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SUPREME COURT OF VIRGINIA
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IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 810871

DONNA VIVIAN GREENE

Appellant

v.

RAYMOND LAWRENCE GREENE

Appellee

JOINT APPENDIX

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* The portions of the record designated by appellee to be included in the appendix are not a part of the record and therefore could not be included.

PETITION

NOW COMES the Petitioner, Raymond Lawrence Greene, by counsel, and respectfully represents unto the Court aforesaid as follows, to-wit:

1. That on September 2, 1980 the Court did enter a final decree in this cause which inter alia continued custody of the parties' children in Petitioner. The Court, however, declined to order Respondent to pay any monetary support for the rearing and upbringing of the said children.

2. That subsequent to the entry of the aforesaid final decree, there has occurred a material change in the financial condition and circumstances of Petitioner which warrant a determination that Respondent should provide financial assistance for the upbringing of said children.

3. That subsequent to this Court's final decree, Respondent by and through her attorneys has continued to conduct judicial proceedings in the court system of the State of Florida, although this Court has expressly held that further such proceedings are null, void, and of no legal effect in this Commonwealth. The Respondent's ability to finance further such proceedings, as well as the previous multi-state litigation, clearly reflect a solid financial base. Consequently, it is contended that she is

capable of providing support for these children.

4. That more specifically, Respondent, by and through her Florida attorneys, has obtained a continuing writ of garnishment predicated on a money judgment against Petitioner in the Florida Court in the amount of $20,489.67 with interest at the rate of 10% per annum. Efforts have already been made to enforce said garnishment of Petitioner's income, even though said judgment is legally invalid. It is anticipated that further attempts will be made to garnish Petitioner's wages. If Respondent succeeds in these efforts, Petitioner and the parties' children will in all likelihood be unable to afford the necessities of life, including proper medical care, food and shelter.

5. That following this Court's final decree, Petitioner has continued to incur costly legal expenses as a result of the interminable litigation which Respondent and her attorneys have waged in the Florida judicial system.

6. That Petitioner's financial resources have been utterly depleted and he has been forced to seek assistance from the Air Force Aid Society to make mortgage payments on the family home. This assistance will not continue indefinitely.

7. That while Petitioner's financial base has been drained, the cost of living and the supporting of a family has risen dramatically and continues to do so every day. Funds are needed immediately to pay for the vital necessities of the children.

8. That Respondent to the knowledge of your Petitioner, is regularly employed and supporting only herself, and is therefore capable of providing financial support for the care of the minor children.

WHEREFORE, Petitioner prays that Respondent be required to answer this Petition; that further proceedings be held; and that an order for the periodic payment of child support be entered requiring Respondent to contribute to the financial support of said children; and an order granting to Petitioner such further relief in the premises as the case may require or to equity shall seem meet.

Respectfully submitted,

Raymond L. Greene

RAYMOND LAWRENCE GREENE

STATE OF VIRGINIA

City of Newport News, to-wit:

Sworn and subscribed before me this 30th day of December, 1980.

Dawn D. Brown

Notary Public

My commission expires:

August 23, 1982

R M Brown

R. M. Brown, Jr., Esquire
Attorney for Petitioner
HUDGINS AND NEALE
10352 Warwick Boulevard
Newport News, Virginia 23601

NOTICE OF HEARING

To: Donna Vivian Greene
c/o C. Flippo Hicks, Esquire
MARTIN, HICKS & INGLES, LTD.,
Attorneys at Law
Post Office Box 708
Gloucester, Virginia 23061

TAKE NOTICE that on Tuesday, the 10th day of February, 1981, at 10:00 a.m. in the Court of the Honorable James B. Wilkinson, John Marshall Court Building, 800 East Marshall Street, Richmond, Virginia, evidence will be presented and heard on behalf of the Petitioner, Paymond Lawrence Greene, in support of his Petition seeking an order against the Respondent, Donna Vivian Greene, for the periodic payment of support for the parties' minor children, Robert Donald Greene and William Douglas Greene, on the basis of change of circumstances occurring subsequent to this Court's decree dated September 2, 1980.

PAYMOND LAWRENCE GREENE

By R M Brown Jr
of counsel

R. M. Brown, Jr., Esquire
Attorney for Petitioner
HUDGINS AND NEALE
10352 Warwick Boulevard
Newport News, Virginia 23601

JUDGMENT AND DECREE FOR

CHILD SUPPORT, ATTORNEYS FEES AND COSTS

THIS CAUSE came on this day to be heard upon a Petition filed herein by the Petitioner, Raymond Lawrence Greene, alleging a material change in financial condition and circumstances of the parties subsequent to the entry of this Court's decree on September 1980 sufficient to warrant an order that the Respondent, Donna Vivian Greene, provide financial support for the care and upbringin of the parties' children; lawful and proper notice of the Petition and further proceedings herein, being given to the Respondent; upon a hearing having been held in the Court on February 10, 1981 at which both parties were represented by counsel, evidence being presented ore tenus, by affidavit, and exhibit; and was argued by counsel.

Upon careful and due consideration given to all the evidence presented herein and the arguments of counsel for the parties, the Court does hereby find that subsequent to the decree entered in this cause on September 2, 1980 which decree inter alia dissolved the parties' marriage and continued custody of the parties' children in the Petitioner, Raymond Lawrence Greene, there has occurred a material change in the financial condition and circumstances of the parties; and that based on the weight of the evidence in this case, this change warrants a determination tha the Respondent, Donna Vivian Greene, provide financial support for the care, upbringing and welfare of the parties' minor children.

It is found further from the evidence presented herein and in the record of this chancery cause that Petitioner has incur substantial legal expenses related directly to this litigation including the issues of child support and maintenance; and that the incurring of these expenses by Petitioner were necessary and that these legal expenses consisting of attorneys fees and costs are reasonable in amount; and that giving due consideration to the facts and circumstances of the parties presented to the Court, it is found that the Respondent should pay and is hereby assessed with payment of Petitioner's attorneys fees and costs in the sum of $20,800.00, it is, therefore,

ADJUDGED, ORDERED and DECREED that beginning on the 15th day of February 1981 and continuing on the 15th day of each month thereafter until each of the parties' minor children has reached the age of majority (18 years of age) respectively or until furthe order of this Court, Donna Vivian Greene, shall pay to the Petitio Raymond Lawrence Greene, the sum of $500.00 ($250.00 per child) fo the support of the parties' minor children, Robert Donald Greene and William Douglas Greene, and it is further

ADJUDGED, ORDERED and DECREED that the Respondent, Donna Vivian Greene, pay to the Petitioner, the sum of $20,800.00 with 10% interest per annum thereon from the date of this decree for his attorneys fees and costs incurred in said proceedings. Final judgment is hereby entered against the Respondent in favor of the Petitioner in this amount.

Nothing further remaining to be done it is hereby ORDERED that this cause be stricken from the docket

ENTER this 9th day of March 1981.

James B. Wilkinson

Judge James B. Wilkinson

ASSIGNMENTS OF ERROR

The appellant assigns for her assignments of error

1. Failure of the Court to put into the record the affidavit relative to the financial statement of Donna Vivian Greene and a copy of the bill that Florida attorneys had sent to Donna Vivian Greene for over $8,000.00.

2. The awarding by the trial court of $20,800.00 counsel fees to Raymond Lawrence Greene after the final decree pending appeal, with no evidence to show what services had been performed by counsel for Raymond Lawrence Greene; the petition did not request counsel fees; there being nothing in the record to show the finality of counsel fees ordered by the Florida Court or to show whether or not an appeal was taken from the awarding of the counsel fees by the Florida Court; the Court's granting of counsel fees purely as a retaliation for what the court in another jurisdiction had done.

3. The trial court's entering an order which had not been endorsed by all counsel with no notice being given to counsel of the time for hearing on its entry.

4. The trial court's entering an order for child support of $500.00 a month which did not reflect the Judge's decision from the bench, as agreed to by counsel; that is, that the said $500.00 a month would be an offset against the Florida Court's award and would be vacated if the Florida Court would vacate its award.

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VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND, DIVISION I

RAYMOND LAWRENCE GREENE

vs

DONNA VIVIAN GREENE

TRANSCRIPT of proceedings incident to the above when heard on February 10, 1981, beginning at 11:00 a.m., before the Honorable James B. Wilkinson, Judge.

APPEARANCES:

R. M. BROWN, JR., HUDGINS & NEAL, 10352 Warwick Boulevard, Newport News, counsel for the complainant;

C. Flippo Hicks, Esquire, Court Circle, Gloucester, Virginia, counsel for the respondent.

I N D E X

WITNESS	DIRECT	CROSS
Lt. Colonel Green	6	13

Reported by Maria E. Otto

THE COURT: What have you-all got here?

MR. BROWN: Your Honor, we are here on the Greene's petition for child support.

THE COURT: You want to counteract the Florida Order for support here in Virginia.

MR. HICKS: Your Honor, the Florida garnishment has been lifted in December.

MR. BROWN: There is presently a garnishment proceeding.

THE COURT: I don't think you can garnishee him.

MR. BROWN: The Federal law really makes it very simple for the Florida court to garnish his income.

MR. HICKS: I received a letter about two weeks ago that says the garnishment had been lifted.

MR. BROWN: There was a garnishment which was dissovled but there is another attempt to have it issued, and they are proceeding presently going in the Dayton County Circuit Court which enables a right in garnishment.

MR. HICKS: Weren't those proceedings initiated by the Lieutenant Colonel?

MR. BROWN: No, the garnishment was initiated by Mrs. Greene's counsel.

THE COURT: Well, I really don't understand but it appears to me that from what I read and what I have heard that this is utterly ridiculous.

MR. HICKS: Judge, I have to say that I have been practicing law for over twenty five years. I have only had one file that is thicker than this, and that was the suit I had against the Allied Chemical about Kepone. This includes everything they sent me from Florida. This is my file.

THE COURT: Well, aren't the children in Virginia? How does the decree run down in Florida? She doesn't even have the children to support.

MR. BROWN: As you recall in June of 1980, you declared the proceeding down there null and void, and they continued right on through since then.

THE COURT: Well, that is judicial jealousy or something.

MR. BROWN: They have issued a judgment against Lieutenant Colonel Greene, and the attorney's fees in the amount of $20,000. He has a judgment against him and there is garnishment proceedings going on right now. If the garnishment is allowed it is going to literally wipe out Lieutenant Colonel Greene, and he is going to have to sell his home.

THE COURT: Just for the lawyer?

MR. BROWN: For her lawyer.

MR. HICKS: The bill that her lawyer has sent her is $8,000.00.

MR. BROWN: He has a judgment against him for $20,000.00.

MR. HICKS: Yes, I know there is a judgment for $20,000.

THE COURT: You have just gotten a special message, Mr. Hicks, from Donna V. Greene.

MR. HICKS: I had mailed it to her. See, I still haven't received it. She sent a copy to make sure that the affadavit got here by today.

THE COURT: Well, it is addressed to you.

MR. HICKS: All right, sir. Well, let's see. I had not received it yesterday.

THE COURT: How did it get here? Pony Express? What do lawyers do in divorce cases for $20,000, for these people? I mean they are not Donna Reed or Conway Tweedy, or Elvis Presley. He has a set income. All they have to do is to look at what his income is and it is probably $25,000.00 a year, isn't it?

MR. BROWN: Your Honor, the thing that is mysterious about it is that most of the proceedings held down there were ex parte. Lieutenant Colonel Greene was up here while the proceedings were going on so their lawyer couldn't have had much work.

THE COURT: He couldn't?

MR. BROWN: Well, I mean if he is not being defended.

I would like to have Lieutenant Colonel Greene testify with regard to the circumstances, if I could, Your Honor.

THE COURT: All right.

LIEUTENANT COLONEL RAYMOND L. GREENE, the complainant, called on his own behalf, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q State your name and address.

A Lieutenant Colonel Raymond L. Greene, from Mathews County, Virginia.

Q Lt. Colonel Greene, do you have custody of your children, Robert and William, as a result of an order of that court?

A Yes, I do.

Q Can you explain to the Judge the changes in your economic circumstances since the last proceeding that we have had in this court?

A Sir, since the last proceeding, when we were here in September I have incurred several additional expenses, one of which is $20,800 judgment.

Q Out of what court is that?

A Out of Dayton County Florida Court.

Q What is that for?

A That is for attorney's fees for child custody litigation they conducted down there during the summer of 1980.

Q Whose attorney's fees?

A That is for my former wife's attorney.

Q Have any actions been taken with respect to enforcing that judgment against you?

A Yes, sir. There was a garnishment action issued in November, about mid November, and since that time that has been dissolved. However, I am informed by attorney's down there that it is being reinstituted to represent on the face of the document that it is child support payments.

Q Are you familiar with the Federal statute which would permit garnishment for your income for this?

A Yes, I have a copy of that in my brief case.

THE COURT: Well, there is a judgment up here. What is the condition of the real estate to the house down there? Do you all still own it jointly?

THE WITNESS: Yes, sir. There has not been any property settlement yet. We have tried to work out some kind of a negotiation but that doesn't seem

to make much headway. No real response.

Q Other than the $20,000 judgment have you incurred any other substantial debts since the last proceedings in this court?

A Your Honor, the Air Force was very interested in my defending this action as opposed to involving the Air Force in attempting to administratively review the matter. As a result, I have had to expend about five thousand dollars, or six thousand dollars, worth of attorney's fees in addition since September.

THE COURT: That is practicing law?

A There seemed to be no way to avoid this and I have had to deal with three different sets of lawyers on this, two different sets in Florida and plus an attorney here in Virginia.

Q How have you been able to finance this operation?

A Well, I have had to stop paying my mortgage payment and pay my mortgage payments to the attorneys in Florida. I did three months worth of mortgage payments in the Air Force Aid Society.

Q Is that like a military welfare department?

A Yes, it issues grants and no interest loans to members having financial difficulty.

1 THE COURT: How much money do you make?
2 MR. BROWN: Your Honor, if I may, we have
3 a financial statement on Lieutenant Colonel Greene.
4
5 A Sir, I make a lot of money, actually, but
6 it seems that it doesn't go very far under these circumstances.
7 We are now up to the thirty three court days on this, many of
8 which have been default and ex parte judgments against me.
9 Q Do you have a surplus of funds at the end
10 of the month or are you operating in a deficit?
11 A I am operating in a considerable deficit.
12 Q In what amount?
13 A Deficit runs about $1,700.00 a month.
14 Your Honor, I you will follow that paper
15 through there just briefly, it goes through the expenses which
16 are very conservative. The time and the additional fees of this
17 case has now been running for almost three years in such as three
18 layers of courts in one state, and as many systems as three
19 states at one time.
20 Q Lieutenant Colonel Greene, what would be the
21 impact on your family if this garnishment went through on this
22 $20,000?
23 A Since the court in Florida has ordered twenty-
24 five percent of my disposable income that is going to amount
25 to approximately $550.00. If that occurs then there will not
be any way that I can make the mortgage payment. I have

already talked to my mortgage company about that. They believe that the financial condition is sufficiently severe that they think a rapid foreclosure would be their best action.

Q You would lose your home then, you are saying?

A That is correct. They have proposed to sell it by auction. If that is the case it will probably harm not only my children and myself but my x-wife also since she will likely lose a good portion of her equity in it.

Q You have testified that you are operating at a deficit presently. What effect does this have on things that the children need, Bob and William?

A Your Honor, if you would turn to the last page on those expenses you will see a debt summary that is about five pages deep in there. I have had to finance a lot of this through to the extent of borrowing loans. When I returned from Europe in 1974 I had $21,000 in the bank.

Q What was the purpose? What were you going to do with these?

A Now, I am looking at $20,000 in short term loans; in addition to a considerable amount of financial liabilities outstanding, plus other long term loans. The position this puts me in is that this, I have got immediate effects and now I have got long term effects to take me three to four years just to break even at this point. But my children would be approaching an opportunity where they would

have an opportunity to go to college. The immediate effects are so that I am having to feed a relatively large family on very little amount of money, and just day to day effects are taking place that are presenting an awkward situation that directly effects the children. Their clothes, their activities, most everything is reduced for them.

Q Are there any specific effects to the children that you can thing of?

A I had put about $700.00 into getting my older son's teeth straightened out and braces, and it required $400.00 worth of retainer fee and then $30.00 a week. I ended up having to stop, to get the braces taken off because I couldn't afford the $30.00 a month.

Q $30.00 a month?

A Correct.

Q So you have to take the braces off of the child?

A Yes, I did. In addition to that I have to have glasses for my younger son and they are going to run about $20.00 a month for bifocal correction glasses.

Q $20.00 a month optometry?

A That is correct.

Q This is for Billy?

A That is for Billy, correct.

Q Were there any other optometry bills for Bob?

A Yes, sir. I am presently covering those. It is about $20.00 a month.

Q Are you at all familiar with your x-wife's financial situation?

A Only the statement that she has issued. She had previously testified that her parents were providing her $500.00 a month, and she was clearing about $900.00 a month net.

Q Is she supporting anyone, to your knowledge?

A Not to my knowledge.

Q Can you relate to the court any other specific expenses which you incur on a monthly basis to support these two children other than what you have testified to?

A Other than what is in my statement?

Q Yes.

A Written statement?

Q Yes.

A They are minor expenses but I think that is the majority of them.

Q You have prepared this statement?

A Yes, I did. I don't have every single item in there like car license plates. What I have got there is a pretty austere budget that would be possible to live under.

MR. BROWN: I don't have any further questions.

CROSS-EXAMINATION

BY MR. HICKS:

Q Lt. Colonel Greene, your child's orthodontist bills and other medical bills were not covered under the military benefits?

A Some medical bills but those particular ones are not.

Q You say glasses cost $20.00 a month?

A The children are wearing bifocal glasses to correct a cross-eyed condition, and that requires a change of glasses every six months. They run about $120.00 a pair.

Q You said that the orthodontist was not covered by military?

A That is correct.

Q But your other medical bills and all are covered?

A Most medical bills, that is correct.

Q In addition to your pay you are receiving housing allowance of about $400.00 a month; isn't that correct?

A Yes, it is on the statement.

Q Now, since we were in court in June, since you have gotten your divorce you have remarried?

A That is correct.

Q You have married someone who has two children who is living with you?

1 A Yes, sir. That is in the statement, also.
2 Q So those expenses are included in your
3 expenses?
4 A That is correct.
5 Q Your wife is receiving $350.00 a month
6 child support?
7 A That is correct.
8 Q Other than that you are providing all support
9 for her also?
10 A That is correct, yes.
11 Q You made a statement that you made some
12 efforts on the house. Have you been contacted directly with
13 your wife, because I have not heard?
14 A I think we have contacted at least three
15 different attorneys she has employed in Virginia here. In fact,
16 we even set up a meeting approximately two years ago and tried
17 to get some resolution. I had instructed Mr. Brown to see if
18 he could negotiate with you. I understood from Mr. Brown
19 that your client had advised you to bring the matter to a
20 court settlement.
21 Q Well, I told Mr. Brown that she wanted to
22 dispose of her interest and to wait until we found out what
23 you wanted to do?
24 THE COURT: Well, it seems reasonable to
25 me that they should negotiate it.

1 Q You have filed this suit?
2 A Yes, sir.
3 MR. HICKS: Thank you.
4 THE COURT: What has the Florida Court
5 ordered you to pay for the support of your children?
6 THE WITNESS: Sir, in addition to the
7 judgement they ordered $500.00 a month.
8 THE COURT: Well, they must figure it is
9 worth $500.00 a month and they figure the attorney
10 is worth $20,800.
11 THE WITNESS: They also have interest rates
12 taxed on to all of these payments. Ten percent
13 and twelve percent.
14
15 Q They ordered you to pay $500.00 on child
16 support?
17 A Yes, sir. That is correct. I have a file
18 here.
19 Q I would like to see a copy of that order
20 because I have never seen a copy of it. I know I have a copy
21 of $20,000.
22 THE COURT: If Florida wants to play that
23 way we can play that way in Virginia. But this man,
24 in my opinion, is getting a rip off by the courts.
25 MR. HICKS: I agree with Your Honor. The
Florida Courts have requested me to send a copy of

my bill down to them and I have not done it.

THE COURT: Let Mrs. Greene appeal is just the way I feel about it. There is no excuse for this to cost that much. I am not saying it is all just the Florida lawyers. Give me a copy of that. I can write them a letter.

MR. BROWN: Do you want me to prepare the order?

MR. HICKS: I have never seen an order of child support yet.

THE COURT: That is $500.00 every month?

MR. BROWN: Yes, sir.

THE COURT: How much in arrears is he?

MR. HICKS: There is no arrears.

THE WITNESS: There is an arrears. It is marked on my financial statement in debt summary. It is about $3,000.00 at this point.

MR. HICKS: Has that been vacated?

THE WITNESS: No, sir. It has not been vacated.

THE COURT: I don't see how you can order child support and the children are not there?

THE WITNESS: That was an ex parte hearing held in violation of my rights under the Soldier's and Sailor's Relief Act.

THE COURT: Now, this is in Florida. It

1 says here Mrs. Greene lived in Texas and he lived
2 in Virginia. Now, where does the Florida Court have
3 anything to do with it?
4 MR. BROWN: Lt. Colonel Greene was there on
5 temporary military orders.
6 THE COURT: He did file a petition. As I
7 recall he was the one that filed the petition?
8 MR. BROWN: He filed the petition to vacate.
9 MR. HICKS: Your Honor, I have no objection
10 to child support offsetting that because we are
11 not trying to collect that?
12 THE COURT: Yes, sir. The judgment, if she
13 goes back to Florida they will probably send some-
14 thing to Virginia, file an affadavit. And if he files
15 an affadavit to give the judgment back there, and they
16 send it up here and give him full credit, then I
17 go through the Air Force.
18 MR. HICKS: I don't know about the $500.00.
19 THE COURT: She is not entitled to it.
20 Make that five hundred dollars, I don't think it is
21 worth it to give it to her. If you go get an
22 agreement from your client why vacate this and
23 wipe it all out? If it is okay then, well, we
24 start working on the attorneys fees, but that is
25 just unconscionable to me that people like this
would charge $20,000.

MR. HICKS: Well, I agree with you.

THE COURT: I shouldn't say that but I just think that that is just-- this man, I don't know if he is a good soldier or not but at least he is serving his country. He is trying to do something for his country and here she is living in a house in Texas and running to Florida and trying the case. It appears to me that the thing to do is to let her get her interest out of that house, whatever it may be. Give it to her and then wipe out those attorney's fees. I just can't believe that a lawyer could be that unconscionable, much less a judge.

MR. HICKS: I would like to file a couple of things. One is the affadavit which I received.

I also would like to have it in the record a copy of the bill that the Florida attorneys have sent her for over $8,000.00. It has been done since that order has been entered.

THE COURT: Well, $20,800 for child support case.

MR. HICKS: I would like for this to be put in the record.

THE COURT: What would you do if you incorporated a business successfully?

MR. HICKS: We mentioned that in the

affadavit but I would like for that bill, because that was dated after that judgment so it shows whether that $20,000-- I honestly don't know, but it is included in the $20,000. I don't know. All I can tell you is that none of that $20,000.00 is the Virginia attorney's fees because I have not sent the bills down there. I refused to do it. I was requested to send them but I have not done so.

THE COURT: I am going to write the judge.

MR. BROWN: We sent them a copy as you requested in your order back in June and the court ignored it. The court was aware of your order in June.

THE COURT: Well, I guess that is the reason we need Federal Courts. I just think it is unconscionable. What could a lawyer do for that much?

MR. BROWN: He was an ex parte case the entire time.

THE COURT: They had to walk to the court house.

MR. HICKS: I will be trying to get in touch with them. Prior to the June hearing they were in Hawaii on a conference of child support and custody act. I don't know whether some of that might

be appealed or not.

THE COURT: Well, it looks like to me that the Air Force would get in on this.

MR. HICKS: It looks like to me that in the garnishment the Air Force would?

THE COURT: This is just unconscionable.

MR. HICKS: The only trouble is it hurts you and me, and Mr. Brown, and everyone else.

MR. BROWN: Under Federal Law they can take the garnishment right out of the court and go directly to the Air Force accounting system center, and they don't have to go through the Court.

THE COURT: I really think he needs the extra ordinary relief, not that he has been as pure as driven snow, but he has got the kids.

Are the kids doing all right?

THE WITNESS: Yes, sir. They are.

THE COURT: How are they doing in school?

THE WITNESS: They are doing good, excellent, in fact.

THE COURT: Well, at least they are taking it all right.

MR. BROWN: Yes, sir.

MR. HICKS: As I understand you are ordering $500.00 child support as offset against it.

THE COURT: Yes. Theoretically I would not order the child support if she doesn't have the children.

MR. HICKS: If she will vacate the order in Florida for child support including any child support, this would be the case?

THE COURT: Yes. I have not gotten to the attorney's fees yet. I do take it she can appeal but I think that I am going to order her to pay her attorney $20,000-- $20,800.

MR. HICKS: I don't know if that $8,000.00 is included in the $20,000 or not.

THE COURT: She does have some property?

MR. HICKS: Yes, but I would say that the attorney's fees, that $8,000.00, that may be included in there.

THE COURT: Well, if that's included--

THE WITNESS: The order says it is excluded.

THE COURT: How much money have you sent down to the lawyers, Colonel?

THE WITNESS: Sir?

THE COURT: How much money have you sent to the lawyers for garnishment?

MR. BROWN: The bill to approximately $2,000.00.

THE COURT: This is for his lawyer? You

have not paid anything to these lawyers?

THE WITNESS: No, sir. I have not but my problem there is that the garnishment doesn't have to go through any courts. It just goes directly to the Air Force and without discretion not to pay it according to what they tell me.

MR. HICKS: As I understand it, nothing has been paid?

THE COURT: Nothing has been paid. Well, I don't think the court got it.

MR. HICKS: I agree with you.

THE COURT: If nothing else you can get a Virginia judgment. You can send that out to the Air Force and have it sent off to Houston.

MR. BROWN: It would be $500.00 a month child support?

THE COURT: If he gets the authority from his client and a decree to vacate that, I will vacate that and the child support and wipe it out. I understand that wipes out the child support and the attorney's fees. If you all can work out something agreeable on that we will wipe that out. I am doing everything I can do to help this gentleman to get back to paying--

MR. HICKS: Rather than the $28,000.00 since the judgment against him is only $20,000.00--

MR. BROWN: $20,000 and $800 for attorneys fees and costs. I hope nobody reports that around in the Richmond Bar.

THE COURT: I do think he deserves relief and I would like to get the name of the judge down there. I am not going to write to the lawyers but I figure under the Judicial Courtesy Act I can write to them.

MR. BROWN: Yes, sir.

THE COURT: And his commanding officer and tell him that.

MR. BROWN: Yes, sir. I will provide you with that information.

THE COURT: I might be up before the Judicial Review and whatever, but, Lord, if we don't start standing up. I just think this looks bad for our whole system of Justice and this is what the people have been yelling about our system. He wouldn't want to be improper toward the court, but if he doesn't have the right dfeelings, he would have a hard time teaching his children that the courts are right. To get a divorce, it is a shame they broke up but they broke up. She can appeal.. I have been reversed before.

MR. HICKS: Your HOnor, I will note an appeal within the thirty days but I don't think

she had anymore control over the Florida lawyers than you or I have right now, Judge.

THE COURT: I don't fault her for that but the judge, I can express an opinion to him that I think it is unconscionable.

Mr. Brown, when you send me that, send me the name and address of the commanding officer.

MR. BROWN: Yes, sir.

THE COURT: And also the name and address for the judge in Florida because I really want to cool down before I write the letter. I would have to sleep on it overnight anyway.

THE WITNESS: Thank you.

THE COURT: Have you been promoted since this started? You were major?

THE WITNESS: Yes, sir.

THE COURT: Gentlemen, you all draw the order and when you do send me the names of those people. Then I am going to write to them becasue I think there should be some notice of not badgering him.

How about the agreement on visitation?

MR. HICKS: Yes, sir. I hope they work out something.

THE COURT: Well, I would like to see Mrs. Greene see the children, but at this stage it

doesnt look like it is going to be much hope.

WITNESS STOOD ASIDE

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HEARING CONCLUDED

CRANE - SNEAD & ASSOCIATES, INC.
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CERTIFICATE OF COURT REPORTER

I, Maria E. Otto, hereby certify that I, Having been duly sworn, was the court reporter in the Circuit Court of the City of Richmond, Division I, on February 10, 1981 at the time of the hearing herein.

I further certify that the foregoing transcript of testimony and other proceedings incident to the case is accurate and true, to the best of my ability and that this transcript is prepared and filed pursuant to Rules of Court.

Given under my hand this 1st day of April, 1981.

Maria E. Otto

MARIA E. OTTO, REgistered Professional Reporter

FILED IN CLERK'S OFFICE April 7, 1981
E. E. Pollard III Clerk