

SUPREME COURT AND COURT OF APPEAL  
STATE OF MISSISSIPPI

NO. 2008-CA-01443

PARIS ANTHONY WOODFIN, APPELLANT

VS.

MARY LEE WOODFIN, APPELLEE

ON APPEAL FROM  
THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT  
OF HARRISON COUNTY, MISSISSIPPI

REPLY BRIEF OF APPELLEE

ORAL ARGUMENT NOT REQUESTED

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STATE OF MISSISSIPPI

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APPELLANT

VS.

MARY LEE WOODFIN

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 Court may evaluate possible disqualifications or recusal.

1. Paris Anthony Woodfin, Appellant
2. Mary Lee Woodfin, Appellee
3. John Robert White, Attorney for the Appellant
4. Pamela Guren Bach, Attorney for the Appellant
5. Hon. James B. Persons, Trial Court Judge
6. Thomas Wright Teel, Attorney for Appellee

This the 2 day of March, 2009.

  
THOMAS WRIGHT TEEL

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**STATEMENT OF THE ISSUES:**

Issue 1:

The Chancellor properly found that Paris was in contempt of the Agreed Temporary Order.

Issue 2:

The Chancellor properly held Paris responsible for the marital debt and properly applied the agreed division of Paris' retirement assets between the parties.

Issue 3:

The Chancellor applied the correct legal standard in determining that Mary was entitled to permanent periodic alimony in the amount of \$700.00 per month.

Issue 4:

The Chancellor was within his discretion in not rehabilitative alimony.

Issue 5:

The Chancellor was within his discretion in requiring Paris to provide COBRA insurance for Mary.

Issue 6:

The Chancellor did not abuse his discretion in setting for the amount of child support awarded.

Issue 7:

The combined awards of spousal support and child support are not unreasonable.

## STATEMENT OF THE CASE

Paris Anthony Woodfin (hereinafter "Paris) and Mary Lee Woodfin (hereinafter "Mary) were married on August 10, 1985 in Opelika, Alabama and four children were born during the marriage whose ages are between twenty-four and fourteen years. (C.P. Volume 1, Pages 1-5 and C.P. Volume 1, Page 7).

On June 27, 2005, after twenty years of marriage, Paris filed his Complaint For Divorce alleging that he was entitled to a divorce of and from the Defendant on the statutory ground of Habitual Cruel and Inhuman Treatment, or, in the alternative, on the statutory ground of Irreconcilable Differences. Paris admitted that Mary was a fit, suitable and property person to have primary physical, care, custody and control of the children of the parties and that Mary should be granted temporary and permanent child support. (C.P. Volume 1, Page 2)

In addition, Paris alleged that the parties (Paris and Mary) should be responsible 50% each of all medical, dental and oculist bills for the minor children that are not covered by insurance, that each party be equally responsible for the higher education of the minor children of the parties, and equally responsible for all debts of the parties. (C.P. Volume 1, Page 3) . Further, Paris requested that the be granted the exclusive use, possession, control and title of the 1987 Cadillac, and the 1993 Ford Aerostar vehicle which were in his possession, and that Mary be granted the exclusive use, possession, control and title of the 1993 Pontiac Firebird and 1999 Ford Expedition which were in her possession and that Paris would continue to be responsible for Mary's car notes. Further, Paris requested an equitable division of the remaining martial assets. (C.P. Volume 1, Page 3)

On August 16, 2005, Mary filed her Answer and Counter-Claim for Divorce wherein she denied the date of separation as stated in Paris' Complaint and stated that the parties separated on

June 24, 2005, just days before Paris filed his complaint, in Long Beach, Mississippi. Further, Mary correcting the mistake in the Complaint to reflect that the parties have four children:

- (a) Aundrea Woodfin, born November 17, 1990;
- (b) Dijon Woodfin, born December 31, 1994;
- (c) Paris Woodfin, II, born April 29, 1987; and
- (d) Dameon Woodfin, born January 1, 2984.

In her counterclaim, Mary asserted that she did not want a divorce and that she wanted Separate Maintenance from her husband until such time as he would return to the marriage in good faith under the laws of the State of Mississippi. Further, Mary sought the following relief:

- (a) that she be granted separate maintenance from her husband under the law and that he support his wife and children in the manner they have been supported in the past until further order of court;
- (b) that she be granted an injunction to prevent any waste, sale, barter, disposition or distribution of any of the assets of the marriage, including real property, personal property, businesses, investments, financial assets, retirement and pension assets, and al other martial assets.
- (c) that she be granted custody of the children and granted child support and college support, together with medical support for the children.
- (d) that he provide her medical insurance and pay all her medical bills not covered by insurance;
- (e) that he pay all the family bills and debts;
- (f) that he maintain life insurance and all civilian and military benefits for her benefit; and
- (g) that he maintain all life insurance and benefits for the children through his employment, including an accounting of the children's disability benefits;
- (h) that he pay her attorney fees, costs and expenses.

(C.P. Volume 1, Page 9)

Additionally, Mary sought the following temporary relief:

- (a) that she be granted temporary separate maintenance in an amount that allows her to live in the manner she had during the marriage, allows

- her to support her children, and allows her to pay for any college costs and school costs for the children;
- (b) that she be granted custody of the children and that he maintain her and the children on his medical insurance and pay all non-covered expenses;
  - (c) that he obtain a credit report and pay all outstanding debts of the marriage;
  - (d) that she be granted a temporary injunction to prevent any waste, sale, barter, disposition, or distribution of any of the assets of the marriage, including real property, personal property, businesses, investments, financial assets, retirement and pension assets, and all other marital assets;
  - (e) that he be order to supply her with suit money in the sum of \$5,000.00.

(C.P. Volume 1, Page 10)

On August 22, 2005, Paris filed his Answer to Counterclaim for Divorce, wherein he alleged that the Counterclaim fails to state a claim upon which can be granted, that the breakup of the marriage and subsequent separations of the parties was directly and proximately caused by the conduct of Mary as alleged in his Complaint, and that Mary comes before the Court with unclean hands. (C.P. Volume 1, Pages 12-14) .

An Agreed Temporary Order was entered by the Court on March 15, 2007 on all matters of Custody, Visitation, Child Support, and Temporary Spousal Support , and Mary was granted, by agreement, child support of \$1,166 and temporary spousal support of \$634 ( total \$1,800) (C.P. Volume 1, Pages 15-19).

By July 25, 2007, Mary had filed a Motion For Citation of Contempt due to Paris' failure and refusal to abide by the Agreed Temporary Order. (C.P. Volume 1, Pages 20-22)

The case was set for the contempt and the divorce. On the date the matter came for trial August 27, 2007, a Stipulation was filed with the Court wherein the Court found that it had jurisdiction over the parties and subject matter; that the parties entered in the written stipulation

that they (Mary and Paris) should be granted an Irreconcilable Differences Divorce, they agreed to joint legal custody of any minor children with Mary having primary physical custody and that all other matters of relief specifically asked for in either party's pleadings must be tried before the judge, who must make those decisions; further, the parties agree that they may make oral stipulations at court. (C.P. Volume 1, Page 23)

On November 27, 2007, a Consent To Adjudicate was filed with the Court wherein Mary and Paris agreed to submit the Court for litigation. (C.P. Volume 1, Page 25).

On July 24, 2008, a Judgment was entered in this matter (C.P. Volume 1, Pages 25-36) Paris filed his Notice of Appeal along with the Designation of the Record on August 15, 2008. (C.P. Volume 1, Pages 37-40).

On August 25, 2008 the Stipulated Qualified Domestic Relations Order and Qualified Domestic Relations Order were filed with Court as they pertain to Paris' retirement benefits. (C.P. Volume 1, Pages 41-50)

#### **STATEMENT OF THE FACTS**

Mary Lee Woodfin (hereafter "Mary) and Paris Anthony Woodfin (hereafter "Paris) were married in Opelika, Alabama on December 10, 1985. Four (4) children were born as a result of this marriage, whose names and other pertinent information are as follows:

- (a) Aundrea Woodfin - a female born on November 27, 1990, who was 14 at the time the Complaint for Divorce was filed on June 27, 2005;
- (b) Dijon Woodfin - a male born on December 31, 1994, who was 10 at the time the Complaint for Divorce was filed on June 27, 2005; and
- (c) Paris Woodfin, II - a male born on April 29, 1987, who was 18 at the time the

Complaint for Divorce was filed on June 27, 2005 .

- (d) Dameon Woodfin, born on January 1, 1984, who was 21 and emancipated at the time the Complaint for Divorce was filed on June 27, 2005. (C.P. Volume 1, Pages 1-5 and Page 7)

On March 15, 2007, an Agreed Temporary Order (C.P. Volume 1, Pages 15-22) was entered, which provided, among other things, the following:

CUSTODY: Mary was awarded temporary paramount care, custody and control of the minor children, Aundrea Woodfin, Dijon Woodfin, and Paris Woodfin, II and the parties were awarded joint legal and physical custody of the parties' children. (C.P. Volume 1, Page 15)

CHILD SUPPORT: Paris agreed to pay temporary child support in the amount of \$1166.00 per month for the use and benefit of the minor children; shall provide Health Insurance including medical and dental for the minor children, and the parties shall be equally responsible for all medical expenses not covered by insurance with each party paying one-half of the uncovered expense. Further, Paris agreed to pay to Mary in the form of Temporary Spousal Support \$634.00 per month. (C.P. Volume 1, Page 18)

Mary filed a Motion for Citation of Contempt on July 25, 2007 due to the Paris' failure to pay Child and Spousal Support which totaled \$3,900 and his failure to pay medicals. (C.P. Volume 1, Pages 20-22). The contempt hearing was set for November 26, 2007. (R.E. Page 4) and at the time the contempt hearing was set, the decision was made to move forward with the divorce proceedings as well. The hearing was continued until the following day, November 27, 2007 (T. Volume 1, Page 6)

Paris was represented by Dustin Thomas, from the initiation of these proceedings until sometime after Mary's Motion For Contempt, who filed a Motion To Withdraw on August 7, 2007. (R.E. Page 4). According to Paris' testimony he retained another attorney, Jane Perry; however, Ms. Perry advised counsel for Mary that she was not representing Paris but did authorize negotiations between the parties (T. Volume 1, Page 5-6). Paris acknowledge that this statement was accurate and ,at the time of the hearing, he represented himself. (T. Volume 1, Page 6) The Court also inquired as to whether Paris Woodfin understood the agreement and what was being litigated and he affirmed that he did ( T. Volume 1, Page 15-20)

On August 27, 2007, a Consent To Adjudicate was executed by both parties (C.P. Volume 1, Page 24) and was filed with the Court on November 27, 2007, wherein Mary and Paris agreed to submit the Court for litigations the following:

- (1) periodic alimony;
- (2) contempt as to temporary support and medicals;
- (3) attorney fees for contempt and divorce.

Further, the parties "agree that the Court can decide these issues as litigation and the Court's decision is Final and Binding". (R.E. Page 12; Exhibit 7)

The matter was set for November 26, 2007, but could not be heard.(C.P. Volume 1, Page 5) A Stipulation, signed by both parties on November 27, 2007, was filed with the Court on December 3, 2007 (C.P. Volume 1, Page 23) wherein the Court found that it had jurisdiction over the parties and subject matter; that the parties entered in the written stipulation that they (Mary and Paris) should be granted an Irreconcilable Differences Divorce, they agreed to joint legal custody of any minor children with Mary having primary physical custody and that all other matters of relief

specifically asked for in either party's pleadings must be tried before the judge, who must make those decisions; further, the parties agree that they may make oral stipulations at court.

At the beginning of the November 27, 2007 hearing, counsel for Mary read into the record several pages of stipulation relating to child support, visitation and support, spousal support and the division of assets. Both parties were asked if the notes used in reading the stipulated items were the one used in the conference held the day before; moreover, in response, both parties agreed that this was the agreement. (T. Volume 1, Pages 6-14)

On July 21, 2008, a Judgment was entered in this matter (C.P. Volume 1, Pages 25-36) which provided, among other things, the following:

- (1) Mary was awarded exclusive use possession and title to the residence and property where she and the children reside, located at 1208 Douglass Street, Opelika, Alabama. Mary agreed and shall be responsible for the mortgage and all payments on the property and shall hold Paris harmless therefrom. Paris to quitclaim all of his right, title, and ownership in this property to Mary within 30 days of this judgment.
- (2) Mary is also awarded one-half (½) of Paris' retirement accounts, valued as of the date of the judgment, at Boeing/DRS and Lockheed Martin.
- (3) Mary is awarded one-half (½) of Paris' ESP or savings plans which had a value of \$18,000.00 so that Mary is entitled to the sum of \$9,000.00
- (4) Each party shall pay the following debts as indicated:
  - (a) Paris shall pay the TBF, the two Citifinancial debts: Credit One; Orchard Bank, Allied Interstate; Consumer Adjustment, First Point, Credit

Protection; Time Warner, Capital One, Credit Consultant, McFayden Music, DLA Medical and any outstanding debts, bills or claims that Paris has created including Avis Car Rental, SCCB Suborination Services, ACA, Inc.

- (b) Mary shall pay her Capital One debt or account, Colorvision, her Wells Fargo account or debt and her car debt and any other outstanding debts, bills or claims that Mary has created after the parties' separation.

(C.P. Volume 1, Pages 25-36)

Paris filed his Notice of Appeal on August 15, 2008.

#### **SUMMARY OF THE ARGUMENT**

The Chancellor was within his discretion in determining that Appellant (Paris) was in contempt of the Agreed Temporary Order, responsible for the payment of the martial debt and providing COBRA insurance for Mary. Further, the Chancellor was within his discretion in awarding Mary a portion of Paris' retirement assets, entitled to permanent periodic alimony in the amount of \$700.00 per month rather than awarding rehabilitative alimony, and in awarding child support as outlined in the Judgment of July 21, 2008.

#### **ARGUMENT**

##### **ISSUE 1:**

#### **THE CHANCELLOR PROPERLY FOUND THAT PARIS WAS IN CONTEMPT FOR THE TEMPORARY AGREED ORDER.**

Despite the clear facts and the admission of Paris Woodfin, Appellant argues that there should be no contempt finding by the Chancellor, whom , Appellee asserts, correctly decided that

Paris was in contempt , specifically finding that “Paris Woodfin was in arrears under the temporary order in the sum of \$3,900.00, which he admitted he was in arrears; further the court finds him in contempt of that...”(C.P. Volume 1, page 35).

Counsel for Paris argues in their Appellant Brief, that “The Mississippi Supreme Court has held that ‘contempt can only be willful.’ *Mizell v. Mizell*, 708 So. 2d 55, 64 (¶52) (Miss. 1998). “A contempt citation is proper only when the contemnor has willfully and deliberately ignored the order of the court.” *Riddick v. Riddick*, 906 So. 2d 813, 826 (¶42) (Miss. Ct. App. 2004); *Copper v. Keyes*, 510 So. 2d 518, 519 (Miss. 1987). “A chancellor has substantial discretion in deciding whether a party is in contempt.” *R.K. v. J.K.*, 946 So. 2d 764, 777 (¶39) (Mississippi 2007). Although Paris acknowledged that he had fallen behind on his month support payments, there is nothing in the record to indicate that he willfully and deliberately ignore his obligation to pay support or one-half of the minor children’s medical expense as required of him by the Agreed Temporary Order.”

Although, on their own and outside of the larger context, these are correct statements of the law, the final argument about Paris’ lack of willfulness is mere after the fact rationalization. To the contrary, Mary would show that the argument being made on behalf of Paris’ is contrary to the record in that Paris did, in fact, willfully and deliberately ignored the order of the court as it pertained to the payment of his support obligations to his children.

First, Appellant ignores how quickly the contempt occurred. The Agreed Temporary Order was entered by the Court on March 15, 2007 (C.P. Volume 1, Pages 15-19), but four months later, by July 25, 2007, Mary had filed a Motion For Citation of Contempt due to Paris’ failure to pay those sums he agreed to pay (C.P. Volume 1, Pages 20-22). Months passed before the hearing—months wherein Appellant Paris could have, if he wanted to, paid the arrears. Willful and

deliberate simply means that, as here, it was Paris' choice not to pay.

Second, the Agreed Temporary Order does not specify which party is responsible for debts; however, Paris' excuse is family bills. Paris' states once the Agreed Temporary Order was entered, he continued to pay the obligations of the family (T. Volume 1, Page 25) and wants the court to excuse his contempt for these payments. He did not produce accountings or statements from creditors; he did not produce any order requiring these payments; he did not produce a changed 8.05 form or documents showing his income changes. (T. Volume 1, page 34-37). Simply, he chose which debts he would pay. Further, one of the debts he notes is a garnishment, which is the withholding order for the temporary. ( T. Volume 1, page 37-38). Mary would argue that Paris' decisions to pay creditors was in the best interest of the creditors and Paris' credit rating, but not in the best interest of this wife and children. Paris just ignored his court ordered obligations.

Finally, despite Appellant's arguments in their brief, Paris clearly acknowledges his contempt by his testimony:

"As far as the contempt action, I am prepared to take care of that contempt action. I just want to say this for the record, that I do apologize to this Court for being in contempt in any way". (T. Volume 1, Page 105, Lines 20-23)

#### **Issue 2:**

#### **THE CHANCELLOR PROPERLY HELD PARIS RESPONSIBLE FOR THE MARTIAL DEBT AND PROPERLY APPLIED THE AGREED DIVISION OF PARIS' RETIREMENT ASSETS BETWEEN THE PARTIES.**

Prior to addressing this issue, Appellee must make some comment on Appellant's arguments and language. First, Appellant basis his appeals argument on matters not of record. The writer states "It was Paris' understanding.." (Appellant Brief, Page 23), but does not dispute the actual matters read into the record, nor what Paris heard and agreed was accurate. Second, Appellant states , it

appears, that what was read into the record does not reflect the evidence or the judgement (Appellant Brief, Page 23 ), but again, does not dispute what was in the record. Finally, Appellant makes a broad and vague allegation that the court did not address matters of “fraud, duress or unconscionability”, but offers no evidence, just this snide remark. (Appellant Brief, page 23). Of course, the writer was not the attorney of record, nor the second attorney who did not represent Paris at litigation. Of course, the writer was not present at court when the court first met Paris at the temporary or at prior setting or at court on the day of trial. Of course, the writer was not present when the matter was before the respected Chancellor. These unsupported comments do not add to the appellate argument and should be sanctionable.

As to the real issue, the fairness of the division of asset, the Chancellor specifically relied on *Ferguson v. Ferguson*, 639 So. 2d 912 (Miss. 1994) in the distribution of marital property. In doing so, the Chancellor applied the following factors as set forth in the Judgment dated July 24, 2008 (C.P. Volume 1, Pages 25-36):

**“Substantial contribution to the accumulation of property:** During the course of the marriage, Paris worked and contributed all his income to the marriage and or the accumulation of property. He was employed either as a member of the military or in the private sector. He also secured a college education. Mary worked at low paying jobs during the marriage because of the frequent job related moves of Paris. She has one year of college education with no special or technical skills. Mary made indirect contributions to the marriage through her housekeeping and caring for and rearing of the minor children.” (C.P. Volume 1, page 27)

Certainly, the testimony squarely supports the court here. As part of her testimony, Mary was asked the following questions (T. Volume 1, Page 62, Lines 20-29 and Page 63, Lines 26):

Q: “And as far as his college education, did you help him with that in any way?”

A: “Yes”

Q: "How did you help him?"

A: "I helped Paris stay focused. Life if he was watching TV, don't you have a paper to do, yes; and maybe he would keep watching TV. I would also test him on whatever test he was having, go to the test site with him, sit – to over the test, sit in the car and wait for him to come out"

Q: "Did he do well in school?"

A: "He did fairly well."

Q: ..... "Why didn't you go back to school?"

A: "I had attempted to go to school , but I was told by my husband that what he was doing was more important because it was for the family."

Q: "When I asked him, he said primarily you were a housewife. Is that accurate about your marriage?"

A: "Correct."

Q: "And about your working different jobs, have you had any jobs that paid you more than a hourly rate?"

A: "No."

Q: "What about in Germany, in whatever job you had there?"

A: "I worked for the Department of Defense, but it was an hourly rate."

Q: "Okay. Were you full-time or part-time?"

A. "That was full-time while I was in Germany".

Q: "Other than that, have you had full-time occupation?"

A: "No."

Q: "And other than that, have you had any job that was any more than, say, minimum wage?"

A. "No.

As part of his testimony, Paris was asked the following questions (T. Volume 1, Page 47, Lines 19-23 and Page 50, Lines 23-27):

Q: "And during the marriage, Mary worked while you were at different bases?"

A. "Mary worked at times, yes."

Q: "And primarily, she was a housewife?"

A: "Primarily, she kept things at home, yes."

Q: "And, sir, suffice it to say, as we sit here, Mary's – most of her jobs in the past have been minimum wage, hourly rate kind of jobs? "

A: "Yes, except when she was in German. Except when we were stationed in Germany."

The Court found:

**"Degree to which each spouse has expended, withdrawn, or otherwise disposed of martial assets and any prior distribution of such assets by agreement, decree or otherwise:** The Court does not find that either Paris or Mary expended, withdrew or otherwise disposed of martial assets. (C.P. Volume 1, Page 27)

**"The market value and emotional value of assets subject to distribution:** The record does not establish any emotional value to the martial assets to be divided. Their identity and market value is reflected by the financial declaration and testimony of the parties." (C.P. Volume 1, Page 27-28)

**"Value of assets not ordinarily, absent equitable factors to the contrary, subject to such distribution, such as property brought to the marriage by the parties and property acquired by inheritance or inter vivos gift by or to an individual spouse:** The record does not establish any such assets. (C.P. Volume 1, Page 28)

**"Tax or other economic consequences, and contractual or legal consequences to third parties, of the proposed distribution:** No evidence was introduced by either party regarding this factor." (C.P. Volume 1, Page 28)

**“Extent to which property division may, with equity to both parties, be utilized to eliminate periodic payments and other potential sources of future friction between the parties and needs of the parties for financial security with due regard to the combination of assets, income and earning capacity:**

The parties consent to adjudicate, stipulation, and testimony provide for the payment of alimony, but the parties have not agreed on the amount. The Court does not find the property division in this case will eliminate the need for periodic payments or other potential sources of friction between the parties.”  
(C.P. Volume 1, Page 28)

**“Other factors which should be considered in equity:** The parties’ respective financial declaration and testimony reflect a significant disparity in the parties’ income. Mary’s gross monthly salary as a retail sales associate is \$800, while Paris makes \$5,146.37 as a field engineer for Lockheed Martin. Paris’ greater income is a result of his engineering occupation. He received his engineering and technical education during the marriage.” (C.P. Volume 1, Page 28)

Mary would also show that in addition to Paris’ \$5,146.37 salary as a field engineer, Paris also receives \$1,600 per month in disability benefits as shown in Paris’ testimony (T. Volume 1, Page 33, Lines 21-29 and Page 34, Lines 1-13):

Q: “Okay. And then it’s \$62,235 annual?”

A: “Yes.”

Q. “ And in this year to date, it was \$56,084 at 1/19/07?”

A: “Yes.”

Q: “Now, on this, sir, since we’ve got it in front of us, this shows your income as gross \$5,146.37 per month?”

A: “Yes.”

Q: “And then it shows that you have a disability of \$1600?”

A: “Yes, that is close – that is accurate, yes; but it’s a little less than that because my oldest son is 24, and he was - - that reduced my benefit.

Q: "Okay. Have you supplied any of those documents to us about the reduced benefit?"

A: "I have not. I have not submitted any documents."

Q: "Well, on this document it show \$1600, correct?"

A: "Yes."

Q: "And then the total monthly income is \$6,746.34; is that correct?"

A: "Yes."

The Court having considered *Ferguson* factors and relying principally on Paris' greater monthly income and his livelihood and ability to provide the child support required of his made the following distribution of martial assets:

- (A) Mary was awarded exclusive use possession and title to the residence and property where she and the children reside, located at 1208 Douglass Street, Opelika, Alabama. Mary agreed and shall be responsible for the mortgage and all payments on the property and shall hold Paris harmless therefrom. Paris to quitclaim all of his right, title, and ownership in this property to Mary within 30 days of this judgment. Mary is also awarded the exclusive use, possession and title to the 1998 Ford Expedition and her personal property in Opelika, Alabama, together with the personal property of the parties stored in Mississippi. Mary is also awarded one-half (½) of Paris' retirement accounts, valued as of the date of the judgment, at Boeing/DRS and Lockheed Martin. Paris shall provide Mary with the necessary qualified domestic relations orders for these two retirement accounts through her attorney. Mary is awarded one-half (½) of Paris' ESP or savings plans which had a value of \$18,000.00 so that Mary is entitled to the sum of \$9,000.00. All of the above transfers shall be accomplished no later than 30 days from the date hereof.
- (B) Paris is awarded the exclusive use, title and possession of his 1999 Dodge Ram And he shall hold Mary harmless from any debt thereon. Paris is also awarded use title and possession of this personal property in his residence located in Gulfport, Mississippi.
- (C) Each party shall receive a copy or duplicate of family photographs with each party to bear their own expense for copying.
- (D) Each party shall pay the following debts as indicated:
  - (1) Paris shall pay the TBF, the two Citifinancial debts: Credit One; Orchard Bank, Allied Interstate; Consumer Adjustment, First Point, Credit

Protection; Time Warner, Capital One, Credit Consultant, McFayden Music, DLA Medical and any outstanding debts, bills or claims that Paris has created including Avis Car Rental, SCCB Suborination Services, ACA, Inc.

- (2) Mary shall pay her Capital One debt or account, Colorvision, her Wells Fargo account or debt and her car debt and any other outstanding debts, bills or claims that Mary has created after the parties' separation.
- (3) Each party shall (sic) the debts for which he or she is responsible for as noted in a timely manner and hold the other harmless therefrom.

(C.P. Volume 1, Pages 25-36)

Mary would argue that the distribution made by the Court, using the *Ferguson* factors, is well within the Chancellor's discretion. This is especially true for the following reasons: (a) Paris was in contempt of court; (b) Paris failed to provide any documents or evidence that would present the court a valid, responsible alternative; and ( c ) Paris' income and future income capacity was substantially greater than Mary's. Thus, the ruling is consistent with *Ferguson*, consistent with the evidence and testimony, and explained clearly by the Court. On the facts, not innuendoes, the Court was correct.

**Issue 3:**

**THE CHANCELLOR APPLIED THE CORRECT LEGAL STANDARD IN DETERMINING THAT MARY WAS ENTITLED TO PERMANENT PERIODIC ALIMONY IN THE AMOUNT OF \$700.00 PER MONTH.**

Again, without any true citation of case law that points clearly to court error, Appellant argues that the award of \$700 alimony for a twenty-two year marriage, after a temporary award of \$643, is abuse of discretion.

To the contrary, your Appellee asserts that the Court was correct in the Judgment of July 24, 2008, where the Chancellor applied the *Armstrong* factors (*Armstrong v. Armstrong*, 618 So. 2d 1278 (Miss. 1993) as follows:

“Considering the **Armstrong** factors relevant to this case, being the disparity in current income, the likelihood that Mary’s prospect for any substantial increases in income are poor because of her limited work experience, education and responsibilities for the parties’ children, the Court finds that Paris shall May the sum of \$700.00 per month as periodic alimony with said payments to begin August 1, 2008, and to continue on the first day of each month thereafter until Mary dies, remarries, or until further order of the court. Paris shall keep Mary on his employer’s medical insurance plan through COBRA as long (sic) permitted by applicable law or regulation.” (C.P. Volume 1, Pages 30-31, ¶9)

The factors are:

¶This Court has long followed the factors enumerated in *Brabham v. Brabham*, 84 So. 2d 147, 153 (Miss. 1955), when reviewing the Appropriateness of an award or denial of alimony. Therefore, we consider: the health and earning capacity of the husband; (2) the health and earning capacity of the wife; (3) all sources of income of both parties; (3) the reasonable needs of the wife; (5) the reasonable needs of any children; (6) the husband’s necessary living expenses; (7) the estimated income taxes each part must pay; (8) the provisions made for the wife’s use of the house, furnishings and automobile; (9) such other facts and circumstances in evidence that might have a hearing on the matter. *Tilley v. Tilley*, 610 So. 2d 348, 353 (Miss. 1992). Further, we must look At the burden placed on the paying spouse, as well as his or her right to “lead a normal a life as possible with a decent standard of living.” *Brendel v. Brendel*, 566 So. 2d. 1269. (Miss. 1990)

Factually, the Woodfin case is a classic alimony case. Although Mary worked at some points in during the marriage, the undisputed testimony of both parties is that Mary was primarily a housewife and mother for twenty two years. In contrast, the evidence is that Paris was the source of the family finances. Adding to this, Mary helped Paris with his education and his employment while being unable to further her education or work history because of moving with her husband and

family obligations. Thus, at the divorce, Mary finds herself with a high school degree, older, a limited work history, and no real and marketable employment skills.

Unlike Mary, Paris is in a much better financial situation. He has a Bachelor's Degree from Embry-Riddle Aeronautical University (T. Volume 1, Page 49, Lines 26-27) and is close to completing his Master's Degree (T. Volume 1, Page 49, Line 29 through Page 50, Lines 1-2). He is employed as a field engineer at Lockheed Martin (T. Volume 1, Page 44, Lines 25-29 and has a combined monthly income of \$6,746.37 (T. Volume 1, Page 34, Lines 11-13).

Here, Paris admitted that alimony was appropriate and that Mary was entitled to alimony. (T. Volume 1, Page 106). The actual award is just \$56 more than the temporary spousal award. Here, after the fact, Paris argues that the periodic alimony award for a twenty two year marriage because of speculation and broad general statements about Mary. Further, Appellant cites no specific case that supports his argument that the court was in error. Mary would therefore argue that the Chancellor awarding of permanent periodic was correct.

**Issue 4:**

**THE CHANCELLOR WAS WITHIN HIS DISCRETION IN  
NOT REHABILITATIVE ALIMONY.**

Appellant's fourth issue is simply pivoting off the third issue. Mary would incorporate her argument from the previous issue herein; further, Mary would argue that pursuant to *Armstrong v. Armstrong*, 618 So. 2d 1278 (Miss. 1993), for a twenty -two year marriage where the wife was the undisputed housewife and the husband the undisputed wage earner, the Chancellor correctly decided this issue (See C.P. Volume 1, Pages 30-31, ¶9)

**Issue 5:**

**THE CHANCELLOR WAS WITHIN HIS DISCRETION IN  
REQUIRING PARIS TO PROVIDE COBRA INSURANCE FOR MARY.**

Appellant's fifth issue is simply pivoting off the third and fourth issue. Mary would again argue that pursuant to *Armstrong v. Armstrong*, 618 So. 2d 1278 (Miss. 1993) as considered by the Chancery Court, that the Chancellor correctly decided this issue. (See C.P. Volume 1, Pages 30-31, ¶9)

**Issue 6:**

**THE CHANCELLOR DID NOT ABUSE HIS DISCRETION IN SETTING FOR THE  
AMOUNT OF CHILD SUPPORT AWARDED.**

Mary would show that under the Judgment dated July 24, 2008, the Court ordered Paris to pay the sum of \$1,200 per month as child support beginning August 1, 2008 and continuing until all children reach the age of majority, become self-supporting or until further Order of the Court. (C.P. Volume 1, Page 34) In addition, Paris was required to provide medical insurance for the children and pay one-half of their medical expenses not covered by insurance and one-half of any college expense until they reached the age of twenty-one. (C.P. Volume 1, Page 34-35, R.E. Pages 22-23)

The amount of child support awarded is controlled by the child support guidelines set forth in *Miss. Code. Ann. §43-19-101* (Rev. 2004) et seq., with some discretion left to the chancellor. *McGehee v. Upchurch*, 733 So. 2d. 364, 371 (¶37) (Miss. Ct. App. 1999).

As, such, the Chancellor is well within his discretion in the amount of support he awarded for the parties children.

**Issue 7:**

**THE COMBINED AWARDS OF SPOUSAL SUPPORT AND CHILD SUPPORT ARE NOT UNREASONABLE.**

Appellant's seventh issue is simply pivoting off the second, third, fourth, fifth and sixth issue. Mary would re-assert and incorporate previous arguments herein and would argue that the Chancellor correctly decided this issue. (See C.P. Volume 1, Pages 25-36). Further, would show that Appellant admitted that he would owe child support and alimony and that the difference between the temporary award and the final award were, in fact, minimal.

**CONCLUSION**

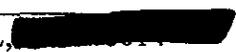
Mary L. Woodfin, your Appellee, submits that the Chancellor correctly decided on all Issues. The Appellant fails to establish pertinent facts or specific case law that shows any abuse of discretion; further, the Chancellor's decision was well within the parameters set forth by case law and well within factual determinations based on the evidence and testimony presented. The Chancellor's decision simply should be affirmed.

Additionally, your Appellee Mary Woodfin, unlike Appellee, has no funds for this appeal. Mary submits that Paris is in a significantly better financial position as she does not have a lucrative employment, any real marketable skills, and only a high school degree, whereas Appellant Paris Woodfin makes significant monies. Mary would therefore requests that this court award her attorney fees for this appeal.

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WHEREFORE, PREMISES CONSIDERED, your Appellee would submit that the Chancellor should be affirmed, that the appeal dismissed, and that this Court should award her attorney fees in a reasonable amount for the defense of this appeal.

Respectfully submitted, this the 2 day of March, 2009.

  
THOMAS WRIGHT TEEL, 

**CERTIFICATE OF SERVICE**

I, Thomas Wright Teel, Attorney for Defendant/Appellee, do hereby certify that I have on this date caused to be serviced by first class mail, postage prepaid, a true and correct copy of the above Brief of Appellant on the following persons:

Honorable James B. Persons  
Chancellor of Place One  
Harrison County Chancery Court  
Post Office Box 457  
Gulfport, MS 39507

Pamela Guren Bach, Esquire  
John Robert White, Esquire  
Post Office Box 8953  
Ridgeland, MS 39158

SO CERTIFIED, this the 2 day of March, 2009.

  
THOMAS WRIGHT TEEL, 