

IN THE CHANCERY COURT OF DESOTO COUNTY, MISSISSIPPI

CHRISTINE (OAKS) YATES

PLAINTIFF

V.

NO. 02-11-1684B

KENNETH WAYNE YATES

DEFENDANT

STATE MS.-DESOTO CO.
FILED

JUDGMENT OF DIVORCE

JUN 19 1 59 PM '03

BK 446 PG 585
W.E. DAVIS CH. CLK.

1. This cause came on for hearing this date upon a sworn Complaint For Divorce filed by Christine (Oaks) Yates (Christine), against Kenneth Wayne Yates (Kenneth), on the grounds of habitual cruel and inhuman treatment and/or adultery, pursuant to Section 93-5-1, Mississippi Code of 1972; or, in the alternative, on the grounds of irreconcilable differences, pursuant to Section 93-5-2, Mississippi Code of 1972; personal service of process on the Defendant; and Request For Entry Of Default, Affidavit Of Default, and entry of Default. The Court affirmatively finds, upon a review of the file and proof taken in open court, that:

2. The Court has jurisdiction of the parties and the subject matter. Kenneth was personally served with process on November 29, 2002, and proof of service is on file in this cause.

3. No appearance, answer or other pleading responsive to

See pages 9-10

the Complaint For Divorce have been made by Kenneth, pursuant to the Mississippi Rules Of Civil Procedure.

4. The requirements for a Judgment By Default as required by Rule 55, Mississippi Rules Of Civil Procedure, have been met.

5. One (1) child was born to this marriage, to-wit:
Frances Nicole Yates, born April 19, 1984 (18)

6. The allegations of the Complaint For Divorce are true and correct as therein stated.

7. Christine is entitled to a divorce from Kenneth on the grounds of habitual cruel and inhuman treatment and/or adultery within the purview of Section 93-5-1, Mississippi Code of 1972.

8. IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff, Christine (Oaks) Yates, be and is hereby granted a divorce from the Defendant, Kenneth Wayne Yates, on the grounds of habitual cruel and inhuman treatment and/or adultery; that the bonds of matrimony between them shall be dissolved and hereafter held for naught; and that each of them shall be restored to all the rights of a single person.

9. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

A. Subject to the provisions of Paragraph E. hereinafter, each party shall be individually and solely responsible

for his or her respective debts, credit cards, charge accounts, personal loans, and other liabilities or expenses not specifically addressed by this Judgment Of Divorce, or incurred subsequent thereto. Each party shall indemnify and hold the other harmless from such debts, liabilities and expenses payable by the former. In the future, neither party shall incur any debts, liabilities or expenses in the name of the other, or for which the other may be responsible.

- B. Neither party shall have the right to share in the estate of the other party or to claim any family allowances, homestead, dower, curtesy, or survivor's benefits, or to serve as Executor or Administrator of the estate of the other party except as provided by will or codicil executed after this Judgment Of Divorce. In the event of the death of either party after the entry of this Judgment Of Divorce, if either party for whatever reason receive any money or other property by reason of the death of the other, whether as beneficiary of a life insurance policy, joint (survivorship) ownership, or otherwise, the receiving party shall immediately pay over and deliver anything received to the estate of the other party.

- C. Except as provided to the contrary in this Judgment Of

Divorce, neither party shall have: (a) any claim or right whatsoever, now and hereafter, in and to any real or personal property owned by the other prior to the marriage or acquired subsequent thereto by the other; (b) any right, title or interest in and to the proceeds in any individual checking or savings accounts, retirement account, stock, profit-sharing, credit union accounts, or other intangible personal property maintained by the other; (c) any property belonging to both of the parties at the time of their separation which is now in possession of the other.

D. Neither party shall have any claims against the other, including but not limited to claims for past support, past or future alimony, attorney fees, claims and rights to property now or hereafter legally or equitably owned by the other; or causes of action and demands of every kind and character whatsoever, whether civil or criminal, whether past, present or future arising from and during the marriage of the parties hereto; excepting however those matters contained in this Judgment Of Divorce.

E.1) The parties originally filed for Chapter 13 Bankruptcy (Wage Earner), and the payment into the Bankruptcy Court was \$516.00 every other week. Said bankruptcy included:

the parties' home mortgage (but not the land note), Kenneth's 1996 Nissan, miscellaneous loans and medical bills.

E.2) Christine converted the Chapter 13 Bankruptcy to Chapter 7 as it related to her, to enable her to proceed with the divorce sub judice. Christine reaffirmed the mortgage (of \$28,000) on the marital residence at 8640 Flicker Ridge, Lake Cormorant, DeSoto County, Mississippi, which she shall be liable for, and she claimed exemption under Mississippi homestead laws (Section 85-3-1 et seq., Mississippi Code of 1972) for the marital home and its furnishings.

E.3) A copy of the Notice Of Conversion As To One Spouse Only From Chapter 13 Case To Chapter 7 Case And Notice To Employer To Cease Chapter 13 Payroll Deductions is on file in this cause.

F. All indemnity provisions herein relating to the payment of third-party debts, and all payments by each party for joint indebtedness, shall, for the purposes of the Bankruptcy Code, be construed in the nature of alimony, support and maintenance, and not dischargeable in bankruptcy, pursuant to 11 USC Section 523(a)(5), in that all support and debt payment provisions contained herein are based on the premise that all such third-party debts will be paid by the party undertaking to

do so. Provided, however, that should either party take bankruptcy again, and such action causes the other party to be responsible for debts payable by the former under this Judgment Of Divorce, then such action shall constitute a significant change in circumstances allowing modification of said Judgment Of Divorce, at the option of the party not taking bankruptcy. Further, with reference to all debts owed by a party and/or agreed payable and/or ordered payable by the Court by that party, such party shall hold the other party totally harmless from any and all liability for such debts.

- G. The parties shall have joint legal custody of the parties' child as defined in Section 93-5-24(5)(e), Mississippi Code of 1972, to wit: the parties shall share in the decision-making rights, the responsibilities and the authority relating to the health, education and welfare of the child, and to confer with one another in the exercise of decision-making rights, responsibilities and authority. Provided, however, that in all matters, the final decision shall rest with Christine.
- H. Christine is the proper person to have paramount physical custody of and the primary responsibility for the rearing of the parties' child. Therefore,

Christine shall have physical custody of the estate and person of the parties' child, with reasonable visitation to Kenneth upon no less than 48 hours notice.

- I. Kenneth shall initiate no contact with Christine except as is reasonably necessary to effectuate visitation. Neither party shall interfere with custody/visitation in any way, including but not limited to threats, cursing, abusive telephone calls or refusal to cooperate. Also, each party shall refrain from making unnecessary or unreasonably frequent telephone calls to the parties' child while the child is in custody of the other. Further, both of the parties shall be prohibited from drinking any alcoholic beverages, or using any controlled substance, or being under the influence thereof, while in custody (or visitation) of the parties' child; or using profane or vulgar language; and they shall not allow others to do in the presence of the child.
- J. Kenneth shall pay to Christine through an Order For Withholding, if appropriate, \$325.00 per month as child support for the parties' child, and all administrative costs connected therewith, no later than the first of each month following entry of this Judgment Of Divorce, until said child reaches the age of twenty-

one (21) years, or is otherwise emancipated, whichever happens first. Also, in addition to the child support as stated, Kenneth shall pay one-half ($\frac{1}{2}$) of all college fees, tuition, books and room and board (if applicable), for the parties' child for as long as she is a full-time student in a college or university, and maintains satisfactory grades; but in any event, not past the age of 22 years. One-half of that amount designated and paid by Kenneth for room and board for the child shall be deducted from the regular child support payable to Christine. Christine and the parties' child shall make every reasonable effort to secure such scholarships and other financial aid as is available.

- K. Christine shall provide and keep in force suitable medical, hospitalization, dental and optical insurance coverage for the parties' child for such time as child support is applicable. Dental and optical coverage is subject to availability through Christine's employment. The parties shall be equally responsible for all medical bills, dental bills, hospitalization and pharmaceutical bills of the child not covered by the insurance of either party. Each shall provide reasonable documentation of such uncovered expenditures by having such bills and/or other documentation sent to

the other in a timely manner, i.e., within ten (10) days, and each shall pay his or her part of same within fifteen (15) days of the receipt of said documentation. Further, the parties shall follow the procedures required by each's respective insurance carrier relative to such things as pre-certification, two medical opinions, etc.

L. Kenneth shall name and maintain the parties' child as a principal beneficiary under a life insurance policy on his life for no less than \$50,000.00, and be responsible for all premiums due thereon, for the period in which child support payments are applicable. Further, Kenneth shall furnish proof of coverage as may be requested by Christine from time to time.

M. Christine shall receive exclusive title, use and possession of the parties' residence at 8640 Flicker Ridge, Lake Cormorant, Mississippi, more particularly described as:

Lot 11, Flicker Ridge Subdivision, in Section 34, Township 2 South, Range 9 West, as per plat thereof recorded in Plat Book 37, Pages 42-48, in the office of the Chancery Clerk of DeSoto County, Mississippi.

Being the same land described in Warranty Deed recorded in Book 232, Page 165, in the said Clerk's Office.

Kenneth's interest therein shall be divested from him, and re-vested in Christine. In confirmation thereof, this Judgment Of Divorce shall be appropriately recorded in the land records of the Chancery Clerk's Office of DeSoto County, Mississippi. Christine shall be responsible for the land note of about \$217.00 per month, and the mortgage payment of about \$589.00 per month.

- N. Christine shall receive exclusive title, use and possession of the parties' furniture, appliances and supplies, except those items already taken by Kenneth. Christine shall also retain the riding lawn mower.
- O. Kenneth shall retain exclusive title, use and possession of his tools.
- P. Each party shall retain its own personal items such as clothing, jewelry and the like.
- Q. Kenneth shall retain exclusive title, use and possession of the Nissan pickup. Christine shall receive exclusive title, use and possession of the 1992 Buick LeSabre in Kenneth's name. Title thereto shall be divested from Kenneth and revested in Christine. This Judgment Of Divorce is Christine's authority to have a new title issued in her name.

- R. Christine shall be responsible for and pay the \$100.00 per month to the Internal Revenue Service, and the payment on the bedroom suite.
- S. In balancing the equities, Christine shall waive and release any claim she may have in Kenneth's retirement benefits, be they 401K or otherwise.
- T. Each party shall pay its own attorney fees and Christine shall pay court costs.

10. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Rule 8.06, Uniform Chancery Court Rules, each party shall keep the other informed of his/her full address, including state, city, street, house number, and telephone number if available. Further, within five (5) days of either party's changing his/her address, that party shall, so long as the parties' child remains a minor, notify in writing the Clerk of the DeSoto County Chancery Court of his/her full new address, and shall furnish the other party a copy of such notice. The notice shall include the Court file number, i.e., 02-11-1684B.

11. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that contemporaneously with this Judgment an Order For Withholding be entered, pursuant to Section 93-11-101 et seq., Mississippi Code of 1972. Said Order For Withholding shall become effective immediately pursuant to said code section.

12. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the collection of all amounts, and the accomplishment of all things ordered to be done and paid herein, let execution and other proper process issue as necessary.

13. ORDERED, ADJUDGED AND DECREED this the 16th day of June, 2003.


CHANCELLOR

(CAUSE NO. 02-11-1684B)

STATE OF MISSISSIPPI, COUNTY OF DESOTO
I HEREBY CERTIFY that the above and foregoing is
a true copy of the original filed in this office.
This the 16th day of June, 2003
W. E. Davis, Clerk of the chancery court
By N. Graham D.C.