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IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

WILLIAM EASON MITCHELL,
PLAINTIFF,

VS.

JANICE KAY MITCHELL,
DEFENDANT.

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CIVIL ACTION NO. DR-83-227

AMENDED FINAL DECREE

The evidence in this case was presented to the Court during some 10 days of hearings. The Court rendered a Final Decree on April 23, 1984.

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BOOK
Within the time allowed by law, plaintiff filed a motion to alter or amend judgment citing some aspects of the decree which needed amending.

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The Court granted the motion. A similar motion was filed by defendant.

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The Court heard argument on the merits of said motions on June 12, 1984, and in consideration thereof renders this Final Decree. This decree replaces the April 23, 1984, decree in its entirety so that this one Final Decree will represent the judgment in this case.

The Court took no additional evidence on June 12, 1984; therefore all matters contained herein are based upon consideration of the evidence previously heard. The distribution of property was based upon values established by such evidence and not as indicated by defendant's present motion.

Kyle

This cause coming on to be heard was submitted to the Court on the complaint, answer of the defendant and testimony taken orally before the Court, and with the parties and their respective counsel present and announcing ready for trial, whereupon the Court considers all the evidence offered and finds as follows:

That the parties are entitled to a decree of divorce, that the Court should determine custody of the minor children, visitation privileges and distribution of real and personal property, it is therefore;

CONSIDERED, ORDERED, ADJUDGED and DECREED by the Court as follows:

1. That the bonds of matrimony heretofore existing between the plaintiff and defendant be and the same hereby are dissolved and the said William Eason Mitchell and the said Janice Kay Mitchell are, hereby and forever, divorced from each other.

2. That neither party shall marry again, except to each other, until sixty (60) days after the Final Decree of Divorce, and if an appeal is taken (which must be instituted within forty-two (42) days from this judgment or from the date that any post trial motion is denied), then neither party shall again marry, except to each other, during the pendency of the appeal.

3. That it would be in the best interest of the minor children that their primary care, custody and control shall be with their mother, Janice Kay Mitchell, subject to the hereinafter detailed visitation privileges to the father, William Eason Mitchell.

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4. That the Plaintiff, William Eason Mitchell, shall have the right of visitation with the minor children on the first and third week-ends of each month beginning at 5:00 p. m. on Friday and ending at 5:00 p. m. the following Sunday. The first weekend in each month is designated as being the week-end that follows the first Monday in each month.

Additionally, the Plaintiff shall have the right of visitation with the minor children from 5:00 p. m. on Thanksgiving Day, 1984 until 5:00 p. m. the following Sunday and a like period of visitation in each successive year thereafter.

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BOOK Additionally, the Plaintiff shall have the right of visitation with the minor children from 2:00 p. m. on December 25, 1984 until 5:00 p. m. December 31, 1984 and a like period of visitation in each successive year thereafter.

Additionally, the Plaintiff shall have the right of visitation with the minor children on Father's Day of each year. The Defendant shall have the right of visitation with the minor children on Mother's Day of each year. Said visitation shall occur whether or not said date falls on the week-end when the father or mother would normally have the children.

Additionally, each year the Plaintiff shall have the right of visitation with the minor children beginning at 5:00 p. m. on Friday preceding AEA week until 2:00 p. m. on Sunday which marks the conclusion of AEA holiday. This visitation will begin with the eldest child's first year in public school, grade one, kindergarten excluded.

Additionally, the Plaintiff shall have the right of visitation with the minor children beginning at 5:00 p. m. on June 10, 1984 until 5:00 p. m. on August 10, 1984 and a like period of visitation in each successive year thereafter. That during the summer when the Plaintiff will have the children with him, the Defendant will have the right of visitation with the minor children on the second and forth weekends beginning at 5:00 p. m. on June 29, 1984 and ending on July 1, 1984 at 5:00 p. m. until custody is restored to the defendant on August 10, 1984, and a like period of visitation in each successive year thereafter.

That the Plaintiff and Defendant shall agree as to the place of exchange and transportation of the minor children when the visitation privileges are exercised.

4. (a) That at the June 12, 1984, hearing on the motions, it was made known to the Court that the Defendant contemplated moving her residence and the children to another area of the State of Alabama or perhaps even to the State of Tennessee. While the Court would prefer that the Defendant and the minor children remain in some reasonable proximity to their former marital home or even to reside in this area, the Court is reluctant to attempt to require such.

5. That the Plaintiff, William Eason Mitchell, shall pay child support in the amount of Two Hundred and Fifty Dollars (\$250.00) per child per month until each child reaches the age of 19 or otherwise reaches her majority. Such payment shall be paid to the Clerk of the Circuit Court in Columbiana, Alabama, not later than 5:00 p. m.

on the 10th day of May, 1984, and on the 10th day of each successive month thereafter until November 1, 1984, when such payments shall be increased to Three Hundred Dollars (\$300.00) per child per month during each child's minority. Plaintiff shall be required to pay child support payments to defendant during the time the children are with him during the summer months and at other times he has visitation.

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6. That the Plaintiff shall maintain medical insurance on the minor children of this marriage during their minority. All medical, dental, doctor, drug and/or hospital bills incurred on behalf of the minor children and not covered by insurance provided by the Plaintiff shall be paid by the Defendant inasmuch as the child support payments are to be used to cover these expenses as well as other necessities and requirements of the minor children.

7. That the Plaintiff shall have the right to claim the two minor children of this marriage for income tax purposes each year.

8. (a) That all of the right, title and interest in the following described real property is hereby divested from William Eason Mitchell and vested in Janice Kay Mitchell:

Lot 10, the 1971 addition to Shelby Shores according to plat thereof recorded in Map Book 5, page 96, of the records of the Office of the Judge of Probate, Shelby County, Alabama, situated in Shelby County, Alabama

That the hereinabove described real property is the residence of the parties at the time of their separation and is awarded to the Defendant as alimony in gross. That the Plaintiff shall pay all indebtedness on such property in accordance with the provisions of said mortgage so as to fully satisfy such mortgage and that

upon full payment thereof, such mortgage shall be marked satisfied and delivered to Defendant. This does not require Plaintiff to accelerate present payments nor does it require Plaintiff to pay the entire balance due by a lump sum payment.

The Court being mindful that Defendant may sell or transfer this real estate without further Order of this Court, the Court allows Plaintiff to substitute his property equal in value to the amount^{owed} by him on Lot 10 (above described) as indicated by the mortgage.

BOOK 358 PAGE 246 The effect of this would be to allow Defendant to sell this property with mortgage satisfied by Plaintiff yet Plaintiff would continue to be indebted to Defendant for the amount of the mortgage which the Court requires him to pay. The principal reason for this is to allow Plaintiff to continue to satisfy the Mortgage on this property at the interest rate contained in the mortgage, that being approximately 8 1/2 per cent on the balance due.

If the language herein is less precise than necessary to accomplish such purpose, the parties, by counsel, may submit a stipulation to the Court for a revision of this aspect of the decree in order that its purpose might be accomplished.

(b) That in addition to the alimony in gross, plaintiff shall pay defendant periodic alimony in the amount of Four Hundred Dollars (\$400.00) per month beginning on May 1, 1984, and continuing a like amount each month through the October 1984 payment after which, such payments shall cease. The purpose of this is to provide financial assistance to defendant while she obtains employment as a school teacher or other employment.

(c) That Plaintiff shall be responsible for the outstanding and presently due bill for electrical services on their marital residence in the amount of approximately Seven Hundred Forty-one Dollars and Thirty-three cents (\$741.33) owing to the Alabama Power Company.

(d) That Plaintiff shall be responsible for the telephone bills incurred at the marital residence, the amount presently due being approximately One Hundred Ninety-one Dollars and Ninety cents (\$191.90).

(e) That Plaintiff shall be responsible to pay the mortgage indebtedness to the Central State Bank in the amount of One Thousand Five Hundred Dollars (\$1,500.00), such instrument being dated February 6, 1984.

(f) That Defendant's request for repayment of certain funds borrowed by the Defendant during the pendency of this action is hereby denied.

9. That the following personal property is awarded to the defendant:

Her personal items of property
Video Cassette Recorder (VCR)
Washing Machine and Dryer
1980 Pontiac Automobile

In addition to the above, the Defendant will receive the following items at the conclusion of the summer visitation 1984 of the children with their father.

Mary Allison's Baby Bed
Sue Catherine's Bed and Chest of Drawers
The Children's toys, clothes and furniture

That the household items located in the Lay Lake Home, the residence of the parties at the time of their separation, including a bedroom suit, two couches, two stuffed chairs, one dining room suit, one television, dishes, kitchen utensils, dishwasher, trash compacter, refrigerator, and miscellaneous items of like kind as well as miscellaneous furniture and household items are hereby awarded to the Defendant.

10. That any and all right, title and interest in the following described real property is hereby divested from Janice Kay Mitchell and vested in William Eason Mitchell;

Surface rights in and to the SE 1/4 of the SE 1/4 Section 31, Township 24, North, Range 10E, containing (40) acres more or less, situated in Bibb County, Alabama.

Also:

A parcel of land situated in the NE 1/4 of the NW 1/4, Section 23, Township 24 North, Range 15 East, more particularly described as follows: Begin at the NE corner of said NE 1/4 of NW 1/4 thence South along East line of said forty a distance of 441 feet, more or less, to the intersection of said forty line with the North bank of a branch; thence run Westerly along the North bank of said branch a distance of 180 feet to the SW corner of the Clifton and Eva Lee Jones lot, and which is the point of beginning of the lot herein described and conveyed; thence run North along the West boundary of said Clifton Jones lot a distance of 100 feet to a point; thence run in a Westerly direction parallel with the North bank of the branch constituting the South boundary of the lot herein conveyed, a distance of 50 feet to a point; thence run South parallel with the East boundary of said Quarter Quarter Section a distance of 100 feet, more or less, to the North bank of said branch; thence run Easterly along the North bank of said branch to the point of beginning, situated in Shelby County, Alabama.

Also:

The Southeast Quarter of the Southeast Quarter of Section 27, Township 22, North, Range 3 East, Containing 40 acres, more or less, situated in Hale County, Alabama

The inclusion of Lot No. 32 in Allendale Subdivision in the final decree dated 23, April, 1984, was a transcription error and should not have been listed at all. Apparently the inclusion occurred because a copy of the deed was entered during the trial as part E of Plaintiff's exhibit 1 and through inadvertence was placed in this decree. As a result of the exclusion of such property from this decree the Court makes no property adjustment between the parties

Also:

The NW 1/4 of Section 2, Township 24 North, Range 15 East, in Shelby County, Alabama.

Also:

Limited partnership property utilized as office space for plaintiff's law firm.

Also:

Lot No. 13 in Block 1 according to Dunstan's Map and Survey of the Town of Calera, Alabama, described as commencing on the North line of 18th Avenue, also being Montevallo Highway, at the Southwest corner of Lot 12 in said Block 1 and run West along the North line of said 18th Avenue 130 feet to the Southwest corner of said Block 1; thence North 30 feet to the Northwest corner of said Block 1; thence in a north-easterly direction and parallel with the right-of-way of the Southern Railway Company 115 feet to the Northwest corner of said Lot 12; thence in a Southerly direction along the west line of said Lot 12, 85 feet to the point of beginning, being situated in Shelby County, Alabama.

Also:

Lot #17 in Block #1 according to the map or plat of the Blue Creek Lodge Subdivision, second addition, as the map or plat of said subdivision is found in Map Book 4, page 8, Office of the Judge of Probate, Chilton County, Alabama, situated in Chilton County, Alabama.

Martha Love Johnston is the same as Martha Mitchell, grantee of a deed to a 1/2 interest in the above property executed by a Gullede in 1960, and also grantee of a deed to a 1/2 interest in the above property executed by William S. Mitchell on 5 December 1963, recorded in Book 513, page 389 of the Chilton County probate records on 23 December 1963.

11. That Plaintiff is entitled to immediate possession of the following items of personal property:

1982 Pontiac Automobile
Mounted animals and fish
Metal gun vault
Gun Collection
Tools
Reloading equipment, including tools, bench, storage bins, etc.
Fishing equipment and sporting goods, including a jon boat and 6 h.p. motor
Draft beer refrigerator
Antique Coca-Cola refrigerator
Clothing and other personal items
Hunting equipment and hunting items
Personal items presently in his possession
1978 Bass boat
1979 G.M.C. Truck
Jon Boat and 25 h.p. motor
Law office fixtures, equipment and supplies

All items of personal property to which Plaintiff is entitled and which are located in the present residence of the Defendant, shall be removed from such premises not later than June 25, 1984.

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12. That an attorney's fee in the amount of Six Thousand Dollars (\$6,000.00) is allowed defendant's attorney of record for his services to her in this case and such fee is taxed to Plaintiff as part of the costs of this case.

No attorney's fees are required to be paid by Plaintiff to Defendant's counsel for hearing the motions on June 12, 1984.

13. That the Clerk of this Court is directed to file a copy of this decree in the Probate Records of Shelby County, Alabama, deed records, for listing in both the direct and indirect indexes (indices).

14. That the Costs in this case are taxed to the Plaintiff.

Done and Ordered this th 20th day of June, 1984.


KENNETH F. INGRAM, CIRCUIT JUDGE

STATE OF ALA. SHELBY CO. 
I CERTIFY THIS
INSTRUMENT WAS FILED

1984 AUG 16 AM 9:56

Rec 2750
Ind 100
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JUDGE OF PROBATE

FILED IN OFFICE THIS THE 21 DAY
OF June, 1984



Clerk of Circuit Court
Shelby County, Alabama