BOOK 10859 PG 946 279A/79

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

98 MAR 12 PM 4:25

RUTH ANNE WILKINSON)
)
v.) No: 96D-3612
)
BARRY HOUSTON WILKINSON)

D.C.

RE-RECORD

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FINAL DECREE OF DIVORCE

This cause came on to be heard on the 10th and 11th days of February, 1998, before the Honorable Muriel Robinson, Judge of the Fourth Circuit Court for Davidson County, Tennessee, upon Wife's Complaint for Divorce, Husband's Answer and Counter-Complaint, and Wife's Answer thereto. The Court, after review of the record in this matter, testimony of the witnesses and argument of counsel **ORDERS** as follows:

1. The Court declares the parties divorced pursuant to T.C.A. §36-4-129. The Court making the specific finding that each party has grounds against the other and that they are both responsible for the dissolution of the marriage. Therefore, the Court will not award either party a divorce, but declare them divorced pursuant to T.C.A. §36-4-129. The Court further makes the following findings of facts and conclusions of law:

2. The Court finds that both parties are guilty of misconduct.

3. The Court finds that the home place that the parties lived in before it was purchased and before the marriage was ultimately bought from the estate of Wife's father while the parties were living together, even though the title was taken in the name of Husband, the Court finds this to be marital property as well as the household furniture and furnishings that are located therein, which furniture and furnishings will be disposed of through a sale.

4. The Court finds that both these parties worked in the business known as Dealer's Choice Antique Auction. The Court finds that the business was the separate property of the Husband. However, the Wife made a viable contribution before and after the marriage, but she also repleated the business with overdrafts and dishonesty about bank situations and account balances. The Court finds this a fact that was proven in this divorce case.

5. The Court further finds that both of these parties have contributed financially to the problems of the business as well as the problems of the parties' personal finances at home. The

Court therefore declares the business known as Dealer's Choice to be the separate property of the Husband. The Court further makes the finding of fact, which is supported by the proof, that the business is a cash business, that the parties entered into a practice of paying expenses, both business and personal out of the cash flow of the business. The Court further finds that both the parties' expense list submitted to be inflated. Both parties have lived beyond their means and have done so out of the proceeds of the business.

6. The Court makes the finding that Wife is in ill health. She has had by-pass heart surgery and her doctor has labeled her disabled. However, the Court finds she is still active and her testimony reveals that she does do things that she has not been impeded by her disability, but she certainly has to watch it and her ill health has limited her ability to earn income. She is able to make a contribution to her support, but she will have to do that through activities that are not detrimental to her health.

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7. The Court further makes the specific finding that Husband has a greater ability to earn income and his greater ability is much larger than the Wife's. The Court further finds that the antique business is doing better since the Wife left that business. The Court finds that both parties have been in violation of the pendente lite restraining orders issued by the Court. However, if there are any pending contempt petitions at this time, the Court deems those dismissed and dealt with so the results of this order are final.

8. The Court further makes the specific finding that both parties have lied on loan applications to NationsBank. Therefore, both parties' credibility is in question after hearing proof in this case. The questionable application signed by both parties to induce the NationsBank to lend them money has been filed and made an exhibit to the testimony in this cause.

9. The Court having made the above findings of facts and having dealt with the portion of divorce by declaring the parties' divorced, makes the following division of property.

A. The Court **ORDERS** that the home place located at 132 Tallwood Drive, Nashville, Davidson County, Tennessee, which is more particularly described as :

> Land in the 6th Civil District of Davidson County, Tennessee, being the southerly part of Lot No. 26 on the Plan of Thompson Heights, Section 2, of record in Book 2331, page 49, Register's Office for said County, described as follows:
>
> Beginning on the line between Lots 24 and 26 at a point 133 feet

south of the southerly margin of Tallwood Drive, being the southeast corner of the property conveyed to the State of Tennessee by deed from McDowell-Young Realty Corporation, of record in Book 2882, page 345, said Register's Office; thence with the southerly line of said State of Tennessee property, North 83 degrees 43' West 250 feet; South 6 degrees 17' West 15 feet and North 83 degrees 43' West 85 feet to the westerly line of said Lot No. 26 at a point 148 feet south of the southerly margin of Tallwood Drive; thence with the westerly line of said Lot No. 26, South 1 degree 40' West 196.9 feet to the northerly line of Woodroof property; thence with said line, South 88 degrees 04' East 309.6 feet to the corner of Lots Nos. 24 and 26; thence with said line, Northwardly 185 feet to the beginning.

Being the same property conveyed to Barry H. Wilkinson by deed from Ruth A. McNeill, Administratrix of the Estate of Roger T. Barnes, Sr., dated July 7, 1988, and of record in Book 7594, Page 480, in the Register's Office for Davidson County, Tennessee.

shall be awarded to Wife, subject to the first and second mortgage. The Court **ORDERS** that any interest that Husband had in the real property located at 132 Tallwood Drive is divested out of him and reinvested solely in Wife, subject to the first and second mortgages on which he will be held harmless thereon with no liability that this Court can impose upon him to repay. The Court does find, however, obviously, he is on the note held by the creditors. The Court, in an effort to insure that his credit is not damaged by the house being awarded to Wife, makes the following stipulation: That in the event the house notes get behind more than 3 months, the real property will be sold and the first and second mortgages will be paid off and Wife will retain the proceeds in the event of such contingency.

B. It is **ORDERED, ADJUDGED AND DECREED** that the business known as Dealer's Choice will be awarded to Husband, along with the equipment, inventory, bank accounts, trucks and trailers, and debts and obligations. The Court finds that the equipment inventory and bank accounts will be awarded free and clear from the claim of Wife, subject to any indebtedness thereon, which Husband will assume and hold Wife harmless thereon. He will be awarded the accounts receivable and she will be held harmless from any debts owed by the business.

C. It is **ORDERED, ADJUDGED AND DECREED** that the 1993 Lincoln automobile will be awarded to Wife as well as the John Deere Lawn Mower Tractor. The Court **ORDERS** that Husband will be awarded the Mercedes automobile and the truck located at the home place, plus the motorcycles, the boat, motor and trailer, subject to an liens and encumbrances thereon.

D. Wife is **ORDERED** to continue to maintain her health and medical insurance and pay

all premiums and costs associated tehrewith. The Court **ORDERS** that Husband will have to make other arrangements for his health insurance since he will be taken off the health insurance by virtue of this court order. Husband will have no responsibility for Wife's medical expenses.

E. The Court **ORDERS** that Husband will pay the balance of Wife's medical bills which are listed on Exhibit No. 6. The Court finding those to be in the amount of $4,780.00 approximately. The Court **ORDERS** that Husband will be responsible for the outstanding medical bills as of this date, but no other bills hereafter and he will not be responsible for any of her health expenses after this date.

F. The Court further **ORDERS** that each party will pay their own credit cards, debts, and loans made to third-parties. The Court further **ORDERS** that both these parties are enjoined and restrained from making any further or other charges on the credit of the other.

G. The Court **ORDERS** that Mr. Wilkinson will pay the 1996 real property taxes, plus penalty and interest right away.

H. The Court **ORDERS** that Wife will be responsible for the 1997 real property taxes on the home place.

I. The Court **ORDERS** that Husband will make the February house payment as per the pendente lite order. Any support order that the Court renders will be effective March 1, 1998.

J. Husband is awarded the following:

i. 1995 Harley Davidson Motorcycle

ii. 1985 Gold Wing Motorcycle

iii. 1970 Mercedes 280 SL

iv. 1995 22' Crown Line Boat

v. 1997 Ford Dually Truck

vi. 1994 Ford Dually Truck

vii. Chevrolet Cube Van

viii. 1976 Ford 4 x 4 Truck

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K. The Court **ORDERS** that each party will keep their personal jewelry in their possession.

L. The Court **ORDERS** that Wife will be allowed to purchase from Husband her Father's watch for the price of $250.00. The Court **ORDERS** that if Wife desires to dispose of this watch,

she will first offer it for sale back to Husband.

M. The Court further finds that the gun issue has been disposed of. Wife will be awarded her Father's guns and rifles as agreed and Husband will be awarded the remainder.

10. The Court finds that Wife has a need for alimony and that Husband has the ability to pay. It is, therefore, **ORDERED, ADJUDGED AND DECREED** that Barry Wilkinson shall pay to Ruth Wilkinson the amount of $1,500.00 per month as alimony in futuro until her death or remarriage or further orders of the Court, or death of the Husband. The Court **ORDERS** that the first payment of alimony shall be due and payable directly to Wife in the amount of $1,500.00 March 1, 1998 and the 1st of each and every month thereafter until further orders of this Court.

11. The Court further finds it necessary in order to secure the payment of the alimony that Barry Wilkinson is **ORDERED** to assign his life insurance policy with State Farm Insurance Company in the amount of $90,000.00 naming Wife as beneficiary thereon so long as he is obligated to pay alimony. The Court further **ORDERS** that Mr. Wilkinson is to keep the insurance premiums thereon paid in a timely manner and to provide annual proof to Wife each year that the premiums thereon have been paid.

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12. The Court further **ORDERS** that as a result of Husband's liability on the mortgage on the home place awarded to Wife, Wife shall name Husband as beneficiary of her life insurance policy with State Farm in the face amount of $75,000.00 to secure payment of that debt in the event of Wife's death. The Court **ORDERS** that Wife shall be obligated to maintain her life insurance and pay the premiums payable thereon in a timely manner and further to provide annual proof to Husband that the policy is in effect. This will be required of each party to the other as concerns their life insurance policies. Insofar as Wife is obligated to maintain the life insurance policy, this will remain in effect until the house is paid off or Husband is no longer liable on the debt on the real estate.

13. It is further **ORDERED, ADJUDGED AND DECREED** that both parties are restrained and enjoined from harassment of the other.

14. The Court finds that counsel for Wife, D. Scott Parsley is entitled to a fee for representation of Wife in this matter. It is, therefore, **ORDERED** that D. Scott Parsley is awarded a judgment against Barry Wilkinson in the amount of $6,500.00, which amount is reduced to

judgment, for which let execution issue if necessary. The Court further **ORDERS** that the balance of Wife's fees shall be her responsibility.

15. It is **ORDERED** and **DECREED** all household furniture and furnishings with exception of appliances and inclusive of all antiques, glassware, novelties, lamps, paintings, pictures and sconces shall be sold and the proceeds divided equally. Both parties are enjoined and restrained from removing, hiding items or attempting to impede this sale as ordered above.

16. It is further **ORDERED, ADJUDGED AND DECREED** that the costs of this cause are assessed against Barry Wilkinson, for which let execution issue if necessary. The addresses of the parties are as follows:

Ruth Wilkinson
132 Tallwood Drive
Nashville, Tennessee 37211

Barry Wilkinson
c/o Dealer's Choice Antiques & Auction
2109 8th Avenue, South
Nashville, Tennessee 37204

ENTERED this the 12th day of March, 1998.

MURIEL ROBINSON, JUDGE

cc: Honorable D. Scott Parsley
Honorable Carol L. Soloman
Attorney-at-Law
217 Second Avenue, North
Nashville, Tennessee 37201

Honorable Mary Arline Evans
Attorney-at-Law
214 Third Avenue, North
Nashville, Tennessee 37201

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04234 80
IDENTIF. & REFERENCE
98 APR -8 PM 3:12
DAVIDSON COUNTY, TN.

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IDENTIF. & REFERENCE
98 MAR 30 PM 1:41
DAVIDSON COUNTY, TN.

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STATE OF TENNESSEE

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I, RICHARD R. 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 12 day of MARCH , 19 98 , in the Case Number 96D3612 between WILKINSON, RUTH ANNE Plaintiff, and WILKINSON, BARRY HOUSTON Defendant, as same remains of record in Book 279A , Page 797 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 26 day of MARCH in the year one thousand nine hundred and ninety-eight and in the 222nd year of American Independence.

RICHARD R. ROOKER, Clerk,

By _____ Deputy Clerk

SEAL

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