

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA,
DOMESTIC RELATIONS


JOHN CHARLES FAY, JR.,
Plaintiff,

vs.

BENITA Y. FAY,
Defendant.

CASE NO: DR- 05-2809.01-SSC

ORDER


20120611000205980 1/5 \$24.00
Shelby Cnty Judge of Probate, AL
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THIS CAUSE came before the Court for trial on November 1, 2010, on the Plaintiff's Petition to Modify and Petition for Rule Nisi and the Defendant's Counter-Petition to Modify and Counter-Petition for Rule Nisi. The Defendant appeared and was represented by the Honorable Laura Susan Hardin. The Plaintiff appeared and was represented by the Honorable Gerard Durward.

Upon consideration of all of the evidence presented, ore tenus testimony and argument of counsel for the parties, the Court is of the opinion that the following Order should be entered. Accordingly, it is

ORDERED, ADJUDGED, AND DECREED as follows:

1. The Court adopts the previous Final Judgment of Divorce in this cause.
2. Plaintiff's petition to modify alimony and child support is denied in its entirety, as there was no credible evidence presented that the Plaintiff had any decrease in income.
3. Plaintiff's Petition for Rule Nisi is denied in its entirety. The evidence presented showed that the property in North Carolina, "Bit of Heaven" was, in fact, placed on the real estate market, and the Plaintiff removed the listing.
4. The Plaintiff shall forthwith, have the property known as "Bit of Heaven," situated in North Carolina, appraised by a competent appraiser. Plaintiff shall be solely responsible for the costs associated with the appraisal. The Plaintiff shall be responsible for listing this

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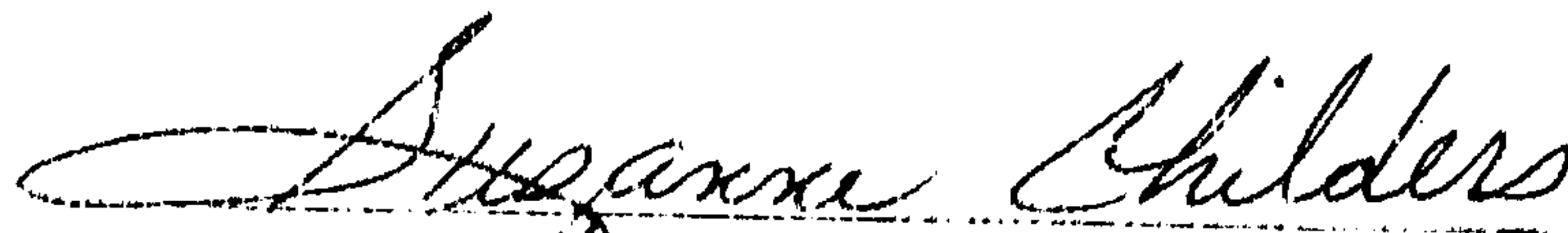
property with real estate agent, Nadine Paradise for it's appraised value.. All liens and encumbrances shall be paid, and any and all proceeds up to One Hundred and Twenty Thousand Dollars (\$120,000.00) shall be disbursed to Defendant, Benita Fay. Any shortfall in proceeds allocated to Benita Fay shall be paid by the Plaintiff to the Defendant in monthly payments of Two Thousand and No/100 Dollars (\$2,000.00) per month. Payments are due on the first day of each month, and shall continue until paid in full.

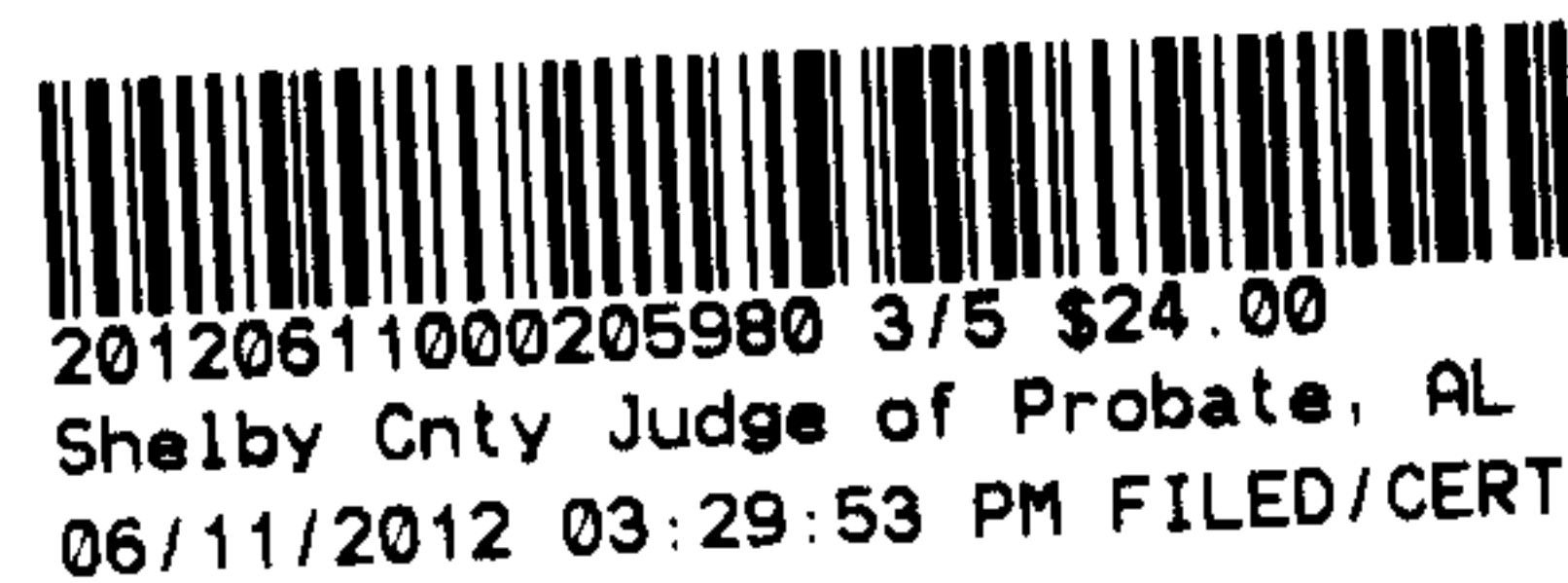
5. Plaintiff is found to be in civil and criminal contempt for failure to pay periodic alimony as previously ordered by this Court. The Plaintiff alimony arrearage is Twenty-One Thousand and NO/100 Dollars, (\$21,000.00), for the period from June through November of 2010. Plaintiff is further in arrears and owes an additional Twelve Thousand, Five Hundred Dollars (\$12,500.00) in periodic alimony which was to be paid in payments of Five Hundred and NO/100 Dollars, (\$500.00), per month for twenty five (25) months for the period from April of 2008 through May of 2010. The total arrearage Plaintiff owes the Defendant for periodic alimony is Thirty-Three Thousand, Five Hundred Dollars (\$33,500.00), which shall be paid within 60 days of this order. Plaintiff shall pay his periodic alimony obligation in payments of Three Thousand, Five Hundred and No/100 Dollars (\$3,500.00) per month beginning March 1, 2010. Any ambiguity is construed in favor of Defendant. This Defendant is awarded a judgment against the Plaintiff for Thirty-Three Thousand, Five Hundred Dollars, (\$33,500.00).
6. Plaintiff is found to be in civil and criminal contempt for his refusal to pay alimony in gross as previously ordered by this Court. Plaintiff is found to be in arrears for payment of the property settlement on the Liberty Park property in the amount of Thirty-One Thousand, Five

Hundred and No/100 Dollars (\$31,500.00). Plaintiff is ordered to either pay this amount to the Defendant or the mortgage holder, Bank of America, within thirty days of this Order. Plaintiff shall also be responsible for any penalties or late fees due in order to bring the debt on the Liberty Park property current with the mortgage company, Bank of America within thirty days of the date of the entry of this Order.

7. Plaintiff is directed to pay attorney fees of Twelve Thousand, Five Hundred Forty and No/100 Dollars, (\$12,540.00) to Defendant's council, Honorable Laura Susan Hardin, within thirty days of the entry of this Order.
8. Plaintiff is found to be in contempt for willful refusal to pay ten thousand of the twenty thousand dollars owed in attorneys' fees ordered in the divorce. Plaintiff shall pay ten thousand dollars, (\$10,000.00), in unpaid attorney fees to Benita Fay for the services of Honorable Stephen Shaw, of Redden, Mills, and Clark, within 30 days of this Order.
9. The Plaintiff shall reinstate health insurance for the Defendant and the minor children, as Ordered in the Final Judgment, within sixty (60) days of this order.
10. All other provisions and terms of the Final Judgment of Divorce, not otherwise modified herein, shall remain in full force and effect.
11. All other relief requested and not addressed herein is denied.

DONE AND ORDERED this the 18 day of Feb, 2011.


SUZANNE S. CHILDERS
CIRCUIT JUDGE



Fay v. Fay
Order
Case No: DR 2005-2809.01

Copies of this Order Mailed:


Laura Susan Hardin
505 20th St N., Suite 1220
Birmingham, AL 35203

Gerard Durward Esq
2015 2nd Avenue North
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Birmingham, AL 35203

Pursuant to Rule 77 (d) ARCP

Dated: 2/18/12

By: [Signature]


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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 **JUN 11 2012**, 20

Anne-Marie Adams
Clerk