

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA FILED IN OFFICE
DOMESTIC RELATIONS DIVISION

FEB 13 2003

LISA BURG,

PLAINTIFF,

VS.

SIDNEY W. SMYER, III

DEFENDANT.

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CASE NO.

DR 85-504-344.01

Jefferson County

Circuit Court

Domestic Relations Division
Anne Marie Adams, Clerk

ORDER ON PLAINTIFF'S PETITION FOR RULE NISI

THIS CAUSE came on for hearing on the 6th day of January, 2003, on the Plaintiff's Petition for Rule Nisi. On that day the Plaintiff, represented by the Honorable J. Brian Huff, and the Defendant, appearing pro se, informed the Court that a Memorandum Agreement has been freely and voluntarily executed and entered into that settled all issues presently pending before this Court. Based upon this agreement of the parties, this Court is of the opinion that the following order is due to be entered. It is, therefore,

ORDERED, ADJUDGED, and DECREED as follows:

1. That the child support paid by the Defendant to the Plaintiff is reduced to Three Hundred Ninety Six Dollars (\$396.00) per month beginning on January 1, 2003, and shall be due on or before the first day of each month thereafter until such time as the minor child attains the age of majority, dies, marries or is otherwise emancipated. However, the parties agree that the Defendant may pay said child support in one lump sum of Two Thousand Five Hundred Dollars (\$2,500.00) on or before the 13th day of January 2003. Said amount would cover child support for the time period February 2003 through November 2003, at such time the minor child will attain the age of majority. Said amount is a deviation from the recommended amount pursuant to Rule 32 of the Alabama Rules of Judicial Administration. However, the parties agree that said deviation is equitable based upon the present value of the future payments of said support.

2. That no Income Withholding Order is due to be entered or served in this matter due to the Defendant's self-employment.

3. That the Defendant is in arrears in child support in the amount of Four Thousand Five Hundred Dollars (\$4,500.00) from February 2002 to January 2003. Said sum is to be paid in full to the Plaintiff by the Defendant on or before January 13, 2003. Further, the Defendant is found to be in contempt of this Court. However, sentencing and sentence shall be suspended for further Order of this Court provided the Defendant complies in full with this Court's Order.

4. The Defendant is found to be in arrears in his child support payments to the Defendant for the time period which ends January 2002. The Defendant is further found to be in contempt of this Court for non-payment of said support. However, sentencing and sentence shall be suspended for further Order of this court provided the Defendant complies in full with this Court's Order. The Plaintiff has agreed to accept the following in lieu of the child support arrearage through January 31, 2002, due to the fact that the Plaintiff did receive monies for the support of the children from the children's trust during the period which the arrearage accumulated:

a. Defendant shall pay for all costs associated with the creation of a trust, with a trustee of Plaintiff's choice, for the benefit of the minor children. This trust shall be irrevocable and the trust shall pay its corpus equally to Chandler Smyer and Larkin Smyer upon the younger of the two attaining the age of twenty-five years.

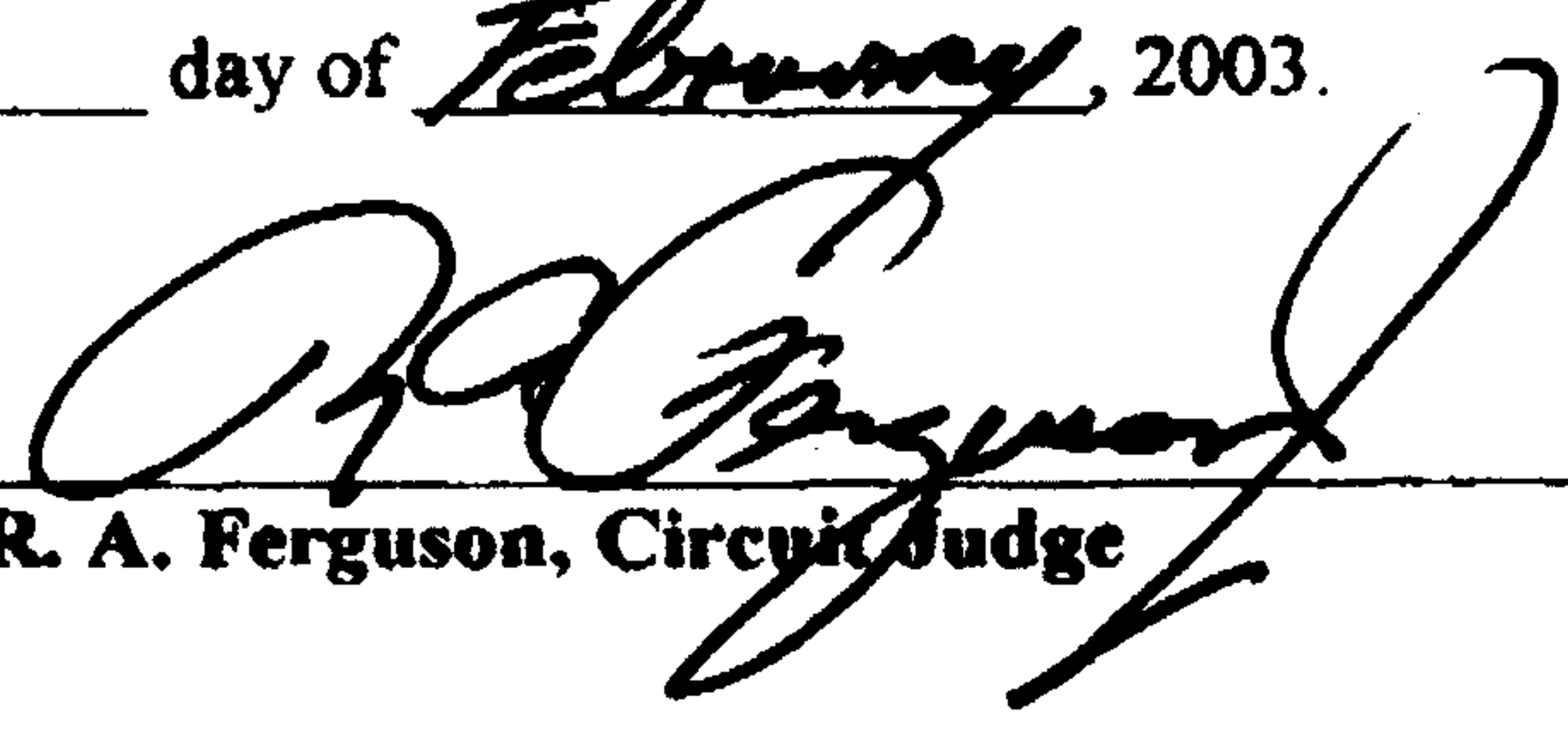
b. The Defendant owns lots located in the Shires subdivision. The Defendant is to immediately have a lot appraised, at his expense, by an appraiser of the Plaintiff's choosing. The Defendant shall cause this property, with an appraised value of Seventy Five Thousand (\$75,000.00) or greater, to be transferred to the trust referenced in Paragraph 4(a), for the benefit of the minor children. The Defendant shall provide at his expense, title policy evidencing good title for said property. The Defendant warrants that there will be no encumbrances against said property at anytime following his transfer to the trust.

c. For each month, beginning February 2002, that the Defendant pays child support, the Plaintiff will cause no money to be paid to her by the children's trusts, which are managed by David Dubrow. Any checks from said trusts received by her for said months should not be cashed and they shall be forward over to her attorney of record.

5. The Defendant shall pay the Plaintiff's attorney's fees for services rendered in this cause in the amount of Three Thousand Dollars (\$3,000.00). Said sum shall be paid directly to J. Brian Huff, on or before January 13, 2003.

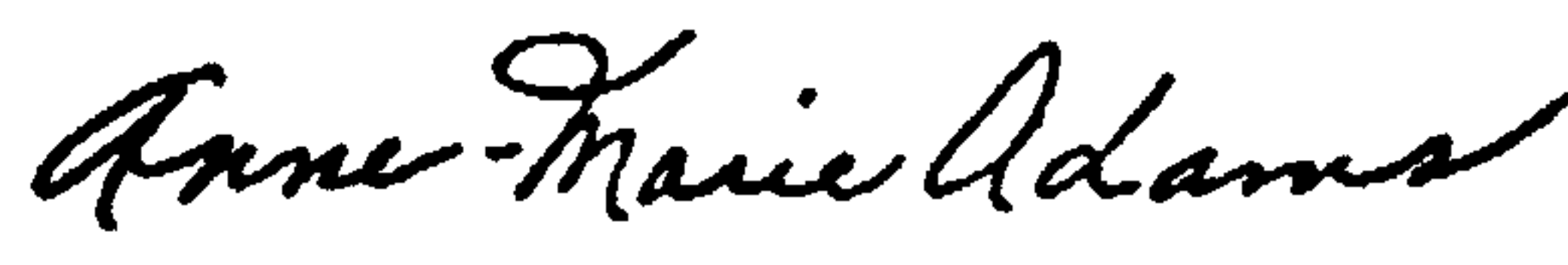
6. Court costs herein shall be taxed against the Plaintiff as paid.

DONE and ORDERED this 11 day of February, 2003.


R. A. Ferguson, Circuit Judge

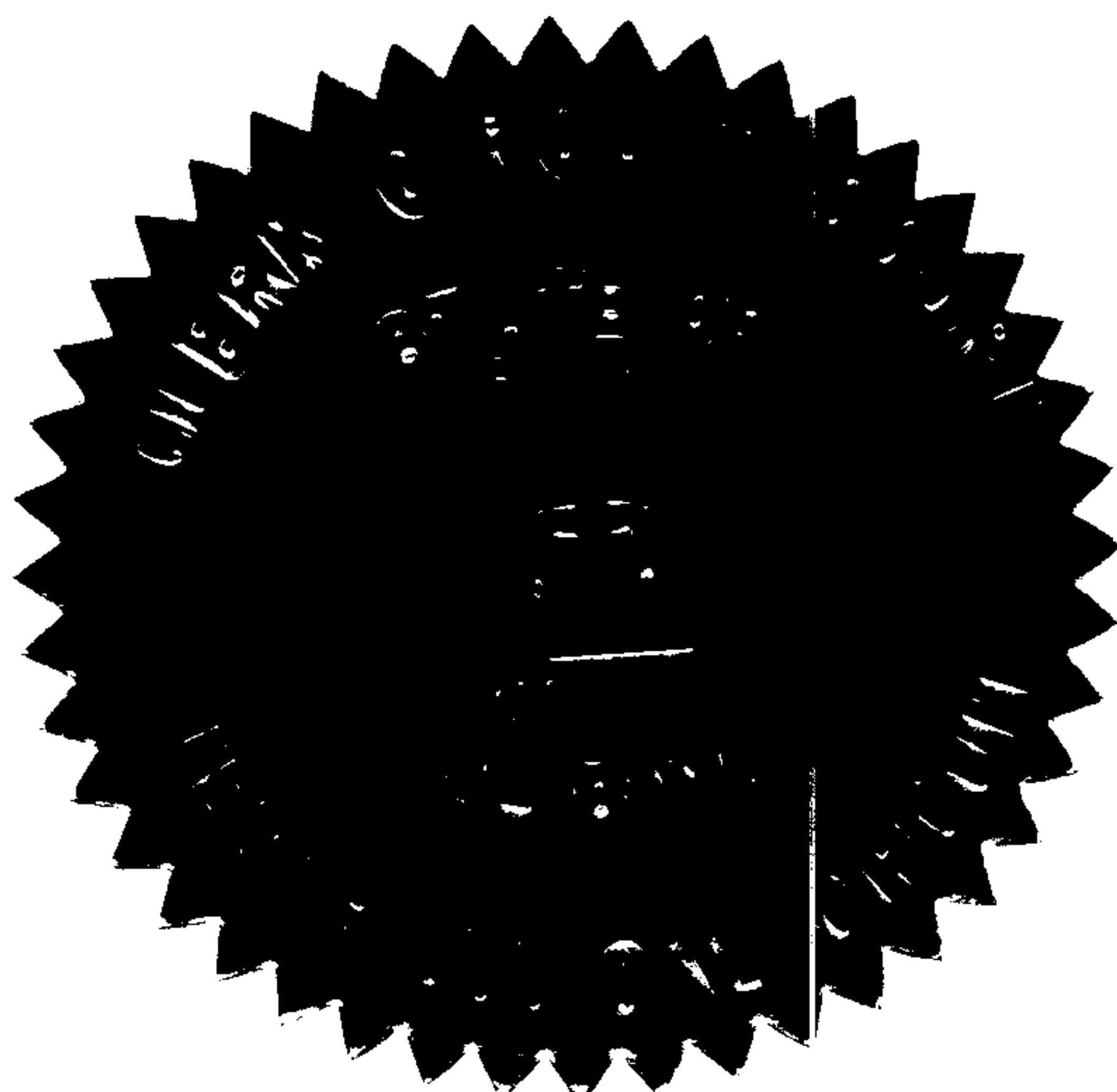
*Copies of this Order mailed to Sidney W. Smyer, III,
344 Smyer Lake Road, Leeds, Alabama 35094,
and J. Brian Huff pursuant to Rule 77 (d) of the
Alabama Rules of Civil Procedure on this date:*

Date: FEB 14 2003 A.D





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Shelby Cnty Judge of Probate, AL
09/15/2005 10:45:44AM FILED/CERT



I, Anne-Marie Adams, Clerk of the Circuit Court, of Jefferson County, do hereby certify that the foregoing is a true, correct and full copy of the instrument herewith set out as appears of record in said Court.

WITNESS my hand and the seal of said Court, this

the _____ day of **SEP 08 2005**, 20____

Anne-Marie Adams
CLERK