

1659

DONALD E. KIRBY,  
PLAINTIFF

VS

KATHY DENISE KIRBY,  
DEFENDANT

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IN THE CIRCUIT COURT OF  
SHELBY COUNTY, ALABAMA  
DOMESTIC RELATIONS DIVISION  
CASE NUMBER DR-88-454

FINAL JUDGMENT OF DIVORCE

THIS CAUSE coming on to be heard on the 19th day of September, 1989 was submitted on the pleadings in this cause. Upon consideration thereof, together with ore tenus testimony and argument by counsel, this Court is of the opinion the following order should be entered. Accordingly, it is

ORDERED and ADJUDGED by the Court:

1. That the bonds of matrimony heretofore existing between the parties are dissolved and the said Donald E. Kirby and the said Kathy Denise Kirby are divorced each from the other.

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

3. That the costs of Court accrued herein are hereby taxed to the Plaintiff.

4. That the care, custody, and control of the minor children of the parties, namely: Katrina Kirby and Donald E. Kirby, Jr. is hereby awarded to the Defendant, subject to the following rights of visitation reserved in the Plaintiff:

- A. The first and third weekends of each month from 6:00 P.M. on Friday until 6:00 P.M. the following Sunday;
- B. Each Christmas Day from 3:00 P.M. until 3:00 P.M. on the following New Year's Day;
- C. Thirty (30) consecutive days during the summer months at a time to be selected by the Plaintiff, but upon at least thirty (30) days advance written notice to the Defendant of the days selected for such visitation;

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D. Every other Thanksgiving Day from 10:00 A.M. until 6:00 P.M. of the same day, beginning in 1989;

E. Every other birthday of the child from 6:00 P.M. on said date until 8:00 A.M. of the following day, beginning with the next birthday.

5. That the Plaintiff is hereby ordered to pay to the Defendant the sum of \$650.00 per month for the support and maintenance of the said minor children of the parties, the first payment to be due and payable on the first day of October, 1989 and subsequent payments to be due and payable on the first day of each month thereafter, until such time as the said minor children reach majority, marry or become self-supporting. In addition, the issue of college education to be furnished by the Plaintiff shall be reserved for future determination as this Court deems the determination at this time premature and lacks factors such as financial resources of the parents at the time the child intends on going to college, as well as, the child's commitment to and aptitude for the requested education.

In the event the obligor becomes delinquent in a dollar amount equal to one month of support payment as herein ordered and upon written affidavit of the obligee of such delinquency, or upon request of the obligor or upon the Court's own motion, the income withholding order for child support, which order is contained on separate paper and is specifically incorporated as a part of this decree as required by Title 30-3-61, Code of Alabama, 1975, shall be served upon the obligor's employer and shall become effective within fourteen (14) days of service of same.

6. That the Defendant is hereby awarded the homeplace of the parties and the lots in close proximity thereof, said real estate having the following legal description:

Lots 1,2,3,4,5,6,7, and 8 in Block 79, according to J.H. Dunstan's Map of the Town of Calera, Alabama, as recorded in the Probate Office of Shelby County, Alabama.

Plaintiff is ordered to transfer and convey all his right, title and interest in and to the above described property by general warranty deed over unto Defendant.

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Further, Defendant is hereby awarded all household appliances, furniture, furnishings and personal property located in the said homeplace.

7. That the Plaintiff is awarded any and all rights the parties may have in the boat, 1979 Porsche automobile, the 1977 Datsun automobile, the dump truck, back hoe and trailer, and the 1981 Blazer and Defendant is divested of any right, title or interest therein. Plaintiff shall be responsible for the indebtedness thereon.

8. That the Defendant is awarded the 1984 Chevrolet van, the three wheeler and the go-cart. Plaintiff is ordered to transfer and convey any and all right, title and interest he may have in same over unto Defendant.

9. That the Plaintiff shall pay to the Defendant the sum of \$369.00 per month as periodic alimony, said monthly payment to coincide with the due dates of the mortgage payment on the homeplace to AmSouth, the first payment to be due and payable on the next due date of said mortgage payment. Said payments shall continue for a period of 15 years or until the Plaintiff pays off the said mortgage indebtedness to AmSouth, whichever occurs first.

10. Plaintiff shall pay all other indebtedness owed by the parties, including, but not limited to, the debt to the Internal Revenue Service in the approximate amount of \$16,000.00.

11. As further support and maintenance, Plaintiff shall pay to Defendant the sum of \$3,500.00 at the rate of \$100.00 per month with which the Defendant may pay her attorney, the Honorable Ralph Coleman, for his professional services in this cause.

12. Each party is awarded their personal property, clothes, and effects.

13. Each party is awarded one-half (1/2) interest in and to any property not specifically enumerated herein.

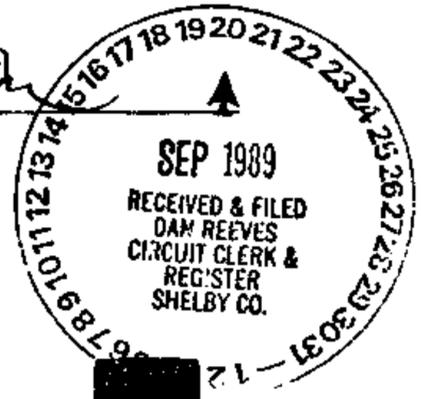
DONE and ORDERED this 20th day of September, 1989.



*D. Al Crowson*  
D. Al Crowson  
Circuit Judge

9-20-89  
Certified a true and complete copy

-3- *John R. Bowers*  
of Circuit Court



NOTICE TO EMPLOYER

(1) You are authorized to deduct from the employee's income a fee of up to \$2.00 per month for the employer's expenses incurred in complying with this order.

Donald E. Kirby  
Plaintiff,

vs.  
Kathy Denise Kirby  
Defendant,

THE PRESENT EMPLOYER AND ANY SUCCESSIVE EMPLOYER OF

Donald E. Kirby

IN THE CIRCUIT COURT OF  
SHELBY COUNTY, ALABAMA  
DOMESTIC RELATIONS DIVISION  
CASE NO. DR-88-454

IS HEREBY ORDERED AS FOLLOWS:

(1) To withhold from the income due or becoming due to the above-named person the sum of \$650.00 per month

(If the employee's pay period does not coincide with the child support pay periods, the employer shall deduct from the employee's pay the amount necessary to keep the child support current, as nearly as possible. It is further provided that if the employee's support obligation is ordered to be paid monthly and the employer's pay periods are at more frequent intervals, the employer may withhold at each pay period an amount cumulatively sufficient to equal the total monthly support obligation.)

(2) To remit to the Clerk of the Shelby County Circuit Court as soon as possible all amounts so withheld. The Clerk shall disburse the said amount to

Kathy Denise Kirby

(3) To notify the Court of any change in the employment of the employee.

(4) To give this withholding order priority over any notice of garnishment served upon the employer.

(5) Not to withhold for child support an amount in excess of fifty percent (50%) of the employee's disposable income if he is supporting a second spouse or family and sixty percent (60%) if he is NOT supporting a second spouse or family. If the employee is found to be three (3) months or more in arrears, however, these amounts go up to 55% and 65%, respectively.

(6) To withhold an additional One Dollar (\$) per payment made to the Clerk's Office for the Clerk's expenses in handling these payments.

(7) Not to use this order as a basis for the discharge of the employee.

(8) The costs of the service of this order are hereby taxed against the said employee, and the employer shall withhold this amount from the employee's income and forward that amount to the office of the Circuit Clerk of Shelby County, Alabama, by separate check, along with the withheld child support.

DONE AND ORDERED this 20th day of September, 1989.

*D. Al. Dawson*  
Circuit Judge

NOTICE TO THE EMPLOYER:

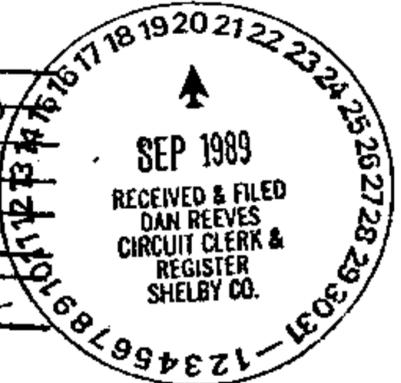
(1) You are authorized to deduct from the employee's income a fee of up to \$2.00 per month for the employer's expenses incurred in complying with this order.  
(2) This order shall be binding upon the defendant's employer and any successive employer fourteen days/ immediately after service pursuant to the Alabama Rules of Civil Procedure and shall remain effective until further order of the court.

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

89 SEP 20 PM 3:57

*[Signature]*  
JUDGE OF PROBATE

1. Deed Tax	-----	\$	-----
2. Mig. Tax	-----	\$	-----
3. Recording Fee	-----	\$	10.00
4. Indexing Fee	-----	\$	3.00
5. No Tax Fee	-----	\$	-----
6. Certified Stamp Fee	-----	\$	1.00
Total	-----	\$	14.00



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