PICK-UP

FILED

IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

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ROSIE MARIE WARD

Plaintiff,

VS

D.C. NO. 02D-325

THOMAS JEFF WARD

Defendant,

AMENDED FINAL JUDGMENT OF DIVORCE

This matter came before the Court, The Honorable Marietta Shipley, Circuit Court Judge, on the 30th day of May 2002 upon the Wife's complaint for absolute divorce and personal service of same on the Husband. The Husband having failed to answer the Wife's complaint, this matter came before the Court pursuant to judgment for default entered against the Husband and in favor of the Wife on May 3, 2002.

Despite the Husband's failure to answer the Wife's complaint and the entry of judgment by default herein, the Husband appeared pro se at the final hearing of this cause. Upon the testimony of the Wife and two (2) corroborating witnesses in open Court, testimony of the Husband, statement of counsel and the entire record herein the Court finds that the allegations contained in the Wife's complaint are sustained by the proof to wit; that the Husband has been guilty of inappropriate marital conduct, indignities to the Wife's person, habitual abuse of illegal drugs, desertion and abandonment and non-support such as entitles the Wife to a divorce.

Upon the testimony of the Wife the Court finds that the parties acquired certain real property during the marriage consisting of a home and lot located at 320 Eulala Circle, Nashville, Davidson County, Tennessee 37211. The Court finds, upon the testimony of the Wife, that the fair market value of said real property is one hundred eight thousand six hundred dollars ($108,600.00). The Court finds that the balance of the mortgage against said real property is forty-five thousand five hundred forty-one dollars and thirty-eight cents ($45,541.38) leaving a net equity in said real property in the amount of sixty-three thousand fifty-eight dollars and sixty-two cents ($63,058.62).

The Court finds that the monthly mortgage payments, maintenance and upkeep and all other expenses relating to the marital home have been made by the Wife exclusively since the Husband deserted the Wife and the parties' then three (3) minor children in February 1999. The Court finds that the Husband has made no contribution whatsoever to the marital home since before February 1999.

Upon the Wife's testimony, the Court finds that since February 1999 the Wife has paid for a new central heat and air conditioning unit at the home at a cost of four thousand four hundred seventy-seven dollars ($4,477.00) and paid for new carpet at a

cost of one thousand four hundred sixty-three dollars and twenty-seven cents ($1,463.27). Upon the Wife's testimony, the Court further finds that since February 1999 the Wife has paid off a second mortgage on the marital home, in the amount of twelve thousand nine hundred fifty dollars and sixty-seven cents ($12,950.67), which was incurred by the parties prior to the Husband's desertion of the Wife in February 1999 to pay marital debts. Upon the Wife's testimony, the Court further finds that since February 1999 the Wife exclusively has paid mortgage payments on the marital home totaling twenty-four thousand seven hundred fifty-six dollars and ninety-eight cents ($24,756,98).

The Court further finds that the Husband failed to pay child support for the parties' then three (3) minor children from February 1999 until the pendente lite order of support was entered herein on or about March 14, 2002. The Court finds that the Husband has, at all times since February 1999, maintained an earning capacity of $10.00 an hour for forty (40) hours a week. Based upon said earning capacity and application of the Tennessee Uniform Child Support guidelines, the Court finds that the Husband would have been obligated to pay child support for the parties' children from February 1, 1999 through May 30, 2002 in the amount of twenty thousand six hundred thirteen dollars ($20,613.00). The Court finds that the Husband failed to pay support for the minor children since February 1999 and in fact accrued an arrearage in the minimal pendente lite child support obligation entered on or about March 14, 2002 in the amount of five hundred thirteen dollars ($513.00) through May 31, 2002.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the Wife be and hereby is granted a divorce from the Husband on the grounds of inappropriate marital conduct, indignities to the Wife's person, habitual abuse of illegal drugs, desertion and abandonment and non-support pursuant to the provisions of T.C.A. 36-4-101(11), 36-4-101(12), 36-4-101(10), 36-4-101(4) and 36-4-101(13) respectively and the parties are each restored to all of the rights and privileges of unmarried persons.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that all matters relating to the residential care and support of the parties' minor children, Thomas Jeff Ward, II (8-17-84) and Timothy Jamal Ward (5-11-88) shall be governed by the provisions of the attached permanent parenting plan which is incorporated herein by reference and which hereby becomes the further judgment of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Wife shall be and hereby is awarded all furniture, furnishings and personal property in her present possession and the Husband is hereby divested of any interest that he may have in same.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Wife shall be awarded, as her sole and separate property, free and clear of any interest of the Husband in same, the 1993 Mitsubishi Galant automobile.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Wife shall be awarded as her sole and separate property, free and clear of any interest that the Husband may have in same, the Wife's 401K and any other retirement benefits through her employer.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Wife shall be awarded as her sole and separate property, free and clear of any interest of the Husband in same, the marital real property, consisting of a home and lot located at 320 Eulala Circle, Nashville, Davidson County, Tennessee, and the husband shall be and hereby is divested of any interest that he may have in same and all right title and interest in said real property is hereby vested solely in the Wife in fee simple.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that in balancing the Husband's contribution to the marital home prior to his desertion of the Wife in February 1999 against the Husband's lack of contribution thereto since said date; the Husband's failure to pay child support since said date and the Wife's individual contributions to the maintenance of said real property since said date, the Husband's interest in said real property shall be deemed to be twenty-five thousand dollars ($25,000) with a set off for retroactive child support arrearages awarded herein in the amount of twenty thousand six hundred thirteen dollars ($20,613.00) for a net interest to the Husband in the amount of four thousand three hundred eighty-seven dollars ($4,387.00). The Husband's said net interest in the marital real property indicated above shall be set off by future child support payments due and therefore the Husband shall in effect be given a credit toward future child support payments in the amount of four thousand three hundred eighty-seven dollars ($4,387.00), thereby satisfying in full the Husband's interest in the marital real property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Wife is entitled to retroactive child support for the parties' minor children from February 1, 1999 to the date of the hearing herein. For the purpose of calculating said retroactive support, the Court finds that the Husband's earning capacity has been, at all times since said date, $10.00 per hour for forty (40) hours a week. Pursuant thereto the Court finds that the appropriate award of retroactive child support, based upon the Tennessee Child Support Guidelines and the Husband's above indicated earning capacity, is twenty thousand six hundred thirteen dollars ($20,613.00). This judgment is a set-off against the Husband's interest in the marital home as indicated previously herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Husband shall assume

full responsibility for the payment of the remaining balance on the judgment arising from the repossession of the parties' formerly owned Chevrolet Van and he shall indemnify and hold harmless the Wife from any liability arising from his failure to pay said judgment when due, the Wife having already previously paid the sum of three thousand eight hundred fifty-four dollars and sixty-one cents ($3,854.61) toward said judgment representing one-half (1/2) of said judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Husband, Thomas Jeff Ward, shall be and hereby is permanently restrained and enjoined from coming around or about the Wife and further from calling the Wife for the purposes of assaulting, abusing, threatening, intimidating, harrassing, alarming or otherwise molesting the Wife in any manner whatsoever.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the court costs herein shall be and hereby are taxed to the Husband for which execution may issue if necessary.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Wife's attorney, Jeffrey S. Pulley, shall be and hereby is granted a judgment against the Husband in the amount of seven hundred fifty dollars ($750.00) representing his reasonable attorney fee for representation of the Wife herein.

The parties addresses are as follows; The Wife resides at 320 Eulala Circle, Nashville, Tennessee 37211. The Husband's last known address is 1706 St. Louis Avenue, Nashville, Tennessee 37208.

Enter this the 13th day of September 2002.

Marietta Shipley
Circuit Court Judge

APPROVED FOR ENTRY:

Jeffrey S. Pulley, #13923
Attorney for the Wife
107 Music City Circle, STE 346
Nashville, Tennessee 37214
(615) 871-4777

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Final Judgment of Divorce has been mailed to the Defendant, Thomas Jeff Ward, at his last known address, 1706 St. Louis Avenue, Nashville, Tennessee 37208 on this the 9 day of ~~August~~ September 2002.

Jeffrey S. Pulley

STATE OF TENNESSEE

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 13 day of SEPTEMBER , 2002 , in the Case Number 02D325 between WARD, ROSIE MARIE Plaintiff, and WARD, THOMAS JEFF Defendant, as same remains of record in Vol. 4751 , Page 876797 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 28 day of AUGUST in the year two thousand three and in the 227th year of American Independence.

RICHARD R. ROOKER, Clerk,

By _____ Deputy Clerk

SEAL

