188 C/1730

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IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

PATRICIA FAYE PEERY,

Plaintiff,

vs.

DONALD RAY PEERY,

Defendant.

) No. 89D-1096

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GEORGE L. ROOKER, CLERK
K Lunsford D.C.

Map 154
Parcel 66

FINAL DECREE OF DIVORCE

This cause came to be heard on the 3rd day of July, 1990, before the Honorable Muriel Robinson Rice, Judge of the Fourth Circuit Court for Davidson County Tennessee, upon the Complaint for Divorce filed by the Plaintiff, the Answer filed by the Defendant, the testimony of Plaintiff and Defendant and other witnesses, exhibits, statements of counsel, and the record as a whole, from all of which it appears to the Court and the Court finds as follows:

That the Plaintiff, Patricia Faye Peery, is entitled to an Absolute Divorce on the grounds that the Defendant is guilty of such cruel and inhuman treatment or conduct toward Plaintiff so as to render cohabitation unsafe and improper.

The Court further finds there have been two (2) minor children born of this marriage, to-wit: Dan Adam Peery, born April 8, 1976; and Michael Ryan Peery, born September 24, 1985. The Court finds that the Plaintiff, Patricia Faye Peery, is a fit and proper person to be awarded absolute care, custody and physical possession of the parties' minor children. It is further determined that due to the absence of any kind of adequate provision for the minor children in the overnight care of Mr. Peery, that overnight visitation will be suspended until Mr. Peery has a suitable place to visit with the children overnight. Until such time as a suitable place is secured, visitation is to be scheduled for every other Saturday from 10:00 a.m. to 8:00 p.m. to begin Saturday, July 7, 1990.

The parties will alternate major holiday visitation starting the day of the holiday from 9:00 a.m. until 8:00 p.m.

Patricia Peery will continue to provide health insurance for herself and the minor children. Mr. Peery will pay one-half (1/2) of all medical, dental, optometric, orthodontic, psychological or prescription bills of the children not paid by the insurance carrier and will pay one-half (1/2) of all deductible required under this policy on the parties' two minor children.

The Court further finds that Mr. Peery does have a regular income of $1,150.00 per month, but that he is voluntarily underemployed and has not, over the years,

adequately supported his family. He is able to make at least an additional $1,150.00 per month if he applies his skills as he has had, at one time, at least three licenses: a contractor's license, a barber's license and a real estate license. Mrs. Peery championed him in his wishes to obtain these. Therefore, the children need and the Defendant has the ability to earn income to the extent that the Defendant is capable and able to pay support to the custodial parent in the amount of $600.00 per month for the support of the parties' minor children. The Court makes the specific finding that Mr. Peery is underemployed and has consulted the child support guidelines and makes the finding of fact that they do not apply based on his chosen underemployment and his abilities. The first payment of this child support is due July 10, 1990, and thereafter payable by the 10th day of each and every month until the parties' minor children reach the age of majority, payable through the Clerk of the Circuit Court for Davidson County, Tennessee, plus the Clerk's commission of $30.00, for a total payment of $630.00. The Clerk shall disburse payments to Patricia Peery, 702 Watts Court, Nashville, Tennessee 37221.

In dividing the marital property, the Court finds that Mr. Peery is awarded the real estate located at 8612 Griffith Road, Nashville, Davidson County, Tennessee. As Mr. Peery has dissipated the major marital asset which was the equity in the home place, Mrs. Peery will have an alimony in-solido lien on this real property in her favor in the amount of $7,000.00, which represents her share of the equity for which Mr. Peery has not accounted. In the event that the property is foreclosed on, the $7,000.00 judgment against him will be paid to Mrs. Peery as alimony-in-solido, necessary for her support and that of the minor children and non-dischargeable in bankruptcy. Said alimony-in-solido will be payable to Mrs. Peery within six (6) months from the date of this Decree and carry the legal rate of interest. Mr. Peery will assume sole and separate responsibility for the payment of the first and second mortgage and will hold Mrs. Peery harmless from any liability therefor.

It is further determined that the personal property in the possession of Mrs. Peery will remain hers free and clear of any claims by Mr. Peery. Mr. Peery is awarded the automobiles consisting of a van, a 1976 Chevrolet Nova, and a 1973 Chevrolet Truck. Mrs. Peery shall be solely responsible for the debts to Sears and Penney's as the Court finds them to be her debts and in her name.

The Court further awards Mrs. Peery $1,500.00 as attorney fees. The balance of Mrs. Peery's attorney's fees are to be paid by her.

The costs of this cause shall be paid by the Defendant.

The Court enjoins and restrains the Defendant from going about or contacting the Plaintiff in an effort to harass her, either at her work place or at her residence and particularly enjoins him from phoning her at her work place for any purpose.

The Court lifts the Restraining Order enjoining Wife from removing the minor children from the jurisdiction of this Court.

The Court specifically intends that the assignments of debts, attorney's fees, court costs and alimony in this matter is as a support obligation and, therefore, the Court does not intend for any of these obligations to be dischargeable in Bankruptcy.

It is therefore,

Ordered, Adjudged and Decreed that, pursuant to TCA 36-4-102(a)(1), the Plaintiff, Patricia Faye Peery, is hereby awarded an absolute decree of divorce from Defendant, Donald Ray Peery, and the parties are restored to all the rights and privileges of unmarried persons.

It is further Ordered Adjudged and Decreed that the Plaintiff is granted absolute sole custody and physical possession of the parties' two minor children, Dan Adam Peery and Michael Ryan Peery.

It is further Ordered Adjudged and Decreed that Mr. Peery's overnight visitation will be suspended until such time as the Court determines he has a suitable place to visit with the children overnight. His regular visitation will be every other Saturday from 10:00 a.m. until 8:00 p.m. to begin July 7, 1990, and holiday visitation will start the day of the holiday at 9:00 a.m. until 8:00 p.m. on alternating holidays.

It is further Ordered Adjudged and Decreed that Mrs. Peery will continue to maintain that present medical insurance coverage on herself and the parties' two minor children. Each party shall pay one-half (1/2) of all medical, dental, optometric, orthodontic, psychological, or prescriptions not paid by the insurance carrier and one-half (1/2) of all deductibles required under this policy on the two minor children.

It is further Ordered Adjudged and Decreed that the Defendant will pay Six Hundred Dollars ($600.00) per month for the support of the parties' minor children payable the 10th of each and every month through the Clerk of the Circuit Court of Davidson County, Tennessee, plus the Clerk's commission of $30.00 for a total payment of Six Hundred, Thirty Dollars ($630.00). The first payment is due on July 10, 1990.

It is further Ordered Adjudged and Decreed that all right, title and interest of Mrs. Peery in and to the real estate located at 8612 Griffith Road, Davidson County, Tennessee shall be, and is hereby divested out of Mrs. Peery and vested in Mr. Peery. Mr.

Peery shall assume sole and separate responsibility for all loans, insurance and other liability associated with said residence henceforth and shall hold Mrs. Peery harmless from any liability therefor. Said property is more particularly described as follows:

> LAND in the 9th Civil District described according to a survey made by Elbert F. Luther, Jr., dated November, 1974 as follows:
>
> BEGINNING at a point in the southwest margin of Griffith Road at the northwest corner of the Robert W. Stevens and wife property, of record in Book 4864, page 606, Register's Office for Davidson County,. Tennessee; thence with Steven's westerly line South 46 deg. 30 min. West 752.5 feet to an iron pin; thence North 39 deg. 30 min. West 195.5 feet to an iron pin; thence North 47 deg. 15 min. East 784.8 feet to the westerly margin of Griffith Road; thence with the westerly margin of said Road around a curve southeasterly 200.0 feet to the point of beginning, containing 3.4 acres, more or less.
>
> Being the same property conveyed to Donald R. Peery and wife, Patricia F. Peery, by deed from Arthur W. Burns and wife, Mary E. Crumpton Burns, of record in Book 4964, page 312, Register's Office for Davidson County, Tennessee.

It is further Ordered Adjudged and Decreed that Mrs. Peery have an alimony-in-solido lien on property located at 8612 Griffith Road, Nashville, Davidson County, Tennessee, said property more particularly described above.

It is further Ordered Adjudged and Decreed that in case of foreclosure on the above-stated property there will be a Seven Thousand Dollar ($7,000.00) judgment on Mr. Peery as alimony-in-solido, non-dischargeable in bankruptcy. Said amount is ordered to be paid within six (6) months from the date of this Decree and carry legal rate of interest.

It is further Ordered Adjudged and Decreed that all personal property in the possession of Mrs. Peery shall be her sole and separate property and shall be free of any claim by Mr. Peery. Mrs. Peery shall assume sole and separate responsibility for the payment of any indebtedness associated therewith.

It is further Ordered Adjudged and Decreed that all right, title, and interest of Mrs. Peery in and to the van, 1976 Chevrolet Nova, and 1973 Chevrolet Truck is hereby divested out of Mrs. Peery and vested absolutely in Mr. Peery free of any claim by Mrs. Peery. Mr. Peery shall assume sole and separate responsibility for the payment of any liens which may exist on said property.

It is further Ordered Adjudged and Decreed that all right, title and interest of Mr. Peery in and to the Sears and Penney debts styled in the name of Mrs. Peery shall be divested out of Mr. Peery and vested solely in Mrs. Peery.

It is further Ordered Adjudged and Decreed that Mrs. Peery is awarded $1,500.00 as attorney fees as further alimony. The balance of her attorney's fees is to be paid by Mrs. Peery.

It is further Ordered Adjudged and Decreed that Mr. Peery is enjoined and restrained from contacting or going about Mrs. Peery in an effort to harass her, either at her work place or at her residence. Mr. Peery is further enjoined and restrained from telephoning Mrs. Peery at her work place for any purpose.

It is further Ordered Adjudged and Decreed that the Restraining Order enjoining Mrs. Peery from removing the children from the jurisdiction of this Court is dissolved.

The parties shall execute all documents necessary to give full implementation to the provisions of this Decree.

The costs of this cause shall be paid by Mr. Peery.

ENTERED this 25 day of July, 1990.

MURIEL ROBINSON RICE, JUDGE

APPROVED FOR ENTRY:

Sidney S.F. Bennett, #10371
Attorney for Plaintiff/Wife
150 Second Avenue North
Suite 300
Nashville, Tennessee 37201
(615) 244-9410

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing was mailed, postage pre-paid, to Donald Ray Peery, he having no attorney of record, at 1808 West End Avenue, Suite 103, Nashville, Tennessee 37203, this 13th day of July, 1990.

Sidney S. F. Bennett

a:Peery.dec/SFB1:acs

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FEE/TAX/REFERENCE

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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-SIXTH *day of* JULY, *19* 90, *in Case Number* 89D-1096 *between* PATRICIA FAYE PEERY *Plaintiff, and* DONALD RAY PEERY *Defendant, as same remains of record in Book* 188C, *Page* 1730 *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* thirtieth *day of* July *in the year one thousand nine hundred and* ninety *and in the* two hundred and fifteenth *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By Kathleen A Garrett *D.C.*

Form #GR-117