

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

RHONDA LYNN SYLESTINE
(MCDERMED),
PLAINTIFF

v.

HOWARD LANE SYLESTINE,
DEFENDANT

CASE NO. DR-93-602.03

FINAL ORDER

THIS CAUSE coming on before the Court for a final order was heard on March 16, 1999 and on April 13, 1999 and was submitted on the pleadings filed in this cause plus the oral motions of both parties as to a modification of the child support obligation. The Court having heard testimony in open Court and having considered exhibits admitted into evidence and argument of counsel, is of the opinion the following order should be entered.

It is **ORDERED, ADJUDGED and DECREED** by the Court as follows:

1. That paragraph 7 of the Final Judgment of Divorce between the parties as subsequently modified is further modified to provide that beginning February 1, 1999 the Defendant shall pay to Plaintiff the sum of \$427.00 per month for the support and maintenance of the minor children of the parties. The award of child support made herein was determined by the application of the Child Support Guideline established by Rule 32, A.R.J.A.

The Court imputed Defendant's gross monthly income under Rule 32, A.R.J.A. to be \$1,040.00. The Court also found Plaintiff's gross monthly income under Rule 32, A.R.J.A. is \$1,100.00 and that Plaintiff pays \$52.00 per week for medical insurance for the minor children of the parties.

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2. The aforesaid Final Judgment of Divorce is further modified to provide that the Plaintiff shall maintain medical insurance through her employer for the minor children of the parties and each party shall pay one-half of the children's medical, pharmaceutical and dental bills not covered by said medical insurance.

3. As the Defendant is unemployed, there is no Income Withholding Order being issued at this time.

4. That by agreement of the parties, the aforesaid Final Judgment of Divorce is also modified to provide that the Defendant shall have access to the minor children's school records and that in the event Defendant is unable or does not desire his scheduled visitation, then Defendant shall notify Plaintiff at least twenty-four hours in advance of his inability to visit the said minor children.

5. That on August 7, 1998, this Court entered an Order of Contempt finding Defendant was in arrears on his child obligation in the sum of \$4,904.57 and required Defendant to pay \$370.00 per month on current child support with an additional \$200.00 per month toward the aforesaid arrearage. According to the Clerk of the Circuit Court's records, the Defendant made the following payments after the date of the August 7, 1998 order.

<u>date paid</u>	<u>amount</u>
8/31/98	\$470.00
9/25/98	\$470.00
11/3/98	\$470.00
12/1/98	\$470.00
1/6/99	\$200.00
2/2/99	\$200.00
2/26/99	\$400.00
TOTAL	\$2,680.00

Therefore, the Defendant has only paid \$90.00 toward his child support arrearage. The Defendant is still in arrears on his child support obligation in the sum of \$4,814.57 as of March 16, 1999 and has not paid pursuant to this Court's order of August 7, 1998. Defendant has wilfully

refused to obey the Court's order of August 7, 1998 to pay child support, and his failure to do so was not through his inability to pay the said child support and is therefore in contempt of Court.¹

It is **ORDERED** the Defendant shall pay in addition to his current support obligation of \$427.00 in Paragraph 1 hereof, the sum of \$200.00 per month toward his \$4,814.57 arrearage. The Defendant shall also pay \$1,310.00 on or before the 24th day of June 1999 to get caught up under the Court's August 7, 1998 order.

6. All other provisions of the Final Judgment of Divorce shall remain unaltered and unaffected.

7. Defendant's Motion for Relief from Judgment or Order and Defendant's Motion to Reconsider is **DENIED**.

8. That the Defendant shall pay to Plaintiff's attorney, Frank Head, the sums of \$3,000.00 for services rendered by Mr. Head for Plaintiff in this cause.

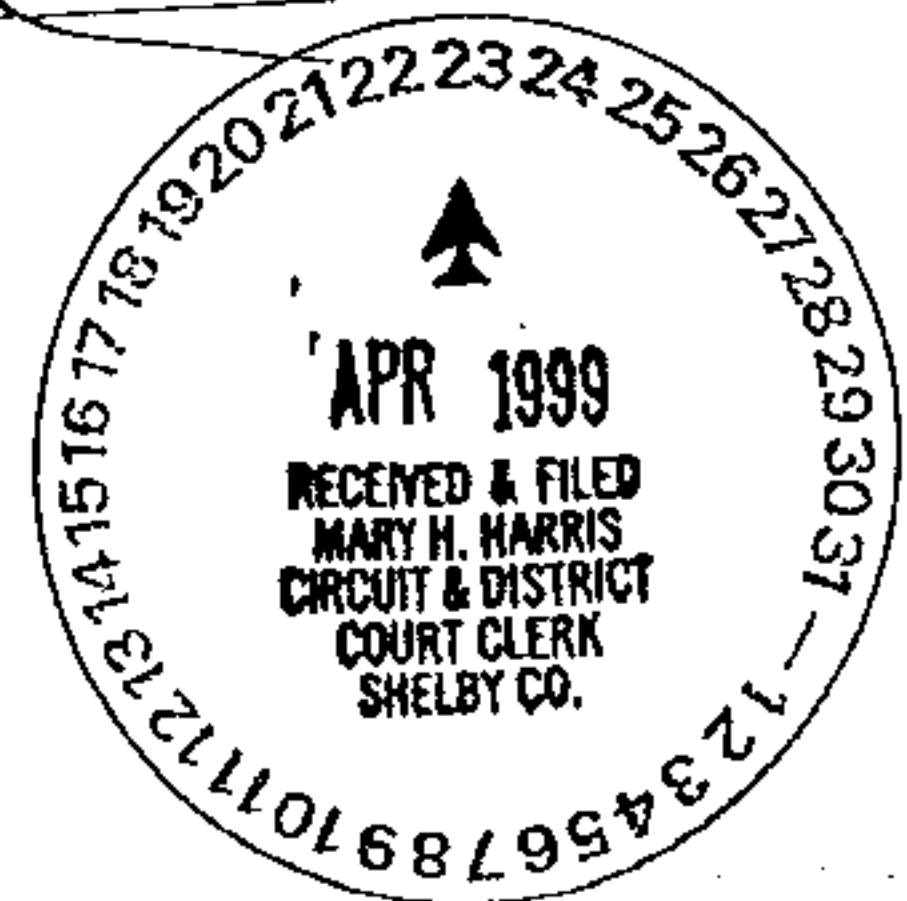
DONE and ORDERED this 22nd day of April, 1999.

D. Al Crowson
D. Al Crowson
Circuit Judge

Certified a true and correct copy

Date: 7/14/99

Mary H. Harris, SP
Mary H. Harris, Circuit Clerk
Shelby County, Alabama



¹ The Defendant says his income is only \$400.00 per month. If this was all he was capable of making, this would not lead to his being in contempt. However, as stated above, the Court finds Defendant is capable of earning \$1,040.00 per month.