

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

CAUSE NO. 2000-CA-02098

T. C. BROOME

APPELLANT

VERSUS

SHELIA BROOME

APPELLEE

APPEAL FROM THE CHANCERY COURT OF JACKSON COUNTY, MISSISSIPPI

APPELLANT'S REPLY BRIEF

Oral Argument Is Not Requested

**MARK H. WATTS
408 CONVENT AVENUE
POST OFFICE DRAWER 1499
PASCAGOULA, MS 39568-1499
TELEPHONE #: (228) 762-2373
FACSIMILE #: (228) 769-1417
MISSISSIPPI STATE BAR #: [REDACTED]**

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

T. C. BROOME

APPELLANT

VERSUS

CAUSE NO. 2000-CA-02098

SHELIA BROOME

APPELLEE

CERTIFICATE OF INTERESTED PARTIES

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 disqualification or recusal:

1. T. C. Broome – Appellant.
2. Mark H. Watts - Attorney for Appellant.
3. William T. Reed - Attorney for Appellee.
4. Shelia Broome - Appellee.
5. Judge William H. Myers – Court Of Appeals Judge.
6. Judge Jaye A. Bradley - Chancellor, 19th District.

TABLE OF CONTENTS

	<u>PAGE</u>
CERTIFICATE OF INTERESTED PARTIES.....	i
TABLE OF CONTENTS.....	ii
ARGUMENT.....	1
CONCLUSION.....	4
CERTIFICATE OF SERVICE	5

APPELLANT'S REPLY TO APPELLEE'S ARGUMENTS

T.C.'s reply to Shelia's argument in regard to Issue No. I (Whether the Chancellor Erred in Denying Appellants Request to Terminate Alimony or to Reduce the Alimony Consistent with his Ability to Pay)

On page nine of the Applee's Brief the Appellee misstated the content of the trial transcript. T.C. did not testify that he had annual income of \$233,000.00 for 1997 as alleged in paragraph three. T.C. testified that his business was a subchapter S corporation and that he only received \$74,200.00. (T 50-51) He also did not testify that his annual income for 1998 was \$429,000.00. He did testify that in 1998 he received \$72,800.00 and \$1,396.00 and \$16,000.00. (T 51). T.C.'s annual salary in addition to draws from the company never exceeded \$100,000.00 for any given year. For the years 1997 through the date of that hearing, December 11, 2000, T.C. was only earning \$1,600.00, per week, which equals \$83,200.00, annually. (T 52).

In regard Shelia's allegation that T.C. never produced documentation concerning the sale of T.C. Broome construction company, the check received for T.C.'s portion of the company is included in the Appellant's Record Excerpts on Page 52. The date of that check is March 1, 2002. T.C. used this money to pay Shelia the balance of the judgments and the alimony arrearage that existed as of March 2002. The \$319,339.06 was deposited into the registry of the Jackson County Chancery Clerk on March 13, 2002. Following that deposit the Court released the funds to Shelia and cancelled all garnishments and liens against T.C. and also released his company stock that had been placed in the registry of the Court.

T.C.'s reply to Shelia's argument in regard to Issue No. II (Whether the Chancellor Erred in Refusing to Follow the Terms of the Mandate of the Court of Appeals)

Shelia argues that T.C. is attempting to re-litigate the issue of interest on the payment made to Shelia in June 1995 for her interest in the Company. The Trial Court gave T.C. the

option of paying Shelia her 30% share of his 60% share of the Company at the time of the divorce, June 16, 1995. The Court of Appeals clearly and precisely held that T.C. would be entitled to interest at judgment rate until such time as the issue of the value of the company was resolved. It was not until June 30, 2000 that the issue was finally resolved. The amount of interest that accumulated during that time was \$77,858.65. T.C. is entitled to that interest.

Shelia argues that because she agreed to accept a lump sum payment in the amount of \$35,580.00 for her remaining share of the company that somehow that cuts T.C. out of the interest that he was awarded by the Court of Appeals. The December 6, 2000, agreed Order only resolved her remaining interest in the company and did not address the interest that was awarded to T.C. He could have waited until the final resolution of the valuation of the company before any payment was made. Had he done that then he would have had the use of that money for five years. He could have invested it and drawn interest on it during that time or even put it out on the market and possibly made more than an 8% return. Shelia did not have to accept the payment. She could have waited until the valuation of the company was completed. Instead Shelia accepted the payment and therefore had the use of that money for the five years until the issue was resolved. Clearly the Court of Appeals contemplated that and in turn decided that T.C. would be entitled to interest.

No where in the record did T.C. ever agree to waive the interest that was awarded by the Court of Appeals. This matter was brought before the Court in the hearing on September 13, 2002. (T 31-32)

T.C.'s reply to Shelia's argument in regard to Issue No. III (Whether the Court Erred by Not Giving Credit for Payments Made on Judgments and Alimony)

This is simply a mathematical exercise. T.C. was ordered to pay \$3,000.00, per month, in alimony to Shelia. The payments were to begin on June 1, 1995. When T.C. sold his company in

March 2002 he wanted to use the proceeds from the sale to pay off the alimony arrearage and the remaining judgments. He paid the sum of \$319,339.06 in March 2002 based on the following calculations.

From June 1, 1995 to March 2002 is 81 months. Pursuant to the Court's Order of February 14, 2001 the remaining balance of all other judgments was \$26,339.06. The interest on the alimony arrearage and judgments was \$50,000.00.

81 months at \$3,000.00.....	\$243,000.00
Remaining Judgments.....	\$ 26,339.06
Accumulated Interest.....	<u>\$ 50,000.00</u>
Total Amount Owed as of March 2002	\$319,339.06
Paid in full March 2002	

Shelia claims there was no proof that T.C. continued to pay child support to her after the Children were emancipated. However, her attorney admits in his letter of January 18, 2002 that T.C. is paying after their daughter's emancipation. (RE 50) Shelia also admitted that T.C. continued to pay child support after the children were emancipated. She included the payments in her 8.05 financial declaration in 2005. (RE 85-91) The amount of support paid after emancipation equals \$40,000.00.

T.C. was not given credit for the \$13,049.37 that was withdrawn from two of his accounts. (CP28-29, RE 35-36), (CP 30, RE 140) In Spite of Shelia's argument this figure was used in the compilation of the entire arrearage that she claims he owed.

The Chancellor reduced T.C.'s alimony obligation to \$1,500.00 per month beginning March 2002. From March 2002 until November 2009 is 92 months.

92 months at \$1,500.00.....	\$138,000.00
After emancipation child support payments.....	-\$ 40,000.00
Attorney fee payment not credited.....	-\$ 13,049.37
Mandated Interest.....	<u>-\$77,858.66</u>
Amount Owed as of November 2009.....	\$7,091.34

CONCLUSION

Although Shelia argues that T.C. has lots of money lying around and is simply not willing to release any to her in spite of the Court's Orders, the record does not bear that out. T.C.'s tax returns show that even though his construction business made good money back in the early 90's his personal income never broke a hundred thousand, per year. In the years after the divorce his business and health declined to the point that his only option was to sell out and even that did not go well. He eventually had to file a lawsuit to get payment for his share of the company. At the present time, his sole source of income is social security disability benefits. Shelia got the lions share of the marital assets in the divorce and since then has received the lions share of T.C.'s remaining assets.

Even Shelia cannot argue with the math. No where in her brief does she even attempt to substantiate the Chancellors finding that T.C. owes her \$275,831.35. That is because it does not add up. The absolute most that T.C. could possibly owe as of the date of the order denying post trial motions, November 2009, is \$138,000.00, without credit for any of the deductions that he claims he is entitled too. She argues that T.C. should not be given credit certain payments but she cannot in good conscience argue that the Chancellor's findings, in regard to the amount of the arrearages, are correct.

This the 8th day of April, 2011.

Respectfully submitted,
T.C. Broome

By: 
MARK H. WATTS

CERTIFICATE OF SERVICE

I, Mark H. Watts, do hereby certify that I have this day mailed, by United States mail, postage prepaid, a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF to:

Honorable William T. Reed
Attorney At Law
Post Office Box 1428
Pascagoula, Mississippi 39568-1428

Honorable Jaye A. Bradley
Chancery Court Judge
Post Office Box 998
Pascagoula, Mississippi 39568-0998

THIS, the 8th day of April, 2011.



MARK H. WATTS

MARK H. WATTS
408 CONVENT AVENUE
POST OFFICE DRAWER 1499
PASCAGOULA, MS 39568-1499
TELEPHONE #: (228) 762-2373
FACSIMILE #: (228) 769-1417
MISSISSIPPI STATE BAR #: [REDACTED]