

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

54046 C

JACK G. BURNS,

Plaintiff,

v.

WE1 WE1 BURNS,

Defendant.

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

AUG 23 2001

PATRICIA PRESLEY, COURT CLERK
BY

NO. FD-2000-5'203

JOURNAL ENTRY, DECREE OF DIVORCE, and JUDGEMENT ON 8 USC §1183a

NOW on this 5th day of June, 2001, there came on for trial before me, the undersigned District Judge the Plaintiffs Petition for Divorce and the Defendant's Cross-Petition for Divorce and for Support under 8 USC §1183a.

RECITATIONS

The Plaintiff appeared in person and with his attorney, Tom Wakely and the Defendant appeared in person and with her attorney Thomas Neil Lynn, III of Legal Aid of Western Oklahoma, Inc.

ACTION FOR DIVORCE

The Court having examined the files and records herein, having heard sworn testimony, having received exhibits, and entertained the arguments of counsel, and otherwise being thus fully advised in the premises, FINDS:

1. That this Court has jurisdiction over the subject matter and the parties hereto; that the parties are properly before the Court, that both parties have been residents of the State of Oklahoma for the 6 months prior to the filing of the Petition for Divorce, herein, and that both parties had been residents of this County for 30 days prior to the filing.
2. That the parties entered into a valid and binding marriage on January 14, 1998, in Beijing, Peoples Republic of China and are at present husband and wife. The parties were separated on October 21, 2000.
3. That no children have been born of the marriage, and the wife is not now pregnant. The wife does have an adult child by a prior marriage.
4. That the parties are entitled to a decree of divorce from each other on the grounds of complete and irreconcilable incompatibility such as to render the aims of the marriage void.

5. That the parties entered into certain stipulations regarding the division of personal property and payment of debt which the court has examined and approved. As to tangible personal property, each party agrees to retain possession of that tangible personal property now in their possession. As to a jointly held bank account of the parties, it is agreed that the account held a balance as of the filing date of the divorce action in an amount of Three Thousand Eight Hundred Dollars (\$3,800.00) which the parties stipulated would be split evenly not later than September 1, 2001. The parties agree that no information of other joint accounts or divisible retirement accounts was produced during discovery. Also stipulated is that as the parties filed a joint tax return for the year 2000 and that there is a likely rebate as a result of pending federal legislation, that any such rebate shall be divided evenly when received by the Plaintiff and one half thereof shall be paid immediately to the Defendant. As regarding the jointly acquired debt of the parties, the Plaintiff agreed to pay all debts of the parties prior to the separation date, and all medical expenses not reimbursed by insurance of the Defendant up to the date of Trial. Plaintiff further agreed to pay the expenses of the current planned surgical procedure not reimbursed by insurance.

6. The Court finds that the Plaintiff made a gift of the Subaru Outback, VIN JF1GF4855VH818729 to the Defendant, as such, this vehicle is the separate property of the Defendant, the Plaintiff is responsible for any debt thereon, from which he shall hold the Defendant harmless.

7. That the Court finds that the Plaintiff was possessed of separate property to-wit:
- a. His real property which has remained throughout the marriage in his name alone; more particularly described as:

Lot Seven (7) in Block Two (2) of Northlake, an addition to the City of Oklahoma City, OK Oklahoma County, according to the recorded plat thereof.

and that he did not make a gift of the home to the Defendant prior to or during the marriage.

- b. His vehicle, a 1995 Ford Explorer VIN FMCU22X1 WC97069

8. That the court does find a joint industry increase in the value of the Plaintiffs real property resulting from construction on the property, and reduction in the debt owed due to payments from joint industry funds and that Defendant share of that increase is Two Thousand Seven Hundred Dollars (\$2,700.00) which is ordered to be paid as property division alimony in three installments of \$1,000.00 on July 1, \$1000.00 on August 1, and \$700.00 on September 1, all in the year 2001.

9. That the Defendant is a Chinese national and does not speak sufficient English to

be fully employed to support herself in a manner to which she has become accustomed, further the Defendant is a medical doctor in the PRC and while the Court does not find that Defendant is capable of and the court desires her to assist in her own support, the Plaintiff is employed and has sufficient income to support himself, pay the obligations of the parties and pay support alimony in the amount of \$1,000 per month for 24 months and \$500.00 for 24 months for a total of Thirty Six Thousand Dollars (\$36,000.00.)

10. The Court further finds that the Defendant is in need of-English lessons, which in addition to those items in number 7 above, the Plaintiff has the ability to pay.

11. That the reasonable cost of such lessons is not more than \$627.00 per month. The length of this obligation is limited to 24 months.

JUDGEMENT ON 8 USC §1183a

12. That the Plaintiff was appropriately notified of Defendant's claim for support under 8 U.S.C. § 1183a as contained in her Amended Petition and he presented **argument** and authority against the prayers of Defendant.

13. That the Court finds as a matter of law that the Defendant's cause of action under 8 U.S.C. §1183a, for support at 125% of the "Federal poverty line" which means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 9902(2) of Title 42) (currently \$895.00) that is applicable to a family of the size involved, is proper, and that the Affidavit of Support is enforceable against the Plaintiff as her sponsor, and that the action is appropriately brought in this Court.

14. That Defendant's possible relief under 8 U.S.C. §1183a will be available until the first occurrence of the death of the Plaintiff or Defendant; the naturalization of the Defendant; the Defendant leaving the United States without intention of returning; or upon the Defendant having 40 quarters of work of coverage as defined under title II of the Social Security Act [42 U.S.C.A § 401 et seq.] or that she can be credited with such qualifying quarters worked by a spouse during her marriage and that she remains married to such spouse or such spouse is deceased.

15. That the Defendant under 8 U.S.C. §1183a is entitled to the lesser of:

- a. A payment equal to 125% of poverty for one person as defined paragraph 13 in above.
- b. A payment sufficient to bring the household in which Defendant lives up to poverty.
- c. A payment which when combined with the actual income of the Defendant equals 125% of poverty for one person as defined above.

16. That the Defendant does not qualify for an order of payments under 8 U.S.C. §1183a at this time due to other support awards made by the Court pursuant to 43 O.S. §121.

17. That the Court retains jurisdiction under 8 U.S.C. §1183a to grant the authorized relief upon appropriate application of the Defendant with notice thereof to the Plaintiff.

THE COURT THEREFORE ORDERS, ADJUDGES AND DECREES that the marital bonds existing between the Plaintiff and Defendant are hereby dissolved on the grounds of incompatibility such as to render the aims of the marriage void. The parties are advised of the statutory prohibition against remarriage to anyone other than the other party for a period of six months from this date.

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that each party is awarded that tangible personal property now in their possession.

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that the jointly held bank account of the parties identified in non public documents shall be divided with each party receiving \$1,900.00. The split shall be not later than September 1, 2001.

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that any tax rebate received shall be divided evenly when received by the Plaintiff and one half thereof shall be paid immediately to the Defendant.

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that the Plaintiff was possessed of separate property to-wit:

- a. Lot Seven (7) in Block Two (2) of Northlake, an addition to the City of Oklahoma City, OK Oklahoma County, according to the recorded plat thereof; and
- b. His vehicle, a 1995 Ford Explorer VIN 1FMCU22X1VUC97069

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that the 1997 Subaru Outback, VIN JF1GF4855VH818729 is the separate property of the Defendant. The Plaintiff is responsible for the debt on this vehicle and shall hold the Defendant harmless therefrom.

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that the Plaintiff shall assume and pay all joint debts of the marriage up to the date of separation and all medical debts of the Defendant up to the date of trial, and the medical debts of the Defendant for the current contemplated surgery and followup care up to the date of July 1, 2001 not reimbursed by by insurance.

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that the Plaintiff

shall pay as and for Property Division Alimony the sum of Two Thousand Seven Hundred Dollars (\$2,700.00) payable as follows: \$1,000.00 on July 1, \$1000.00 on August 1, and \$700.00 on September 1, all in the year 2001.

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that the Defendant is granted a judgement for support alimony terminable upon the statutory grounds in the total sum of Thirty Six Thousand Dollars (\$36,000.00.) payable as follows: \$1,000.00 per month for 24 months and \$500.00 per month for 24 months.

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that the Plaintiff provide for English lessons for the Defendant at a cost of up to \$627.00 per month for twenty-four months. Said payments are to be made directly to the school and not to the Defendant and are not support for the Defendant.

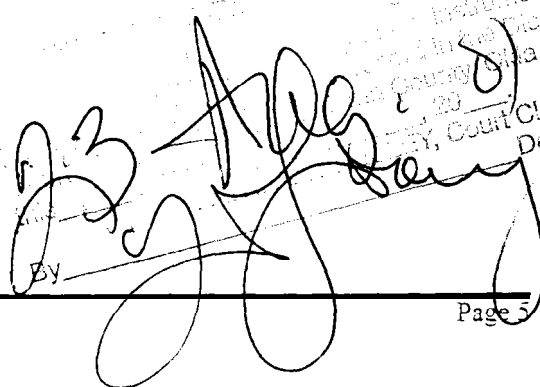
THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that the action under 8 U.S.C. §1183a is proper; and judgement is granted for the Defendant on the issue of the applicability of this act to her right to support at the level of 125% of the "poverty line" as defined in the action; that due to the support alimony award in the divorce action in excess of 125% of the "poverty line," no payment from the Plaintiff to the Defendant is required at this time; that this Court retains jurisdiction to award support payments in the future per the above findings upon application of the Defendant should the household income of the Defendant fall below the "poverty line."

THE COURT FURTHER ORDERS, ADJUDGES AND DECREES that the issues of costs and attorney fees are reserved for motion.

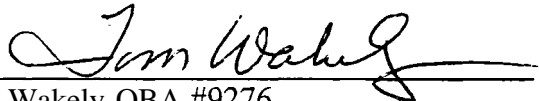
Signed this 23 day of Aug, 2001.

VICKI ROBERTSON

VICKI L. ROBERTSON
JUDGE OF THE DISTRICT COURT

BY 
Vicki L. Robertson, Court Clerk Deputy
for Oklahoma
is a
District
County, Oklahoma.

Approved as to Form:



Tom Wakely OBA #9276

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ATTORNEY FOR PLINTIFF



Jack Burns, Plaintiff



Thomas Neil Lynn III, OBA 5583

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ATTORNEY FOR DEFENDANT

Defendant declines to sign.