

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

DENICE KAY ATKINS,

Petitioner,

vs.

RUSS LOUIS ATKINS,

Respondent.

Case No. CI00-24

**DECREE OF DISSOLUTION
OF MARRIAGE**

DATE OF FINAL HEARING: March 12, 2001.

DATE OF RENDITION: March 15, 2001.

DATE OF ENTRY: Date of filing by court clerk.

This matter came on for final hearing. The petitioner appeared personally and was represented by R.D. Stafford. The respondent did not appear personally, but was represented by Rodney W. Smith. The parties having failed to achieve a written settlement agreement, the matter came on for hearing upon the petitioner's motion for default judgment, and hearing was had to the Court regarding the appropriate relief. The matter was taken under advisement.

NOW, effective upon the date of filing of this decree by the court clerk (the date of "entry" of decree), 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 19, 1987, in the City of O'Neill, Holt 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:** The parties were unable to agree as to any issues and a trial was had, and the Court determines the matters upon the evidence presented.

5. **NO CREDIT:** Credit shall **NOT BE ALLOWED** for any payments required to be paid to the Clerk of the District Court or to the State Disbursement Unit and which are not paid to the proper officer. All references to the court clerk or Clerk of the District Court shall mean the Clerk of the District Court of Holt County, Nebraska.

6. **PAYMENTS:**

A. All payments of property settlement, attorneys fees, and/or costs ordered in this decree shall be paid to the Clerk of the District Court for disbursement to the person entitled to receive the same.

B. Until the State Disbursement Unit becomes operative, all payments of alimony, child support, and/or medical support ordered in this decree shall be paid to the Clerk of the District Court for disbursement to the person entitled to receive the same. When the State Disbursement Unit becomes operative, all payments of alimony, child support, and/or medical support ordered in this decree shall be paid to the State Disbursement Unit for disbursement to the person entitled to receive the same.

7. **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. All of the contents of the family home, except those items specifically awarded to respondent as set forth below.

C. The real estate used and occupied as the family home, located at 518 East Everett Street, and legally described as Lots 13 and 14, Block 23, Original Town of O'Neill, Holt County, Nebraska, subject to the indebtedness thereon.

D. The entire account balance and all pension and retirement annuities, rights, and benefits applicable to the petitioner's teacher retirement account and participation in the Nebraska School Retirement System, retirement number [deleted].

8. **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 respondent's personal effects, clothing, and related articles located in the family home, which shall be marshaled by the petitioner and delivered to the respondent's parents or brother or other appropriate family representative within 60 days after the date of entry of this decree.

C. The motor vehicles, including automobiles, trucks, boats, motors, and trailers, identified on Appendix "D" attached hereto, including any proceeds thereof, subject to all indebtedness thereon.

D. The real estate in Wayman Tracts, legally described as the East Half of Tract 13, of Wayman Tracts, situated in the Northwest Quarter (NW¼) of Section 25, Township 29 North, Range 12, West of the 6th P.M., Holt County, Nebraska, as the same is surveyed, platted and recorded in Book "A" at Page 130, Public Records of Holt County, Nebraska.

E. The bank accounts identified on Appendix "D" attached hereto, including any proceeds thereof, subject to all indebtedness thereon.

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

A. Each party shall pay the debts incurred by that party personally since the separation.

B. The petitioner shall pay the following: (1) the indebtedness on the family home real estate, assigned by First Mortgage Company to Wells Fargo Home Mortgage, Inc., in the approximate amount of \$44,000.00, and, (2) all of the remaining credit card indebtedness existing as of the date of separation in the approximate amount of \$6,423.00.

C. The respondent shall pay the following: (1) Any indebtedness secured by any motor vehicle awarded to the respondent hereunder, (2) any remaining indebtedness attributable to the fuel business purchased and engaged in by the respondent, including but not limited to, any indebtedness to Glenn Brewster and/or Gary Brewster, and, (3) any other indebtedness incurred by the respondent that was in existence at the time of the trial but not disclosed by the respondent at the time of trial.

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.

10. **PROPERTY SETTLEMENT:**

A. The petitioner shall pay to the court clerk for disbursement to the respondent as property settlement the total sum of \$14,426.00, payable as follows:

(1) \$4,500.00 shall be applied by the court clerk as a credit against the respondent's obligation to pay temporary child support, in full satisfaction of such temporary obligation;

(2) The balance of \$9,926.00, together with interest on the unpaid balance from date of entry of judgment at the judgment rate, shall be paid in twenty (20) monthly amortized installments of \$500.00 per month, including both principal and interest at said rate on the unpaid balance, the first monthly installment due on April 1, 2001, and like installment for the next 19 consecutive months thereafter, and a final installment of \$401.94, including both principal and accrued interest, due on December 1, 2002, in accordance with the incorporated Appendix "E" attached.

B. The judgment shall bear interest at the judgment rate (see "JUDGMENT" paragraph below) from the date of entry until paid.

C. So long as the petitioner's child support judgment is not assigned, either by the petitioner or by operation of law, the property settlement judgment shall be satisfied by the application of a credit of the amount due on the property settlement judgment in partial satisfaction of the child support judgment. The court clerk is authorized and directed to apply such credits automatically as they accrue, including the satisfaction of the temporary child support obligation as of the date of entry of this decree, until further order.

11. **ALIMONY:** Neither party shall pay any alimony to the other party.

12. **COSTS AND ATTORNEYS' FEES:** Each party shall pay such party's own final costs, including attorneys' fees.

13. **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:

Laurel Kindra Atkins, SSN [deleted], born on July 17, 1991; and,
Alex Renea Atkins, SSN [deleted], born on March 7, 1996.

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

C. Because of evidence of instability and undependability of the respondent and evidence of outstanding criminal arrest warrants for the respondent, the visitation rights of the respondent are limited until further order to supervised visitation in the physical presence of either of the respondent's parents.

14. **CHILD SUPPORT:**

A. The respondent is ordered to pay child support to the court clerk until the State Distribution Unit becomes operative, and thereafter to the State Distribution Unit, for distribution to the petitioner, at the rate of \$731.00 per month when there are two children subject to the order, and \$499.00 per month when there is one child subject to the order. Such payments shall commence on April 1, 2001, 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 support of \$4,500.00 is preserved herein, and ordered satisfied by crediting such amount to the property settlement judgment against the petitioner as set forth above.

C. Delinquent child support installments shall bear simple interest at the judgment rate (see "JUDGMENT" paragraph below) from thirty (30) days after date of delinquency until paid.

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.

15. 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.

B. The parties' social security numbers are:

(a) petitioner: [deleted];

(b) respondent: [deleted].

C. 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 prior to the date the State Disbursement Unit becomes operative, and/or the State Disbursement Unit after the date that it becomes operative, 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.

16. HEALTH INSURANCE:

A. The petitioner shall provide health insurance coverage on each minor child until the obligation of support terminates as above set forth, so long as such coverage is provided through such party's employment.

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 shall be paid 50% by the petitioner and 50% by the respondent.

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 Holt 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:**

A. Judgment is hereby entered against respondent and in favor of petitioner for child support as above set forth.

B. Judgment is hereby entered against petitioner and in favor of respondent for property settlement as above set forth.

C. The judgment rate applicable as of the date of entry of this decree is 5.442% per annum.

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

Signed in chambers at Ainsworth, Nebraska, on March 15, 2001.
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

APPENDIX "D"
PROPERTY DIVISION & SETTLEMENT
Atkins v. Atkins
District Court, Holt County
Case No. CI00-24

		<u>PETITIONER</u>	<u>RESPONDENT</u>
A.	Household Furnishings & Equipment		
1	household furniture, etc.	1,500.00	
B.	Deposit Accounts		
	Pinnacle Bank, account		8,627.94
	First National Bank, joint account		1,000.00
C.	Motor Vehicles		
	1981 Ford pickup		1,800.00
	1983 Cadillac, vin [deleted]		2,400.00
	1983 Chevrolet van, vin [deleted]		2,125.00
	early 1970s Porsche automobile		2,500.00
	1985 Mack truck or proceeds		5,000.00
	1991 Mack truck or proceeds		15,000.00
	less debt		-10,500.00
	1978 Starcraft boat, motor, trailer, vin [deleted]		1,500.00
D.	Real Estate		
	family home, 518 E. Everett	60,000.00	
	less debt on family home	-44,000.00	
	lot in Wayman Tracts		20,000.00
E.	Life Insurance		
	none		
F.	Miscellaneous		
	teacher retirement account	39,342.16	

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	<u>PETITIONER</u>	<u>RESPONDENT</u>
G. Other Debts		
credit card debt	-6,423.00	
Brewster debt		-27,886.00
NET PROPERTY/DEBTS IN-KIND	<u>50,419.16</u>	<u>21,566.94</u>
EQUAL DIVISION	35,993.05	35,993.05
PROPERTY SETTLEMENT	-14,426.11	14,426.11
ROUNDED	<u><u>-14,426.00</u></u>	<u><u>14,426.00</u></u>