136-00-01
mpn 136-00-0 049.00

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

JOSEPH ARGO PIERCEY,

PLAINTIFF,

VS.

CONSTANCE LYNN PIERCEY,

DEFENDANT.

NO. 90D-3242

BOOK 8305 PAGE 389

FINAL DECREE

This cause came on to be heard on the 28th day of January, 1991, 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 in this cause, Joseph Argo Piercey. Based upon the testimony of the Plaintiff, statements of counsel for the Plaintiff, the Defendant being before this Court having entered into a written notarized Marital Dissolution Agreement, making specific reference to this action by cause or docket number, and by signing of such Agreement, and upon the record as a whole, the Court finds that the parties have suffered irreconcilable differences; and,

IT IS THEREFORE ORDERED, ADJUDGED and DECREED:

1. That the Plaintiff, Joseph Argo Piercey, is hereby awarded an absolute divorce from the Defendant, Constance Lynn Piercey, on the grounds of Irreconcilable Differences, T.C.A. Section 36-4-103, and is hereby restored to all rights and privileges of an unmarried person. Pursuant to T.C.A. Section 36-4-103(b), the Court affirmatively finds that the parties hereto have made adequate and sufficient provisions by written agreement for the equitable settlement of any property rights and obligations between the parties; and further they have made adequate and sufficient provisions for the custody and support of their minor children at this time. The Court hereby approves the Marital Dissolution Agreement and the same is hereby incorporated in words and figures as follows:

FOURTH CIRCUIT

90D-3242

MARITAL DISSOLUTION, CHILD CUSTODY AND SUPPORT AGREEMENT

90 OCT 10 AM 9 33

THIS AGREEMENT is hereby entered into this 4th day of October, 1990, by and between CONSTANCE LYNN PIERCEY, hereinafter referred to as "Wife", and JOSEPH ARGO PIERCEY, hereinafter referred to as "Husband";

BOOK 8305 PAGE 390

W I T N E S S E T H:

WHEREAS, certain differences have arisen between the parties which are irreconcilable and there is now pending in the Circuit Court for Davidson County, Tennessee, a suit for divorce between the parties captioned as Joseph Argo Piercey v. Constance Lynn Piercey, Case No. 90D-3242; and,

WHEREAS, it is the decision of the parties insofar as they are able with the concurrence of the Court, to amicably settle their differences with respect to all property rights, support obligations, child custody rights, obligation for the payment of debts, and to enter into a contract for the settlement of such rights and obligations, not only for the present, but for the future, it being their intention that such contract will be effective with respect to all of their property and other matters and concerns subject to the approval of a Court of competent jurisdiction; and,

WHEREAS, both of these parties have been advised of their respective rights, obligations and responsibilities, one to the other, or have had the opportunity to have been so advised by counsel;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties do hereby agree as follows:

1. Each party shall be free from the interference, authority and control, direct or indirect, by the other as fully as if he or she were single and unmarried. Neither shall molest the other or compel or endeavor to compel the other to cohabit from this date hereafter.

2. CUSTODY AND VISITATION --

The parties are the parents of two (2) minor children, Joseph Robert Piercey, D/O/B: 8/28/88, (age 2), and Kellye Michael Piercey, D/O/B: 1/1/90, (age 10 months). It is agreed between the parties that custody of the children shall be vested in the name of the Wife. Reasonable rights of visitation are granted to the Husband to at least the extent that is standardly granted by the Court, i.e., visitation shall be every other weekend commencing at 6:00 P.M. on Friday and ending at 6:00 P.M. on Sunday evening. Husband shall also be allowed visitation on Wednesday nights from 6:00 P.M. until 8:00 P.M. It is agreed that the above recital does not restrict the parties to mutually agree on additional time periods for visitation by the Husband upon reasonable notice to the Wife of his desire to exercise additional visitation, and Wife's concurrence therewith. Holiday visitation will include Mother's Day with the children to be with the Wife, and Father's Day with the children to be with the Husband, and all other holidays (Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Easter) to be alternated each year between the parties. Christmas Holidays will be divided between the parties. One parent shall exercise visitation for one week before Christmas until 8:30 P.M. on Christmas Eve with the children and the other parent shall have the children from 8:30 P.M. on Christmas Eve for one week after Christmas, with this Christmas schedule to be alternated each year between the parties. The Wife shall exercise Christmas visitation with the parties' minor children for the year 1990 for one week before Christmas until 8:30 P.M. on Christmas Eve. Thereafter, each year, Christmas Holidays shall be alternated as above set out. The children's birthdays will be split between the parties each year. The Husband is also granted extended summertime visitation of one (1) month during the summer with the children and the previous weekend and weekday visitation as hereinabove set out shall be exercised by the Wife during the extended summer visitation.

Neither party shall move from the Middle Tennessee area, as geographically defined, without first giving the other party at least ninety (90) days' written notice of such intent to move so as to allow that party to petition the Court for appropriate relief regarding the protection of his or her custodial and/or visitational rights.

3. CHILD SUPPORT --

With regard to child support, the Husband shall pay to the Wife the sum of One Hundred Eleven and 68/100 ($111.68) per week commencing on the first Friday after execution of this Agreement, for the care, maintenance, and support of the parties' minor children, with a like sum due and payable every month thereafter pending further Orders of this Court. Unless specifically Ordered by the Court, such support shall not be reduced nor pro-rated. Such support meets the child support guidelines as promulgated by the State of Tennessee.

4. HEALTH INSURANCE --

With regard to health insurance for the minor children, the Husband hereby agrees to pay for, maintain, and keep in full force and effect his group health insurance policy currently in effect with Provident, Policy No. 010111, through his employer. If Husband changes employment or for whatever reason the coverage is terminated, Husband agrees to obtain and be responsible for securing a replacement health insurance policy having the same or similar coverage as the group policy presently in effect and shall be responsible for all insurance premiums for such coverage.

Any medical expenses incurred on behalf of the minor children of the parties, not covered by Husband's insurance, or Wife's insurance if she acquires coverage in the future, shall be borne equally between the parties, including medical, dental, hospitalization, prescription, orthodontic, or psychological charges.

5. The current address of the Wife is as follows:

Constance Lynn Piercey
2655 Smith Springs Rd.
Nashville, TN 37217

The current address of the Husband is as follows:

Joseph Argo Piercey
2655 Smith Springs Rd.
Nashville, TN 37217

At all times, both parties agree to provide the other with their current work and home addresses and telephone numbers while the children are minors.

6. PERSONAL PROPERTY --

It is agreed between the parties that all right, title and interest to the personal property of the Wife as scheduled on Exhibit I attached to this Agreement shall become the sole and separate property of the Wife free of any further claim of the Husband. It is likewise agreed that all right, title and interest to the personal property of the Husband as scheduled on Exhibit II attached to this Agreement shall become the sole and separate property of the Husband free of any further claim of the Wife.

7. AUTOMOBILES --

All right, title and interest that Wife may have in the 1969 Jeep CJ5 is herein divested out of the Wife and reinvested in the Husband as his sole and separate property. This vehicle is presently free and clear of any indebtedness. In addition, all right, title and interest in the 1988 Chevrolet Corsica automobile Wife may have is herein divested out of Wife and reinvested in Husband as sole owner. There is an indebtedness on this vehicle to First American National Bank in the approximate amount of $8,000.00, with monthly payments of $230.00 per month. Although this vehicle is titled solely in Husband's name, Husband agrees to allow Wife to operate this vehicle until a divorce is granted in this cause and a Final Decree is entered.

8. DEBTS --

There are no marital debts of the parties, with the exception of the mortgage on the parties' real estate, which will

be hereinafter addressed, and a credit card obligation in favor of Castner Knott's. Husband agrees to assume and hold Wife harmless from the credit card obligation owed to Castner Knott's in the approximate amount of $430.00. This card has been cancelled at the present time, and Husband will assume and hold Wife harmless the aforestated balance. There are no other marital debts. Each party shall be responsible for any debts not herein disclosed in the same relationship and capacity as when those debts were incurred.

9. REAL ESTATE --

The Husband and Wife are tenants by the entireties of certain real property, being a house and lot located in Nashville, Davidson County, Tennessee, which is hereinafter more particularly described as follows: 2655 Smith Springs Rd. m/n 136-00049

Land in the 2nd, formerly 5th Civil District of said County and State, being part of Lot No. 3 on the Plan of the Division of the Estate of John C. Estes, deceased, of record in Minute Book J, page 170, County Court for said County, described according to a survey made by Campbell Surveying Co., dated February 7, 1989, as follows:

Beginning in the center of the new part of Smith Springs Road at a point 160 feet east of the northeast corner of the property conveyed to Buren Mack Bruce and wife by Deed from L. T. Stevens and wife, of record in Book 2856, page 347, said Register's Office, said point being the northwest corner of the property herein conveyed; thence with the center of said road eastwardly 299.5 feet to a point; thence South 2 degrees 45 minutes West 73 feet to a point; thence North 87 degrees West 305.6 feet to a point which is 170 feet east of the southeast corner of said Bruce property; thence North 7 degrees 15 minutes east 122.4 feet to the point.

Being all of the property conveyed to Joseph A. Piercey and wife, Constance L. Piercey, from Sandra Kay Peppers, a single woman, by Deed of record in Book 7769, page 908, Register's Office for said County.

This conveyance is subject to taxes for the year 1990 and subsequent years, easements and restrictive covenants of record.

It is agreed that there is very little, if any, equity in this real estate, this property having been acquired on February 8, 1989. It is acknowledged that Wife by execution of this Agreement, hereby conveys, Quitclaims, and transfers to Husband, any and all right, title and interest that she may have

in the foregoing property to her Husband, so as to title the aforestated real property in the sole name of Husband, free of any further claim of right, title and interest by Wife. In consideration of such divestment of Wife's interest to Husband, Husband does hereby agree to assume and indemnify, and hold Wife harmless from any further obligation owed on the aforedescribed real estate, including any mortgage indebtedness, and/or real estate tax liability. In the event that Husband desires Wife to execute a Quitclaim Deed with regard to this property, Wife shall promptly execute such Deed, evidencing the transfer of her interest to Husband.

10. OTHER PERSONAL PROPERTY --

There are no pensions, savings accounts, nor stocks nor bonds, to be divided. There is a pleasure horse, titled in the name of Husband, by the name of "Sun Summer Lady", which is presently in foul. It is agreed that all right, title and interest in this animal, and its offspring, are hereby vested in Husband, with any and all right, title and interest of Wife divested out of her name and into Husband's name. This animal is presently free and clear of any lien.

11. ACCEPTANCE BY THE PARTIES --

With respect to each party's responsibility for the payment of certain debts and liabilities, and their obligation to hold the other harmless for the payment thereof, the parties understand and agree that their obligations are nondischargeable debts under 11 U.S.C. 523(5) of the Bankruptcy Code (or any corresponding provision in any other Bankruptcy law), these obligations being part of the final financial support settlement for both parties. These financial obligations on the part of both parties are not a part of the property settlement. The division of the property is set forth elsewhere in the Marital Dissolution Agreement.

12. This Agreement is a transfer of appreciated property between spouses in connection with a divorce and is not a sale or

exchange or other disposition, but is a division of property by co-owners.

13. Each party shall be responsible for his or her own debts that each party incurred after the parties' separation, except as provided herein, holding the other party harmless from any liability or obligation thereon. For any indebtedness not herein disclosed or set out, it is agreed that each party shall be responsible for that indebtedness in the same manner and under the same legal relationship and obligation as when those respective debts were incurred, except as otherwise stated in this Agreement.

14. Both parties agree to pay their own respective attorneys' fees for services rendered in this matter. The Court costs shall be paid by the Husband, for which execution may issue if necessary.

15. In consideration of the foregoing covenants, promises, and undertakings, both parties waive any and all claim for alimony against each other, past or present.

16. While the children of the parties are minors, the Wife shall maintain her married name of Constance Lynn Piercey.

17. In the event a creditor of either party seeks to compel the other party to pay any debt for which that party is not responsible either by contract or pursuant to the terms of this Agreement, the party against whom such claim is made shall be entitled to recover from the other party the amount of any payment he or she makes, including interest, and any expenses incurred in defending the creditor's claim, including reasonable attorney's fees.

18. 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 prosecuting the action.

19. It is understood and agreed between the parties that this Agreement is intended to be a final settlement of all

property rights and support rights and obligations of the respective parties hereto and shall constitute a discharge from all claims arising out of their marital relationship except as provided herein. Each party waives and relinquishes to the other all right or claims which they may have or hereafter acquire under the law of any jurisdiction with respect to the other's property, including without limitation, dower, courtesy, statutory allowance, homestead rights, rights to take against the Will of the other, inheritance, descent or distribution, or right to act as Administrator or Executor of the other's estate except as provided by the terms of this Agreement. This Agreement applies to all property now owned by the parties, individually or jointly, or any property that either of them may acquire in the future.

20. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their personal representatives, heirs and assigns.

21. In the event any provision of this Agreement shall be held invalid in a Court of competent jurisdiction, such individual provision shall not affect the other provisions of this Agreement, said provisions being severable.

22. It is understood and agreed between the parties as part of the consideration for the execution of this Agreement each party shall willingly execute and deliver any and all instruments necessary or required in order to implement the terms and conditions of this Agreement.

23. This Agreement may be altered, amended or cancelled only by instrument in writing signed by each of the parties.

24. It is agreed by and between the parties that the Husband may proceed with his Complaint for Absolute Divorce in the Circuit Court for Davidson County, Tennessee, or any court of competent jurisdiction, on the grounds of irreconcilable differences and present the foregoing Agreement as evidence of the agreement between the parties in distributing the marital estate and resolving all matters involving the marital estate and

shall be allowed to obtain a divorce in the Circuit Court for Davidson County, Tennessee, or any other court of competent jurisdiction upon the grounds of irreconcilable differences.

IN WITNESS WHEREOF, we have hereunto set out signatures this the 4th day of October, 19 90.

Constance L. Piercey

CONSTANCE LYNN PIERCEY, "WIFE"

Joseph Argo Piercey

JOSEPH ARGO PIERCEY, "HUSBAND"

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, Cindy M. Mingle, a Notary Public in and for said County and State, CONSTANCE LYNN PIERCEY, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 4th day of October, 19 90.

MY COMMISSION EXPIRES:

My Commission Expires Jan. 23, 199

Cindy M Mingle
NOTARY PUBLIC

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, Cindy M Mingle, a Notary Public in and for said County and State, JOSEPH ARGO PIERCEY, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 4th day of October, 19 90.

MY COMMISSION EXPIRES:

My Commission Expires Jan. 23, 199

Cindy M Mingle
NOTARY PUBLIC

EXHIBIT I

Property of Wife

BOOK 8305 PAGE 399

Washer
Dryer
Table and chair
TV and table
Microwave
(2) Twin beds
(1) Dresser, children's
Kellye's chest of drawers
1/2 division of family mementos, photographs, albums, etc.

Joseph Argo Piercey
JOSEPH ARGO PIERCEY, HUSBAND

Constance Lynn Piercey
CONSTANCE LYNN PIERCEY, WIFE

EXHIBIT II

Property of Husband

BOOK 8305 PAGE 400

Stove
Refrigerator
Couch
Queen Bed
(1) Dresser, Master
Chest of Drawers
Dishwasher
1/2 division of family mementos, photographs, albums, etc.

Joseph Argo Piercey
JOSEPH ARGO PIERCEY, HUSBAND

Constance Lynn Piercey
CONSTANCE LYNN PIERCEY, WIFE

97524

IDENTIF. REFERENCE

2. That the monthly child support as approved in this Order shall not be reduced nor pro-rated without Court approval. That the monthly child support as set out herein meets the Child Support Guidelines as promulgated by the State of Tennessee.

3. That the costs of this cause shall be assessed against the Plaintiff, for which execution may issue if necessary.

ENTER this 28th day of Jan, 1991.

JUDGE

APPROVED FOR ENTRY:

PHILIP W. DUER
ATTORNEY FOR PLAINTIFF
214 Third Avenue, North
P. O. Box 3348
Nashville, TN 37219-0348
(615) 244-2070
Tennessee Supreme Court
Registration No. 4647

1675 03/07 0101 03CHECK 39.00

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been mailed by U. S. Mail, postage pre-paid, on this the 28th day of January, 1991 to the following:

Ms. Constance Lynn Piercey
2655 Smith Springs Rd.
Nashville, TN 37217

PHILIP W. DUER

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* 28th *day of* January, *19* 91, *in Case Number* 90D-3242 *between* Joseph Argo Piercey *Plaintiff, and* Constance Lynn Piercey *Defendant, as same remains of record in Book* 193C, *Page* 1706 *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* 5th *day of* March *in the year one thousand nine hundred and* ninety one *and in the* 215th *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By _____, *D.C.*