the insurance coverage on the wife's medical insurance lapse, the husband will be responsible for the payment of any and all medical bills incurred by the wife. In addition thereto, the husband will further be responsible for all of the medical expenses incurred by the wife not covered by the husband's medical insurance.

(4) All of husband's right, title and interest in and to the cemetery lots located in the Mt. Olivet Cemetery in Nashville, Tennessee, and being lots number 181B spaces one and two "Garden of the Gospel" as is now vested in the husband shall be divested out of the husband and said lots shall become the sole and exclusive property of the wife free and clear from any

further claim thereon by the husband, and including monuments and/or grave markers previously owned by the parties. The husband shall execute such documents as may be necessary to convey said cemetery lots into the name of the wife.

(5) The insurance policy with the Prudential Insurance Company insuring the life of the husband in the base amount of Five Thousand ($5,000.00) Dollars and being policy number 27-801-037, and upon which the wife has paid the premiums, shall become the sole and exclusive property of the wife free and clear from any further claim thereon by the husband. If necessary, husband will execute any and all documents necessary to transfer the ownership of the property into the sole and exclusive name of the wife.

(6) The husband shall be awarded all of the benefits of the Prudential Insurance Company retirement policy number 39 521 168, which contains a stated early endowment maturity value of Twenty-Three Thousand Four Hundred and Sixty-Nine ($23,469.00) Dollars. Said policy and the benefits thereof shall hereinafter become the sole and exclusive property of the husband free and clear from any further claim thereon by the wife, but with the exception of the fact that wife's attorney of record, Jack Norman, Jr., is awarded a lien against said policy for attorney's fees as set out hereinbelow. If necessary, wife shall execute any and all documents necessary to transfer said policy into the name of the husband.

(7) The husband is awarded all title and interest in the 1980 Chevrolet truck in the possession of the husband together with his personal tools located at 810 Porter Road, Nashville, Tennessee, and in addition thereto, the husband is further awarded all of his interest in and to the mobile home that he now occupies located at Carthage, Tennessee, but subject to the mortgage indebtedness contained thereon for which the husband will hold the wife harmless. If necessary, the wife will execute any and all documents necessary to convey title to the aforementioned property into the name of the husband.

(8) The wife is awarded all of the household

furnishings, goods and effects now located in the home of the parties at 810 Porter Road, Nashville, Tennessee free and clear from any further claim thereon by the husband. The husband is awarded all of his personal goods, furnishings and effects located in his trailer home at Carthage, Tennessee free and clear from any further claim thereon by wife.

(9) All of husband's social security and disability benefits which total slightly less than Nine ($900.00) Hundred Dollars per month shall hereinafter become the sole and exclusive property of the husband free and clear from any further claim thereon by the wife. The wife's anticipated social security income to be received when the wife reaches 62 years of age and in the estimated amount of Two Hundred Sixty-Eight ($268.00) Dollars per month shall become the sole and exclusive property of the wife free and clear from any further claim thereon by the husband. However, the Court's award of One Hundred ($100.00) Dollars to the wife as alimony in futuro takes into consideration the anticipation that the wife when she reaches 62 years of age will receive social security benefits, and such event is not be considered as a change of circumstances that would justify a reduction in alimony in futuro payments.

(10) Taking into consideration the facts that the husband's future social security and disability benefits greatly exceed those that the wife is expected to receive, and the fact that the husband has made no payment or contribution to the home place of the parties located at 810 Porter Road, Nashville, Tennessee, since 1982, and the fact that all of the parties domestic difficulties have been brought as the result of the fault and misconduct of the husband, the Court is of the further opinion that as alimony in solido all of husband's right, title and interest in and to said residence home place as is now vested in the husband shall be divested out of the husband and said home place shall hereinafter become the sole and exclusive property of the wife free and clear from any further claim thereon by the husband. Said real property is more particularly described as follows:

Being part of Lot "G" in the first Subdivision of Brownsville as of record in Book 21, Page 112, Register's Office for Davidson County, Tennessee, and described as follows:

Beginning at a point in the easterly margin of Gentry Street, being north 1° 29' east 306 feet from the northeasterly intersection of Waters Avenue and Gentry Street; thence south 88° 15' east 117.1 feet to a point in the westerly margin of Porter Road; thence along the margin of said road north 27° east 50 feet, more or less, to the common corner of Lot 4 and said Lot "G" in said Subdivision; thence westerly along the common line between said two lots 220 feet, more or less, to a point in the easterly margin of Gentry Street; thence along said margin south 1° 29' west 44 feet to the beginning.

Being the same property conveyed to William E. Harwell and wife, Dorothy Minchey Harwell by deed from Arch Jordon and wife, Judy Davis Jordon of record in Book 3342, Page 203, Register's Office, Davidson County, Tennessee.

If necessary, husband will execute any and all documents as may be required to convey the title in said real property to the name of the wife. The wife will hereinafter be responsible for any and all obligations pertaining to the property and will hold the husband harmless from any further responsibility therefor.

It further appearing to the Court that the wife has no funds with which to pay her attorney of record, and further based upon the affidavit submitted by wife's attorney, Jack Norman, Jr., the Court further finds that said attorney is entitled to and should receive an additional fee to be paid by the husband in the amount of Fifteen Hundred ($1,500.00) Dollars. Such said fee shall be in addition to the fee of Five Hundred ($500.00) Dollars previously awarded to said attorney for services previously rendered to wife making the total fee in the amount of Two Thousand ($2,000.00) Dollars. Said attorney's fee shall be declared a lien in favor of said attorney, Jack Norman, Jr., and against all proceeds due the husband from his retirement insurance policy, maintained through the Prudential Insurance Company and bearing policy number 39-521-168.

The costs of this cause shall be accessed against the husband for which execution may issue if necessary.

Enter this 15th September, 1989.

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MURIEL ROBINSON, JUDGE

APPROVED FOR ENTRY:

JACK NORMAN, JR.
Attorney for defendant/wife
213 Third Avenue, North
Nashville, Tennessee 37201
(615) 254-0656
R-2702

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CERTIFICATE OF SERVICE

I certify that a copy of this Final Decree has been mailed to Mr. J Stephen Brown, attorney for defendant/husband, 225 East Market Street, P.O. Box 792, Lebanon, Tennessee 37087, on this the 8th day of September, 1989.

JACK NORMAN, 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* Fourth *Circuit Court for Davidson County, Tennessee, on the* Fifteenth *day of* September, 19 89, *in Case Number* 82D-1557 *between* Dorothy Marie Harwell *Plaintiff, and* William Emerson Harwell *Defendant, as same remains of record in Book* 181A, *Page* 698 *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* January *in the year one thousand nine hundred and* Ninety *and in the* 214th *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By _____, *D.C.*

Form #GR-117