IN THE PROBATE COURT FOR DAVIDSON COUNTY, TENNESSEE

AT NASHVILLE

REBECCA KAY LEMMONDS, Plaintiff/Counter-Defendant,	)	
vs.	)	NO. 91D-1588
BILLY WILSON LEMMONDS, Defendant/Counter-Plaintiff.	)	

BILL GARRETT, Davidson County
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ORDER

THIS CAUSE came on to be heard on the 6th day of May, 1992, before the Honorable James Everette, Judge of the Probate Court for Davidson County, Tennessee, after having been continued from April 6, 1992, upon pleadings filed, argument of counsel, testimony of the parties, and testimony of witnesses in open court, from all of which the Court made the following findings of fact and conclusions of law:

These parties were married in Rutherford County in 1988. They have had a marriage of almost four years with one child born of the marriage named Kenny Lee who is approximately 30 months old. The parties separated in Davidson County on April 8, 1991 and basically since that time have gone their separate ways as man and wife. The Court earlier in the hearing divorced the parties. The Court will not recite verse by verse the reasons for granting that divorce, that has been done.

The main issue as the Court sees in this matter is the question of custody of the minor child of the parties. The Court first must make a determination of whether these parties are both fit and proper people to have custody of the minor child. The Court makes the determination that the Court has not been impressed with the father as far as custody is concerned. He has not demonstrated a concern for the child of the prior marriage. He did not know the child's birth date and really did not know the child's age. He basically has not paid any child support for that child, and he has demonstrated that in this action. He has not shown willingness to pay child support without being ordered by the Court, and the Court is not impressed with that type of action.

Obviously, the mother has a disability which is somewhat limiting, but the Court is impressed with her concern for the child. The Court makes the finding that the father's request for custody is not so much out of love for the child as it is basically to get at the mother. The Court finds that the mother's concern for custody is love for the child, which it should be. Just for sake of custody of the child is not good grounds or not a basis for custody to be awarded. That's what the Court finds, is that the father just "wants custody". The Court finds that it is not his concern or love for the child or for the nurturing of the child in bringing the child up as the child should be reared to help that child take a place in society and be a productive member in society. The Court does find that the mother's purpose for wanting custody would be to rear that child in the way that the child should be reared and that the child will take its place in society and be productive.

There are several reasons why the Court thinks that custody of this child should be placed with the mother. One, the Court has already discussed, the love and concern for the child. The Court finds that the mother will basically have a good support group if she moves to Oregon with the child. Her parents have said that she could live with them. She will be present with the child with their support to help her. On the other hand, the father is basically going to leave the child in a day care. It has been testified that he works many hours and basically the child will be cared for by his mother in a day care center. The Court finds that that is not in the best interest of the child. The Child should be with one parent as much as possible, that is available with the mother.

The Court finds that the mother has worked with the child. Obviously, she has some problems caring for the child but I think those problems are evaporating away as time passes. The husband basically has not helped with the care of the child.

The mother has checked into schools, that type thing, transportation, in Oregon. Those all seem to be proper and will lend support to her.

The Court just cannot fathom why a father would not call a child that he brought into the world, and basically that's what has happened with the child of the other marriage of the husband. The Court cannot understand why that husband would not be supporting that child. Those are not good indications of love and care for an offspring that a parent should exhibit. The Court finds that the father in this case has not exhibited good child care concerns for the other child or for this child. The Court stated previously that the Court finds and believes that the father wants custody for the sake of custody and not for what's good for the child or in the best interest of the child to raise the child as it should be.

For the reasons stated previously, the Court is going to award custody of the parties minor child to the mother. The Court is going to set visitation for a period of six weeks in the summer, with the father being responsible for the transportation between Nashville and Oregon. He has a good job and he will be able to do that if he will make arrangements at an early date.

The Court is going to set child support in the amount of $114.24 per week based on a weekly salary of $646.00. The Court will order that any amount made over and above that by overtime, that the husband pay 21 percent of that.

The Court is going to award the husband the 1989 Dodge pickup. The Court is going to award the wife the keyboard, the luggage, the extension cord, the curling iron, and the savings that she has in her name. The Court is going to award the husband the checking account that he had at the time the parties separated and all other furnishings in the home not awarded to the wife. Those were basically the husband's furnishings prior to the marriage anyway and it will not be marital property.

The Court is going to award the husband a week's visitation at Christmas, either from December 19th through December 26th or December 26th through January 2nd, and he will give the mother at least two months notice of such visitation. If he wants to exercise that he will be responsible for transportation. Since he has the higher income, the Court finds that he has ability to pay that.

The Court has already assessed the cost equally between the parties when granted the divorce and the Court will assess the cost of this hearing equally between the parties.

The Court awards the house located at 403 Dupont Avenue, Madison, Tennessee to the husband.

The Court awards the Plaintiff's attorney, Curtis M. Lincoln, attorney's fee to be shown unto the Court through affidavit of Mr. Lincoln.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Mother, Rebecca Kay Lemmonds, shall have sole custody of the parties minor child, Kenny Lee Lemmonds and shall be allowed to remove the child to the State of Oregon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Father, Billy Wilson Lemmonds, shall have six (6) weeks visitation with the parties minor child in the summer and he shall be responsible for the expense of transportation between Nashville and Oregon and he shall give the Mother two (2) months notice in writing of the dates he desires to exercise said visitation.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that child support is set in the amount of $114.24 per week beginning April 29, 1992, based on a weekly salary of $646.00. The Court further orders that any amount made over and above that by overtime, that the husband pay 21 percent of that.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the husband is awarded the 1989 Dodge pickup and the wife is awarded the keyboard, the luggage, the extension cord, the curling iron, and the savings that she has in her name. The Court further awards the husband the checking account that he had at the time the parties separated and all other furnishings in the home not awarded to the wife.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the husband is awarded a week's visitation at Christmas, either from December 19th through December 26th or December 26th through January 2nd, and he will give the mother at least two months written notice of such visitation. If he wants to exercise that he will be responsible for transportation. Since he has the higher income, the Court finds that he has ability to pay that.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the cost of this hearing is assessed equally between the parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Husband is awarded the house located at 403 Dupont Avenue, Madison, Tennessee subject to the indebtedness thereon, and he shall hold the Wife harmless therefrom.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff's attorney, Curtis M. Lincoln, is awarded attorney's fees in the amount of $0 against Billy Wilson Lemmonds and a judgment is granted therefore, which execution may issue against the Defendant, Billy Wilson Lemmonds, if necessary.

ENTERED this 29 day of May, 1992.

JUDGE JAMES EVERETTE

APPROVED FOR ENTRY:

Curtis M. Lincoln

CURTIS M. LINCOLN, #2538
Attorney for Plaintiff/Counter-Defendant
175 East Main Street
Hendersonville, Tennessee 37075
(615) 822-0030

CERTIFICATE OF SERVICE

I, Curtis M. Lincoln, do hereby certify that a true and correct copy of the foregoing document was sent by U.S. mail postage prepaid to Mr. Scott Parsley, 217 Second Avenue North, Nashville, TN, 37201, on the 12 day of May, 1992.

Curtis M. Lincoln

CURTIS M. LINCOLN

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 SEVENTH Circuit Court for Davidson County, Tennessee, on the 06 day of MAY , 1992 , in the Case Number 91D1588 between LEMMONDS, REBECCA KAY Plaintiff, and LEMMONDS, BILLY WATSON Defendant, as same remains of record in 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 MARCH in the year two thousand fourteen and in the 237th year of American Independence.

RICHARD R. ROOKER, Clerk,

By R. Thomas
Deputy Clerk

SEAL

