

IN THE DISTRICT COURT OF BOYD COUNTY, NEBRASKA

LIBIA CAYE VELDER,

Petitioner,

vs.

JAMES RUSSELL VELDER,

Respondent.

Case No. 4674

**DECREE OF DISSOLUTION
OF MARRIAGE**

On April 12, 2000, this matter came on for final hearing. Pursuant to the agreement of the parties, the trial was held at O'Neill, Holt County, Nebraska. The petitioner appeared personally and was represented by Forrest F. Peetz, and the respondent appeared personally and was represented by Jan L. Einspahr. Prior to trial, the respondent moved for leave to have the filing of March 7, 2000, entitled "Motion for Temporary Relief and Notice Telephonic Conference Hearing" deemed as the responsive pleading of the respondent. There was no objection. The motion was granted. A trial was had to the Court. A verbal stipulation was entered into between the parties on the record in open court. Opening statements were waived. Evidence was adduced for the petitioner. Evidence was adduced for the respondent. Rebuttal evidence was adduced for petitioner. Closing arguments were heard. The matter was taken under advisement.

NOW, effective upon **the date of filing of this decree** (the date of "entry"), the Court, being fully advised in the premises, hereby finds, orders, adjudges and decrees as follows:

1. **JURISDICTION:** At filing, the petitioner resided in this county and now resides in this county. The petitioner resided in Nebraska for more than one year prior to filing. More than 60 days have passed since personal service was perfected or a voluntary appearance was entered. Neither party is now a party to any other pending action in any court for divorce, legal separation, or dissolution of marriage. Neither party is a member of the Armed Forces of the United States or any of its allies. The Court has jurisdiction of both parties and the subject matter of this action.

2. **MARRIAGE:** The petitioner and the respondent were married on December 15, 1991, in the Village of Spencer, Boyd County, Nebraska.

3. **DISSOLUTION:** All reasonable efforts to reconcile have been made and there is no reasonable possibility of reconciliation. The marriage is irretrievably broken and should be, and hereby is, dissolved. This decree becomes final and operative after 30 days from date of entry, except for purposes of appeal and except that neither party may remarry (other than to each other) for six months from date of entry and the parties are deemed as married for health insurance purposes during such six month period. If either party dies prior to expiration of such time periods, the decree becomes final as of the date of entry.

4. **ISSUES TRIED AND ORALLY STIPULATED:** The parties were unable to agree as to certain issues and a trial was had on such issues. The parties stipulated in open court as to child custody (but not visitation) and as to division of property and debts. The stipulations are fair and reasonable in all respects and are not unconscionable, and are hereby approved, and compliance therewith ordered, and the findings and orders hereinafter made incorporate such stipulations insofar as they go, and the Court determines the other issues upon the evidence presented.

5. **PAYMENTS:** All payments of child support, alimony, attorneys fees, and/or costs ordered in this decree shall be paid to the Clerk of the District Court of Boyd County, Nebraska, for disbursement to the person entitled to receive the same. NO CREDIT MAY BE ALLOWED FOR ANY PAYMENT NOT PAID THROUGH THE CLERK OF THIS COURT.

6. **PETITIONER'S PROPERTY:** The petitioner's sole and separate property, subject to encumbrances unless otherwise provided herein, shall consist of:

a. All of the property now in the petitioner's possession except as specifically awarded to the respondent herein.

b. The 1978 Mercury Zephyr automobile.

c. Tangible personal property including: the tools identified as "grandpa's tools," including a brace and a bit set.

d. The bank accounts in the petitioner's name.

7. **RESPONDENT'S PROPERTY:** The respondent's sole and separate property, subject to encumbrances unless otherwise provided herein, shall consist of:

a. All of the property now in the respondent's possession except as specifically awarded to the petitioner herein.

b. The 1984 Chevrolet S-10 pickup truck.

c. Tangible personal property including: (1) bicycle, (2) two end tables, (3) car ramps, (4) two lawn chairs, (5) the coffee pots, and, (6) respondent's fishing poles.

d. The bank accounts in the respondent's name.

8. **DEBTS:** The indebtedness of the parties shall be paid as follows:

a. Except as otherwise provided herein, each party shall pay the debts incurred by them personally since their separation on or about August of 1995.

b. The petitioner shall pay the following: (1) all indebtedness to Spencer State Bank, totaling approximately \$10,906.29, (2) the debt to Leo Thomalson of approximately \$2,369.00, (3) the debt to Dr. Kiel of approximately \$240.00, (4) the computer debt of approximately \$370.00, and, (4) any indebtedness relating to real estate taxes on the house occupied by the petitioner.

c. The respondent shall pay the following: (1) the Dale Employee Credit debt of approximately \$325.00, and, (2) the Tom's Music debt for a saxophone of approximately \$1,000.00.

d. Each party shall indemnify and hold the other party harmless of all liabilities such party is required to pay and of all debts encumbering property such party receives.

9. **REAL ESTATE:** The parties stipulated that the house occupied by the petitioner is not titled in the petitioner's name and does not constitute marital property. Consequently, there is no real estate to be divided in this proceeding.

10. **ALIMONY:** Alimony shall be provided as follows:

a. The respondent shall pay alimony to the court clerk for disbursement to the petitioner in the total sum of \$3,750.00, payable as follows: \$250.00 per month

commencing on September 1, 2000, and on the first day of each of the next 14 consecutive months thereafter.

b. Such alimony is subject to termination on any one or more of the following:

- (1) the death of either party;
- (2) the remarriage of the petitioner;
- (3) the failure of the petitioner to enroll as, and commence actual

attendance as, a full-time on-campus student at Northeast Community College or other equivalent institution of higher learning in a degree program in licenced practical nursing or its equivalent on or before September 15, 2000; or,

(4) if the petitioner ceases to be so enrolled or ceases regular attendance prior to completing all requirements for such degree or certification.

c. There shall be no interest upon any installment paid on or before the due date thereof, but any delinquent installment shall bear interest at the rate of 7.197% per annum from due date until paid.

d. In addition, the indemnities as to debts and encumbrances are provided in partial substitution for alimony payments, and any such indemnity obligation shall be considered to be "in the nature of support," for the benefit of the party to whom the particular indemnity obligation runs.

e. The amount of delinquent temporary spousal support of \$75.00 (as of April 12, 2000) is preserved herein, and ordered paid by the respondent forthwith.

11. **COSTS AND ATTORNEYS FEES:** The respondent shall pay \$50.00 taxed as part of the costs of this action to the clerk of the court for disbursement to the petitioner. The respondent shall also pay attorney fees for the benefit of petitioner's attorney of \$750.00, in addition to any temporary allowance for such fees, taxed as additional costs. The costs shall be paid in installments at the rate of \$35.00 per month, commencing on May 1, 2000, and on the first day of each consecutive month thereafter until paid in full.

12. **CHILDREN:**

a. There is no entry concerning any minor child affected by this action in the Nebraska Child Custody Jurisdiction Act Registry of the Court, and this Court has jurisdiction of the minor children of the parties to this action, as follows:

Shayla Ree Velder, born on October 20, 1988; and,
Shantel Rae Velder, born on May 10, 1990.

b. The petitioner is awarded the care, custody and control of the minor children of the parties.

c. The respondent shall be entitled to the specific rights of visitation and correspondence set forth in Appendix "C" attached and incorporated by reference, except that the following special conditions and orders shall apply, and to the extent of any conflict with Appendix "C," the following special conditions and orders shall control. The special conditions and orders are:

(1) The respondent shall remove and dispose of all sexually-explicit materials now in his possession, and shall not exercise any visitation during any time that he has any such materials in his possession.

(2) The petitioner shall take reasonable means to assure that the children are properly instructed on the subject of inappropriate sexual touching by an appropriate health professional or mental health professional.

(3) The respondent shall not exercise any visitation in such manner as to allow or permit any inappropriate sexual touching or conduct, or any verbalization of such in the presence of either child, or in any manner which could reasonably be construed as any such inappropriate touching or conduct.

(4) For the calendar year 2000 only, extended summer visitation shall be limited to one period of nine consecutive days, which shall commence on the date that the extended summer visitation would have commenced under regular Appendix "C" extended summer visitation, and shall end nine days later.

(5) At the beginning of each visitation, the respondent shall notify the petitioner of all places or locations at which the visitation for such period will be conducted, and if plans change, shall use reasonable means to notify the petitioner of any changed or additional locations. The respondent shall also provide the petitioner with the

telephone numbers at all such locations except public restaurants. Violation of this condition shall constitute grounds for modification of the decree to limit or terminate such visitation, including appropriate *ex parte* relief.

(6) The petitioner shall have the right during any visitation to take reasonable steps to verify compliance with this order, including, but not limited to:

(A) Obtaining the assistance of law enforcement authorities at any time and from time-to-time to verify compliance. The respondent shall cooperate with law enforcement and shall allow any reasonable search of any premises upon which either child may be located. This order does NOT require law enforcement authorities to undertake any particular action or actions upon the petitioner's request. This portion of the order simply requires the respondent to permit any reasonable verification activities that law enforcement authorities may agree to undertake upon the petitioner's request.

(B) The petitioner may, either personally or through any agent designated in writing, conduct an announced or unannounced inspection during any visitation to verify compliance. Such inspection shall not occur more than once during any particular visitation. Such inspection shall be limited to verification of compliance with the order and shall not exceed 15 minutes in duration. The respondent shall permit and cooperate with any such inspection.

(C) Violation of this condition shall constitute grounds for modification of the decree to limit or terminate such visitation, including appropriate *ex parte* relief.

d. Appendix "A," Supplemental Order for Custody, etc., attached is incorporated into this Decree, and the parties are directed to comply therewith. To the extent of any conflict between Appendix "A" and the special conditions and orders set forth above, the special conditions and orders shall control.

13. **CHILD SUPPORT:**

a. The respondent is ordered to pay child support to the court clerk for distribution to the petitioner at the rate of \$483.00 per month when there are two children subject to the order, and \$335.00 per month when there is one child subject to the order.

Such payments shall commence on May 1, 2000, and continue in a like amount on the first day of each month thereafter until each child reaches majority under Nebraska law, becomes emancipated, becomes self-supporting, marries, or dies, or until the further order of the Court.

b. The amount of delinquent temporary child support of \$155.25 (as of April 12, 2000) is preserved herein, and ordered paid by the respondent through income withholding now in effect or, if withholding ceases to be effective, to be paid by the respondent forthwith upon cessation of withholding.

c. Delinquent child support installments shall bear simple interest from thirty (30) days after date of delinquency until paid at the rate of 7.197% per annum.

d. The child support amount has been determined pursuant to the Nebraska Child Support Guidelines, and the findings of the parties' incomes and calculations under the guidelines used in determining the amount of support are set forth on Appendix "B" attached hereto.

14. **WITHHOLDING & ENFORCEMENT (MANDATORY):**

a. The respondent's income shall be subject to income withholding, which shall be implemented pursuant to the Income Withholding for Child Support Act. Within thirty (30) days after the date of entry of decree, such party shall accurately prepare and sign a Notice to Withhold Income (Form DC-005), and deliver the notice to such party's current employer and provide a copy of such notice to the court clerk. Within thirty (30) days after any change of employment, a new Notice to Withhold Income shall be prepared, signed, and delivered, and a copy provided to the court clerk in the same manner.

b. In the event that such party fails to pay any child, medical, or spousal support payments, as such failure is certified each month by the District Court Clerk in cases where court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, such party may be required to appear before this Court on a date to be determined by the Court and show cause why such payment was not made. In the event such party fails to pay and appear as so ordered, a warrant shall be issued for such party's arrest.

15. **INCOME TAX EXEMPTION:** The respondent, if such party pays child support as ordered herein, shall be entitled to claim the minor children for dependency exemption purposes for federal and state income taxes. The petitioner is ordered to sign a written relinquishment of the petitioner's claim to the dependency exemption separately for each child for each year including and following the date of the decree until the obligation of support for such child terminates. The petitioner is ordered to deliver such relinquishment to the respondent for the next preceding calendar year on or before January 15 of each year, but only if all child support payments due are paid as of such date. The respondent is ordered not to claim any dependency exemption at any time when such party has not paid all child support payments which have become due. The Court retains jurisdiction to enter such orders as may be necessary, including contempt proceedings or modification of support, in the event such party claims a dependency exemption at a time when such party has not paid all child support payments which have become due.

16. **HEALTH INSURANCE:**

a. There is no health insurance for the minor children provided through the employment of either party. The children are presently covered by insurance through means-tested public assistance.

b. Any reasonable and necessary medical expenses incurred for a minor child for whom the obligation of support has not terminated and which are not reimbursed by insurance because such expenses are not covered or the amount representing any co-insurance requirement shall be paid 26% by the petitioner and 74% by the respondent. The respondent shall reimburse the petitioner for the respondent's share of any such expenses within 10 days after receiving appropriate documentation, including any insurance explanation of benefits form or its equivalent.

c. The health insurance policy information necessary to comply with the reporting requirement hereinafter set forth shall include, at a minimum, the following: (1) insurance company name and address; (2) policy number (for group policy, both group number and individual identifying number); (3) policy holder name (for group policy, both group name and individual name); (4) policy holder's social security number; and, (5)

name, address, and telephone number of any person or entity (such as an employer) with which claims are to be filed or reported.

17. **REPORTS:** Each party shall be required to furnish the Clerk of the District Court of Boyd County, Nebraska, in writing, with such party's address (including specific street address or other physical location, in addition to mailing address), telephone number, and social security number, the name and address of such party's employer, whether or not such person has access to employer-related health insurance coverage and, if so, the health insurance policy information, and any other information that the Court shall deem relevant until any judgment for alimony, child support, property settlement, attorneys fees, and/or costs, herein made are paid in full. Each party shall also be required to advise the Clerk of any changes in such information between the time of entry of this Decree and payment of the judgment in full, within ten (10) days after the effective date of such change. Failure to comply with the provisions of this section shall be punishable by contempt.

18. **DOCUMENTATION:** Each party is ordered to execute and deliver to the other party such documents as will be necessary to transfer all of the interest of the party not receiving the property to the party who shall receive the particular property under this Decree. In the event that any party fails to execute and deliver such documents within thirty (30) days of this Decree, this Decree shall have the effect of a conveyance and/or release under NEB. REV. STAT. § 25-1304, as amended, with the same effect as though the appropriate documents of conveyance or release had been executed and delivered in conformity with this Decree.

19. **JUDGMENT:** Judgment is hereby entered against respondent and in favor of petitioner for child support, alimony, attorneys' fees, and costs as above set forth.

IT IS THEREFORE ORDERED that the parties to this action shall fully comply with the above findings and orders.

Signed in chambers at O'Neill, Nebraska, on April 12, 2000.

DEEMED ENTERED as of date of filing by court clerk.

If checked, the Court Clerk shall:

- : Mail copy of decree to all counsel of record and to any pro se parties.
Done on _____, 20____ by _____.
- : Enter judgment on the judgment record.
Done on _____, 20____ by _____.
- : Mail postcard/notice required by § 25-1301.01 within 3 days.
Done on _____, 20____ by _____.
- : Note the decision on the trial docket as: [date of filing] Signed "Decree of Dissolution of Marriage" entered; judgment entered accordingly.
Done on _____, 20____ by _____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge