CERTIFICATE OF JUDGMENT			
THE CIRCUIT COURT	OF SHELBY	COUNTY, ALABAMA	
MARK A. MCMULLIN, Plaintiff)		
VS.))	CASE NO: DR-97-657	
VERONICA MCMULLIN, Defendant)		

I, MARY HARRIS, Clerk of the said Court for said County and State, hereby certify that on the 9th day of September, 1998, Veronica McMullin, Defendant, for the use and benefit of her attorney, Mitchell A. Spears, recovered of Mark A. McMullin, Plaintiff, of 17 Morris Est. Drive, Wilsonville, Alabama 35186, in the Circuit Court, of said County, a judgment without a waiver of exemption as to personal property, for the sum of Fifteen Hundred and 00/100, (\$1,500.00) Dollars and the further sum of \$.00 Dollars, costs of suit, and that Mitchell A. Spears, P. O. Box 119, Montevallo, Alabama 35115 is Defendant's Attorney of Record.

Judgment is attached for recording purposes.

Given under my hand, this /3 day of July, 2000.

Mary H Harris CLERK

24
Inst # 2000-23849

O7/17/2000-23849

O7/17/2000-23849

OR CERTIFIED

OR COUNTY JUDGE OF PROBATE

SHELBY COUNTY JUDGE OF PROBATE

OC 6282/20101

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

MARK A. MCMULLIN,)	
PLAINTIFF)	
	•)	
v.)	CASE NO. DR-97-657
)	DR-90-006.01
VERONICA MCMULLIN,)	-92-
DEFENDANT)	

FINAL ORDER

These causes having been consolidated were heard by this Court on August 31, 1998.

Having heard and considered the testimony, the Court finds, inter alia:

- 1. The parties to this cause were previously married to each other in April, 1988, but thereafter in June, 1992 were divorced each from the other.
- 2. As a result of the aforesaid marriage, the parties had two children in which Veronica McMullin ("Veronica") was awarded custody by the divorce decree in June, 1992 and to which Mark A. McMullin ("Mark") was to pay child support of \$378.00 per month.
- 3. Veronica says her former husband, Mark is substantially in arrears on child support ordered in the 1992 divorce decree of the parties and that Mark has wilfully not paid child support.

 Mark says that subsequent to their 1992 divorce, they entered into a common law marriage and therefore no child support is due.
- 4. Mark and Veronica began living together around December 30, 1992 and did so for about nine (9) months.
- 5. During the parties nine month cohabitation, they engaged in a physical relationship and Mark helped with the household expenses.
 - 6. As gleaned from O'dell v. O'dell 57 Ala. App. 185, 326 So. 2d 747 (1976), parties may

eat, live and sleep together without an intention of entering marriage and sexual intercourse does not, per se, prove the existence of a common-law marriage. Further, under the principle enunciated in Cosby v. Cosby, 426 So. 2d 446 (Ala. Civ. App. 1983) and Napier v. Napier, 555 So. 2d 446 (Ala. Civ. App. 1989), above all else, it is the intention of the couple to become husband and wife which must be established.

- 7. The parties "tried to work things out", if "things" did work out they were to get back together as husband and wife. However, during the aforesaid nine months, "things" did not work out and the parties did not get back together as husband and wife.
- 8. It is the conclusion of the Court, Veronica and Mark did not enter into a common law marriage as alleged by Mark.
- 9. Mark was obligated to pay Veronica \$378.00 per month child support. The Court finds that at that time she filed her counterclaim on 1/6/98, Mark was in arrears (with interest) in the amount of \$18,275.00. That since the filing of the counterclaim, Mark has paid Veronica nothing. Therefore, Mark is in arrears another \$3,024.00 (through August, 1998).
- 10. Mark is in contempt of Court as he has had the ability to pay the aforesaid \$378.00 per month child support, but has wilfully and continuously failed to do so.
- 11. Out of the aforesaid child support arrearage, the State of Alabama suing in the name of Veronica is owed\$3,472.00.
 - 12. The monthly child support amount is not due to be modified.

Accordingly, it is ORDERED, ADJUDGED and DECREED by the Court as follows:

A. That case # DR-92-006.01 shall merge into case #DR-97-657 and this cause shall proceed under case #DR-97-657.

B. That Plaintiff, Mark A. McMullin's complaint for divorce is **DENIED** and his Motion to Set Aside is **DENIED**.

contumacy and not his inability to comply with this Court's order. The Sheriff of Shelby County,

That Plaintiff, Mark A. McMullin is in contempt of Court as a result of his wilful

Alabama is directed to incarcerate the Plaintiff, Mark A. McMullin in the Shelby County, Alabama

Jail until such time as he shall purge himself of contempt of Court. However, this Court does hereby

suspend Plaintiff, Mark A. McMullin's sentence on the condition that he continues to pay \$378.00

current support and \$100.00 per month toward the aforesaid arrearage.

D. That the Income Withholding Order heretofore entered in this cause shall remain in effect,

except that the arrearage amount reflected thereon shall be amended to \$21,299.00.

E. That the Plaintiff Mark A. McMullin shall pay to Defendant, Veronica McMullin for the

use and benefit of her attorney, Mitchell Spears, the sum of \$1,500.00 for the reasonable value of the

professional services said attorney rendered in this cause. Payment shall be made at the offices of

Mitchell Spears, at Post Office Box 119, Montevallo, Alabama.

F. The costs of Court are taxed as paid.

G. That any and all other relief prayed for is hereby **DENIED**.

DONE and ORDERED this

Circuit Judge

Inst # 2000-23849

07/17/2000-23849 10:00 AM CERTIFIED SHELBY COUNTY JUDGE OF PROBATE 16.00 004 CJ1

Certified a true and correct copy

9-10-98 Date: ____

Dan Recycs, Circuit Clerk Shelby County, Alabama