BOOK 10894 PG 919

1136/98

IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

FILED
1998 APR -7 AM 8:56
RICHARD R. ROOKER, CLERK
D.C.

GLENDA SUE WRIGHT BENNING)
)
v.) No: 97D-2010
)
JAMES RUSSELL BENNING)

6904 04/22 0101 03CHECK 24.00

FINAL DECREE

This cause came on to be heard on the 16th day of March, 1998, before the Honorable Marietta Shipley, Judge of the Second Circuit Court for Davidson County, Tennessee, upon Wife's Complaint for Divorce and Husband's Answer and Counter-Complaint thereto. The Court, after hearing testimony of the witnesses and the parties, finds and **ORDERS** as follows:

1. The Court will declare the parties divorced pursuant to T.C.A. §36-4-129.

2. The Court **ORDERS** that Ms. Benning shall be awarded the real property of the parties located at 4858 Lynn Drive, Nashville, Tennessee. The Court **ORDERS** that she may refinance the house within 90 days of the entry of the Final Decree and pay Mr. Benning his equity or in the event she does not elect to refinance the real estate, then the house will be sold 60 days after the 90 days has elapsed and Mr. Benning shall then be awarded his equity.

3. The Court **ORDERS** that to determine a proper amount of equity, Ms. Benning shall engage the services of an appraiser and she shall be responsible for the fee for such appraisal. The parties have agreed that they will use J. Donald Turner as an appraiser whom the Court approves and finds proper. The Court **ORDERS** that if either party is unhappy with Mr. Turner's appraisal, either may hire another appraiser at their expense and the Court will hold an additional hearing concerning the value of the real estate. The Court **ORDERS** that 6% of the appraised price will be deducted as a result of a sale's commission in the determination of equity. Further, the mortgage balance shall be deducted.

The Court grants to

1.	Value of the house per appraisal of J. Donald Turner	$108,000.00
	Mortgage indebtedness remaining due	- 59,877.00
	6% costs of sale	- 6,480.00
	Equity	$ 41,643.00

One-half Equity to each:

Ms. Benning	Mr. Benning
20,821.50	20,821.50
- 4,000.00	+ 500.00 (difference in Wife's 401K and Husband's stamp collection)
	+ 3,500.00 (½ of value of Wife's car)
$16,281.50 Equity Due Ms. Benning	$24,821.50 Equity Due Mr. Benning

The Court **ORDERS** that Ms. Benning shall be awarded the house and Mr. Benning is awarded a judgment in the amount of $24,821.50 representing his equity interest in the marital residence and the off-sets in assets as ordered by the Court. The Court **ORDERS** that this amount will be paid by Ms. Benning within 90 days of her refinancing the home. If she does not refinance, then no later than 60 days following 90 days after entry of this Order.

4. The Court **ORDERS** that the coins and the coil stamps and first day covers shall be awarded to Mr. Benning. The Court finds that it will accept the appraised value as stated by Mr. Benning's expert witness in the amount of $12,000.00 as concerns the collection.

5. Ms. Benning will be awarded her 401-K and retirement in the total amount of $13,000.00. The $12,000.00 awarded to Mr. Benning for the stamps, the coils and the first day covers and the $13,000.00 which is in Ms. Benning's 401-K account shall be off-set one against the other. The Court further finds that the parties have agreed that Mr. Benning would receive the amount of $1,470.85 from Ms. Benning to purchase an automobile or to apply toward the purchase of an automobile, which amount is reduced to judgment for which let execution issue if necessary.

6. Husband will be responsible for the following debts and shall indemnify and hold Wife harmless thereon:

Name	Account Number	Balance
NationsBank (Mastercard)	51342110002579277	$ 4,595.25
First Card	4250470908002	4,104.47
Capital One Services	4388641345204056	3,809.60
First Advantage	4507352110012600	6,111.71
Credit Card Services	4332212489000754	4,645.69
Optima	373711907113006	4,343.36

Fifth 3rd Bank Visa	4445220973064545	2,703.12
Bravo	6011900179083410	1,069.30
Bravo Reserve Line	6011900279063189	250.00
A/E Card	3728 124 128 42 005	600.00
Mellon Bank	541759-2900121759	5,607.31

Wife will be responsible for the following debts and shall indemnify and hold Husband harmless from any liability thereon:

Name	Account Number	Balance
Harris Bank	4681-2070-2117-9519	$ 3,378.88
NationsBank	4356570010968281	6,862.06
First Union (Mastercard)	5410541320920818	10,148.01
First Union (Visa)	4340-0813-2056-0403	8,389.76

7. The Court further finds that Mr. Benning has testified that approximately $10,000.00 worth of stamps and other collectible items were stolen from the marital residence while he was in possession thereof. The Court **ORDERS** that the parties will cooperate and do whatever is required by the homeowners' insurance company to file a claim for the stolen stamps and related collectibles and that upon settlement of the claim, each party will be awarded one-half of the settlement proceeds thereof. The Court further **ORDERS** that Mr. Benning will file a police report as concerns the stolen stamps and collectibles.

8. Ms. Benning will be awarded her automobile in her possession. The Court will find the value of this automobile to be in the amount of $7,000.00 and award an additional $3,500.00 of equity from the real property to Mr. Benning.

9. The Court, after consideration of all the relevant factors, **ORDERS** that Wife shall pay to Husband as alimony in futuro the amount of $450.00 per month or $103.00 per week. The Court makes the specific finding that husband is 100% disabled and the Court finds this necessary for his support.

10. As concerns Husband's need for prescription medication, the Court initially **ORDERS** that Mr. Benning is to provide to Ms. Benning a release allowing her to discuss with any prospective

insurance carriers and obtain whatever medical records necessary in order for her to discuss proposed insurance with prospective policy providers. The Court **ORDERS** that Mr. Benning shall make all necessary efforts to attempt to obtain some type of insurance through SSI or make attempts to get his prescriptions through Metro but that she will be responsible to cover his medication up to $286.00 until some type of policy can be obtained to cover the medication. The Court **ORDERS** that Mr. Benning shall make application to a private insurance carrier and also to TennCare and to SSI because Ms. Benning cannot do this for him. The Court **ORDERS** that this is to be done as soon as possible in order to alleviate the necessity of Ms. Benning having to cover the prescription costs. The Court finds that all parties are aware that in order to be approved for TennCare, Mr. Benning must first make application to a private provider and get a letter of denial. The Court **ORDERS** that this is to be done within 30 days of the date of the Final Decree. The Court **ORDERS** this to be done as soon as possible in order to alleviate the necessity of Ms. Benning having to pay the $286.00 for Mr. Benning's medication.

11. The Court **ORDERS** that both parties will be responsible for their attorney's fees. Both attorneys are granted liens on the real estate of the parties in order to secure payment of their attorney's fees.

12. The Court **ORDERS** that the court costs remaining after payment of the initial filing fee by Ms. Benning shall be the responsibility of Mr. Benning, which amount is reduced to judgment for which let execution issue if necessary.

Enter this 7 day of April, 1998.

MARIETTA SHIPLEY, JUDGE

APPROVED FOR ENTRY:

D. SCOTT PARSLEY, #13606
217 Second Avenue North
Nashville, TN 37201
(615) 244-2202

E. LEE EDWARDS, III, #9772
508 Stahlman Building
211 Union Street
Nashville, TN 37201
(615) 726-3395

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served on the Honorable J. Robin McKinney, One Washington Square, Suite 103, 214 Second Avenue North, Nashville, TN 37201, by placing same in the U. S. Mail, postage prepaid, on this 31 day of March, 1998.

D. SCOTT PARSLEY

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 SECOND Circuit Court for Davidson County, Tennessee, on the 07 day of APRIL , 19 98 , in the Case Number 97D2010 between BENNING, GLENDA WRIGHT Plaintiff, and BENNING, JAMES RUSSELL Defendant, as same remains of record in Book 173B , Page 98 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 21 day of APRIL in the year one thousand nine hundred and ninety-eight and in the 222nd year of American Independence.

SEAL

RICHARD R. ROOKER, Clerk,

By B. Gardner
Deputy Clerk

PICK-UP

98 APR 22 AM 11:33
FELIX Z. WILSON REGISTER
DAVIDSON COUNTY, TN.

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IDENTIF. & REFERENCE