

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI  
COURT OF APPEALS OF THE STATE OF MISSISSIPPI

THOMAS S. BEDDINGFIELD

APPELLANT

VS.

NO. 2008-CA-00512

JENNIFER L. BEDDINGFIELD

APPELLEE

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of the Supreme Court and/or the judges of the Court of Appeals may evaluate possible disqualifications or recusal.

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Respectfully submitted,

  
C. JOY HARKNESS

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**STATEMENT OF ISSUES**

- I. WHETHER OR NOT THE CHANCELLOR ABUSED HIS DISCRETION AND COMMITTED MANIFEST ERROR IN AWARDING JENNIFER PERIODIC AND LUMP SUM ALIMONY

**STATEMENT OF THE CASE**

This appeal arose from the Chancery Court of Lauderdale County, Mississippi. Appellant, Thomas S. Beddingfield, (hereinafter "Thomas"), filed a Complaint for Divorce on November 10, 2006. On December 15, 2006, Appellee, Jennifer L. Beddingfield, (hereinafter "Jennifer"), filed an Answer to the Complaint for Divorce and Counter-Complaint for Divorce. On October 23, 2007, Thomas and Jennifer filed a Consent to Divorce on the ground of irreconcilable differences, agreeing for the Court to decide: (1.) whether or not Jennifer was entitled to alimony payments and (2.) property division and responsibility for payment of joint debts. *[R. pages 66-68]*

The case was heard on February 20, 2008. The witnesses were Thomas, Thomas's mother, Rebecca Beddingfield, and Jennifer. The Chancellor ordered Thomas to pay Jennifer as monthly periodic alimony the sum of \$300 and to pay the monthly installment note due to Vanderbilt for the 1997 mobile home. Jennifer was awarded as

lump sum alimony the amount necessary to pay the delinquent balance on the monthly installment note to Vanderbilt. Thomas was ordered to pay the monthly installment to Total Finance and to request the release of the one-acre of land in Neshoba County serving as collateral for the debt to Total Finance. *[R. page 101, 107]* Aggrieved by the Chancellor's decisions regarding alimony, Thomas appealed.

### **SUMMARY OF ARGUMENT**

Regardless of whether or not the value of the marital property awarded to Jennifer exceeded that awarded to Thomas, equitable distribution does not require equal distribution. Alimony awards are in the discretion of the chancellor and should not be overturned absent manifest error, abuse of discretion, or application of an erroneous legal standard. After considering Jennifer's health and the resulting disparity in the parties earning capacity, the trial court appropriately awarded alimony to Jennifer.

### **ARGUMENT**

Thomas argues in his brief that Jennifer acquired most of the unencumbered property and assigned a value of \$16,703.00 to the property awarded to her. Thomas assigned a value of \$3,500.00 to the 1996 Mitsubishi Eclipse automobile, a value of \$8,000.00 to the 1997 16 x 80 mobile home, and a value of \$800.00 to the one acre of land in Neshoba County. Jennifer testified that the automobile had over 100,000 miles, needed work, and leaks oil. *[Tr. Page 66]* She further testified that the 1997 mobile home had holes in the walls, damaged carpet throughout, water leaks, bumps in the wall,

a busted ceiling, and numerous thing wrong with it. [Tr. Page 73] The acre of land in Neshoba County was inherited from Jennifer's father, [Tr. Page 68] and thus is not marital property.

Conversely, Thomas received a 1999 Ford F-150 pickup and a 2005 mobile home, in new condition. Admittedly, the parties are upside down in the mobile homes; however, along with the debt, Thomas received a decent place to live. Thomas also has/had the following items in his possession which were not addressed by the Chancellor: Cub Cadet mower, identified as item number 33 on the property list, the Yamaha drum set, identified as item number 37 on the property list, the five piece cymbal set, identified as item number 38 on the property list, the new studio recording system identified as item number 47 on the property list, the Pace enclosed trailer identified as item number 48 on the property list. [R. page 23] Thomas valued the Cub Cadet mower at \$1,000.00, the Yamaha drum set at \$1,000.00, and the five piece cymbal set at \$800.00. [R. page 25]. He testified that he sold the recording system to pay his bills and lawyer fees. [Tr. page 28] Thomas further testified that he sold the enclosed trailer and sound system to Jason Williams for a thousand dollars. [Tr. Page 36]

Regardless of whether or not the value of the marital property awarded to Jennifer exceeds the value of that awarded to Thomas, it is well established that equitable distribution does not require equal distribution. **Morris v. Morris, 2006-CA-01488-COA (Miss.Ct.App. 2008), citing *Bresnahan v. Bresnahan*, 818 So.2d 1113, 1122 (¶ 11) (Miss.2002).**

Thomas cites *Tritle v. Tritle*, 956 So.2d 369 (Miss. Ct. App. 2007) for the proposition that "If after the equitable distribution of the marital property, both parties

have been adequately provided for, then an award of alimony is not appropriate.” Jennifer would whole-heartedly agree. The problem is that after the distribution of the marital property, both parties had **not** been adequately provided for. Jennifer’s only source of income is \$162.00 a month in food stamps. [Tr. Page 55] She has been depending on the kindness of friends to exist. [Tr. Pages 20, 55] Jennifer testified that she has an application pending for social security disability payments. She has been diagnosed as suffering from bi-polar disorder. She had had surgery to repair a broken arm and was still undergoing occupational therapy. She was awaiting knee surgery and had undergone numerous lipotripsy procedures. She was bleeding from her kidneys. She suffers from panic attacks. [Tr. Pages 52-54] At the conclusion of the equitable distribution of the marital property, Jennifer was left with a 1997 mobile home in ill repair, a 1996 automobile with over 100,000 miles, old furniture and appliances, \$162.00 in food stamps, and no physical ability to work and provide for herself.

In *Tritle v. Tritle*, the wife received \$6,399.00 in personal property to the husband’s \$3,230.00 in personal property. The trial court order the husband to pay the wife \$375.00 per month in periodic alimony. In affirming the trial court’s award of periodic alimony, the Court of Appeals stated:

We are mindful that alimony awards are within the discretion of the chancellor. *Armstrong v. Armstrong*, 618 So.2d 1278, 1280 (Miss.1993). We will not reverse the chancellor’s decision unless the chancellor committed manifest error, an abuse of discretion, or applied an erroneous legal standard.

Query where is the manifest error, abuse of discretion, or erroneous legal standard in this case?

Thomas argues that there is no evidence that Jennifer contributed any to the accumulation of any marital property. Both Thomas and Jennifer testified that Jennifer worked outside the home during the marriage for Dixie Oil, kept the house, cooked, cleaned, did laundry, and cared for Thomas's mother. [Tr. Pages 38, 55] *Hemsley v. Hemsley*, 639 So. 2d 909 (Miss.1994) recognized that marital partners can be equal contributors whether or not they both are at work in the marketplace.

In the case of *Weeks vs. Weeks*, 832 So.2d at 588, the Court of Appeals found that the chancellor erred in failing to award periodic alimony to the wife who suffered from poor health even though the wife had received an estate valued at \$5,219,567.00.

Lastly, Thomas argues that there is no evidence that he has the ability to pay alimony as awarded. The Chancellor found that Thomas is a healthy person and that he is physically and mentally able to work. [R. Page 100] In addition to his ability to work at a regular paying job, Thomas has the ability to earn extra income cutting grass and playing in a band. [Tr. Pages 34, 36]

Thomas's mother, Rebecca Beddingfield, testified that Thomas had been managing the trailer park business owned by her for at least ten years. [Tr. Page 47] Jennifer testified that throughout their marriage she always had money at the tip of her fingers and that half of their money had always come from the trailer park. [Tr. Page 76] Thomas opines in his brief that his present occupation taking care of his mother appears to pay better than his former job at Quality Logistics. Thomas testified that he had looked for work "very little." [Tr. Page 32] It is abundantly clear that if Thomas lacks the money to pay alimony, it is by his choice.



Thomas mischaracterizes the payment of \$233.00 per month to Vanderbilt as lump sum alimony. The Court specifically found that Thomas should pay as monthly periodic alimony the sum of \$300.00 and that he should pay the monthly installment note due to Vanderbilt for the 1997 mobile home. Jennifer was awarded as **lump sum alimony** the amount necessary to pay the delinquent balance on the monthly installment note to Vanderbilt. Without payment of the outstanding delinquency owed to Vanderbilt on the mobile home, Jennifer would be rendered homeless.

Jennifer's case, on a much smaller scale, is like that of *Grogan v. Grogan*, 641 So.2d 734 (Miss. 1994). In that case Mrs. Grogan was awarded lump sum alimony in the amount of \$25,020.00, payable in monthly installments of \$417.00 per month for sixty months. The Supreme Court found that without this award, Mrs. Grogan would lack financial security. Furthermore, Mr. Grogan's yearly income was over twice that of Mrs. Grogan's. There was not a great disparity between the Grogan's respective estates.

Thomas's brief equates payment of Thomas's monthly expenses in the amount of \$1920 by his mother as Thomas's "pay" for care giving to his ailing mother. If one accepts this premise, then Thomas's income is more than ten times that of Jennifer's (\$162.00 per month in food stamps).

In the case of *Hammers v. Hammers*, 890 So.2d 944, the husband argued on appeal that the wife was not entitled to lump sum alimony because they did not have separate estates. The Court of Appeals found that though the Chancellor called the award lump sum alimony, the award was actually rehabilitative alimony. Rehabilitative alimony was defined in *Hubbard v. Hubbard*, 656 So.2d 124, 130 (Miss. 1995) as "an equitable mechanism which allows a party needing assistance to become self-supporting



without becoming destitute in the interim.” Certainly, the argument could be made that any monies awarded to Jennifer were to help her become self-supporting until she either is approved for social security disability or until her health improves so that she may seek employment. Thomas contends in his statement of facts that the only request for alimony was for periodic. In truth, the issue submitted to the Court was whether or not Jennifer was entitled to alimony payments. [R. Page 66]

### **CONCLUSION**

Jennifer respectfully submits that the Chancellor did not abuse his discretion or commit manifest error in awarding her periodic and lump sum alimony. Accordingly, the opinion of the trial court should be affirmed.

Respectfully submitted,

**JENNIFER L. BEDDINGFIELD,  
APPELLEE**

By:   
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**CERTIFICATE OF SERVICE**

I, C. Joy Harkness, attorney for appellee, Jennifer L. Beddingfield, certify that I have this day filed this **Appellee's Brief** along with three copies of the same, by depositing the same in the United States Mail addressed to the Clerk, at Post Office Box 249, Jackson, MS 39205-0249, and have further served a true and correct copy of the foregoing **Appellee's Brief** on the following persons at these addresses:

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This the 18th day of November, 2008.

  
C. JOY HARKNESS, MS BAR No. [REDACTED]