

IN THE INDIANA COURT OF APPEALS
CAUSE NO. _____

JOSHUA ANSELM,)
Appellant,) Appeal from the Jasper Superior Court
)
vs.) Trial Court Cause No. 37D01-1803-DC-205
)
ASHLEY ANSELM,)
Appellee.) Hon. Russell D. Bailey, Judge
)

NOTICE OF APPEAL
(Appearance)

Party Information

Name: Joshua Anselm
Address: _____

Requesting service of orders and opinions of the Court by:
 E-mail FAX or U.S. Mail (choose one)
In forma pauperis: Yes No

Attorney or attorneys representing party filing Notice of Appeal, if any (all fields must be supplied):

Name: Bryan L. Ciyou Tel. No.: (317) 972-8000
Attorney # 17906-49 Fax No.: (317) 955-7100
Address: 50 E. 91st Street, Suite 200 E-Mail: bciyou@ciyoudixonlaw.com
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Name: Alexander N. Moseley Tel. No.: (317) 972-8000
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Indianapolis, IN 46240

INFORMATION FOR JUDGMENT/ORDER BEING APPEALED

Date of Judgment/Order being appealed: November 5, 2019
Title of Judgment/Order being appealed: “Findings of Fact and Conclusions of Law for Order of Final Hearing as to Custody, Support, and Property Settlement”
Date Motion to Correct Error denied or deemed denied, if applicable: N/A
If case was heard by a magistrate, date trial judge approved judgment or order: N/A
Basis for Appellate Jurisdiction:

- Appeal from a Final Judgment, as defined by Appellate Rule 2(H) and 9(I)
 Appeal from an interlocutory order, taken as of right pursuant to Appellate Rule 14(A),(C),(D)
 Appeal from an interlocutory order, accepted by discretion pursuant to Appellate Rule 14(B)(3)

Expedited Appeal, taken pursuant to Appellate Rule 14.1

This appeal will be taken to:

Court of Appeals of Indiana, pursuant to Appellate Rule 5

Indiana Supreme Court, pursuant to Appellate Rule 4

This is an appeal in which a sentence of death or life imprisonment without parole is imposed under Ind. Code § 35-50-2-9 or a post conviction relief case in which the sentence was death

This is an interlocutory appeal authorized under Rule 14 involving the death penalty or a life without parole case raising a question of interpretation of Ind. Code § 35-50-2-9

This is an appeal from an order declaring a statute unconstitutional

This is an appeal involving a waiver of parental consent to abortion under Rule 62

This is an appeal involving mandate of funds

Trial Court Clerk/Administrative Agency/Court Reporter Instructions

Pursuant to Appellate Rule 10 or 14.1(C), the clerk of Jasper County is requested to assemble the Clerk's Record, as defined in Appellate Rule 2(E).

Pursuant to Appellate Rule 11 or 14.1(C), the court reporter of the Jasper County Superior Court is requested to transcribe, certify, and file with the clerk of Jasper County the following hearings of record, including exhibits: June 27, 2019

Public Access

Was the entire trial court or agency record sealed or excluded from public access?

Yes No

Was a portion of the trial court or agency record sealed or excluded from public access?

Yes No

If yes, which provision in Administrative Rule 9(G) provides the basis for this exclusion:

If Administrative Rule 9(G)(1)(c) provides the basis for this exclusion, was the trial court or agency order issued in accordance with the requirements of Administrative Rule 9(H)?

N/A Yes No

Appellate Alternative Dispute Resolution

If civil case, is Appellant willing to participate in Appellate Dispute Resolution?

Yes No

If yes, provide a brief statement of the facts of the case. (Attach additional pages as needed.)

Attachments

The following SHALL be attached to this Notice of Appeal (in all appeals):

Copy of judgment or order being appealed

The following SHALL be attached to this Notice of Appeal if applicable (check if applicable):

Copy of the trial court or Administrative Agency's findings and conclusion (in civil cases)

Copy of the sentencing order (in criminal cases)

- Order denying Motion to Correct Error or, if deemed denied, copy of Motion to Correct Error
- Copy of all orders and entries relating to the trial court or agency's decision to seal or exclude information from public access
- If proceeding pursuant to Appellate Rule 14(B)(3), copy of Order from Court of Appeals accepting jurisdiction over interlocutory appeal
- The documents required by Rule 40(C), if proceeding *in forma pauperis*

Certification

By signing below, I certify that:

- (1) This case does does not involve an interlocutory appeal; issues of child custody, support, visitation, adoption, paternity, determination that a child is in need of services, termination of parental rights; or an appeal entitled to priority by rule or statute.
- (2) I have reviewed and complied, and will continue to comply, with the requirements of Appellate Rule 9(J) and Administrative Rule 9(G)(4) on appeal; and,
- (3) I will make satisfactory payment arrangements for any Transcripts ordered in this Notice of Appeal, as required by Appellate Rule 9(H).

Respectfully submitted,

/s/ Bryan L. Ciyou

Bryan L. Ciyou

/s/ Alexander N. Moseley

Alexander N. Moseley

CIYOU & DIXON, P.C.

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ATTORNEYS FOR APPELLANT

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 20th day of November, 2019, the foregoing was filed with the Clerk of the Indiana Supreme Court, Court of Appeals, and Tax Court.

I certify that on this 20th day of November, 2019, the foregoing was served by the Court's Electronic Filing System upon:

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I certify that on this 20th day of November, 2019, the foregoing was served by U.S. first class mail postage prepaid upon:

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I certify that on this 20th day of November, 2019, the foregoing was served by email upon:

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/s/ Bryan L. Ciyou _____
Bryan L. Ciyou
CIYOU & DIXON, P.C.

STATE OF INDIANA)
)
 COUNTY OF JASPER)
)
 IN RE THE MARRIAGE OF:)
)
 ASHLEY ANSELM,)
 Petitioner/Mother,)
 and)
)
 JOSHUA ANSELM,)
 Respondent/Father)

IN THE JASPER SUPERIOR COURT
 RENSSELAER, INDIANA

FILED
 IN OPEN COURT

NOV 05 2019

CAUSE NO: 37D01-1803-~~000~~000 Jasper Superior Court

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR
 ORDER OF FINAL HEARING AS TO CUSTODY, SUPPORT, AND PROPERTY
 SETTLEMENT**

Comes now the Petitioner, Ashley Anselm, (hereinafter “Mother”), in person and by counsel, Samantha M. Joslyn, and comes now Respondent, Joshua Anselm, (hereinafter “Father”), in person and by counsel, Richard O. Kallenbach, all for purposes of final hearing on Thursday, June 27, 2019. Issues stipulated to at the start of the hearing including the income of the parties. At the conclusion of the evidence and testimony, the Court granted the dissolution of the parties, finding that the jurisdictional and statutory elements have been met, and took all remaining matters under advisement. Therefore, the Court now enters the following findings and order on these issues taken under advisement.

CUSTODY AND VISITATION

1. The parties were married on the 31st day of May, 2014, and separated on the 16th day of March, 2018. The Mother filed her Petition for Legal Separation on or about March 20, 2018. She subsequently filed to convert the matter to a Dissolution on or about August 17, 2018, which the Court granted on or about August 20, 2018.

2. Mother and Father shall have joint legal custody with Mother having primary physical custody, control and supervision of the parties’ unemancipated minor children, namely; Victoria Anselm, d/o/b: 3/12/2015 and Gunther Anselm, d/o/b: 10/23/2016 ("minor children"), until said children are each, individually and respectively, deemed emancipated, graduate from college, or reach the age of nineteen (19) years or until further Order of this Court, whichever occurs first.

3. The Father and Mother shall have joint legal custody of the minor children with Mother awarded physical custody of the minor children. The Court finds that it is in the best interest of the minor children that they remain in physical custody of the Mother as she is the primary caregiver of the minor children and it is important that the children have a consistent routine.
4. That Father shall have parenting-time as agreed by the Parties with the expectation that he shall have the children when he is off, which is currently alternating weekends and one evening per week. This would include an overnight visit. If the parties cannot agree, the Indiana Parenting-Time Guidelines would control and be seen as the minimum. The Indiana Parenting Time Guidelines shall be used in the event of a dispute if an agreement cannot be reached regarding any additional parenting time and holiday parenting time schedule.
5. The Court notes Mother's concerns and the evidence presented regarding alcohol use by Father and finds that while it is a cause for concern, it does not impair his ability to care for the minor children or make him unfit as a parent in any way. The Court orders that both parents shall refrain from the use of alcohol or any non-prescribed controlled substance during the time that they are exercising parenting time with the minor children, as this is in the best interests of the children.
6. Mother and Father each shall use her and his respective best efforts to encourage and foster the maximum relationship of affection between their children and said children's other parent.
7. That both parents shall refrain from any negative or derogatory remarks about the other parent, in person, over the phone, or on social media. Should a family member or friend make such remarks, they should be notified to stop or deleted (if on social media).
8. Each of the parties shall at all times keep the other informed of his or her place of residence and residential telephone number and shall promptly notify the other of any change, in writing, giving the new residential address and/or telephone number. If either of the parties determine to take a vacation with said children, said party shall deliver to the other party

an itinerary of said vacation, including addresses and telephone numbers where said party and said children may be reached in case of an emergency.

CHILD SUPPORT

1. The parties had stipulated to Father's weekly gross income being \$900.00 per week with Mother's being \$543.00 per week. The Court accepts this stipulated fact.
2. Commencing forthwith and until the minor children are emancipated, graduate from college, or reach the age of nineteen (19) years or until further Order of the Court, whichever occurs first, Father shall pay to the Mother for and on behalf the parties' minor child in the amount of One Hundred Seventy-Three (\$173.00) dollars per week. This shall be paid via Income Withholding Order. The parties agree that there is no arrearage as of the final hearing.
3. Father shall continue to provide medical, dental, optical, and pharmaceutical coverage for the minor children and will as long as it is available for him to do so at a reasonable cost.
4. Father shall be solely responsible for all uninsured medical costs based upon his having the Health Savings Account.
5. Mother should provide copies of all bills/expenses to Father in a timely manner to be reimbursed for the same. The parties shall, when practical, consult with each other and shall, at all times, cooperate with each other and shall do what is required to cause any applicable insurer to pay any of the aforesaid expenses which may be covered by insurance.
6. The parties shall split any and all extracurricular expenses for the minor children, including but not limited to sports, scouts, 4H, etc., with Father paying 50% and Mother paying 50% of said expenses each calendar year. Said extracurricular expenses include any and all necessary equipment or uniforms that is required for said activities.
7. Additionally, should there be any school expenses for the minor children, such as books, school supplies, clothing/uniforms, etc, including post-secondary education, the parties shall equally be responsible for those expenses as well; however, Father

should be solely responsible for the tuition for any private school the children would attend, including St. Augustine Elementary School and Preschool.

8. Mother shall be entitled to claim Gunther for income tax purposes as a tax deduction for both Federal and State Income Tax purposes each year. Father shall be entitled to claim Victoria every year as a tax deduction for both Federal and State Income Tax purposes. Father shall only be entitled to claim the child or children provided he is at least 95% current in his support obligation by January 15th for the year he is to claim the child.
9. Mother has requested to keep her married name and shall continue to be known as Ashley Gail Anselm.

PROPERTY DIVISION AND DEBT DIVISIONS

REAL ESTATE

1. The Parties own real estate located at 224 N. New York Street, Remington, IN that was owned by the Father prior to marriage and remains in his name alone.
2. The value of the property was disputed at the Final Hearing, as there have been improvements made to the property during the marriage. However, an appraisal of the property was not done by either party and there was no evidence of the value of the improvements. Therefore, the Court finds the value of the property is \$64,000.00.
3. The former marital residence located at 224 N. New York Street, Remington, Indiana shall become the sole property of Father. Father shall be responsible for the costs associated with the same, including the utilities, insurance, and maintenance. Father shall hold Mother harmless from those obligations.
4. There is a mortgage on the real estate which has a balance of \$34,987.03 at the time of separation, along with what is known as the basement loan with an initial balance of \$19,376.00 and a remaining balance of \$18,645.00 at the time of separation. Father shall be solely liable for these debts and hold Mother harmless from the same.
5. That there is believed to be equity in the house in the amount of \$33,000.00. Mother shall be entitled to half of the equity, the same being \$16,500.00, which shall be paid to her within 180 days.

PERSONAL PROPERTY DIVISION

INVESTMENTS/RETIREMENT ACCOUNTS/INHERITANCES/INSURANCES

1. Each party has respective retirement accounts. Each party is entitled to receive a fifty percent interest in the increase of the accounts from the date of marriage of May 31, 2014 to March 20, 2018, the date of filing for legal separation.
2. Father has a 401(k) Plan which is managed by Merrill Lynch with a value of \$122,435.48 as of September 30, 2018. Mother shall be entitled to fifty percent (50%) of the value of the same that was accumulated during the marriage between May 31, 2014 (DOM) and March 20, 2018 (DOF). The same should be paid via a Qualified Domestic Relations Order prepared at Father's expense within ninety (90) days of this order by Father's attorney.
3. Mother has a small retirement account, an IRA with PNC Investments with a value of \$5,271.59 as of April 1, 2018. Father shall be entitled to fifty percent (50%) of the value of the same that was accumulated during the marriage between May 31, 2014 (DOM) and March 20, 2018 (DOF). The same should be paid via a Qualified Domestic Relations Order prepared at Mother's expense within ninety (90) days of this order by Mother's attorney.

BANK ACCOUNTS

1. Any account at any place held in the individual name of the parties shall be the sole and separate property of that person and the other waives any and all claim to the accounts. Any account still held in both names shall be Father's sole property.

PERSONAL PROPERTY/AUTOMOBILES

1. The Court finds that neither party has submitted any evidence of value on any item of personal property and the attorneys should be and are hereby admonished for failing to do so, as there are several items of personal property that are in dispute for the Court's determination on the division of assets.
2. Each party should be and hereby is awarded any property given or paid for by their respective families. However, these assets were not specifically named at the final hearing, but both parties agreed to this provision.
3. The Father shall be awarded the 2008 Ford Explorer and shall be responsible for all debts and insurance associated therewith and holding the Wife harmless from any liability thereon. The Wife shall execute any and all necessary documentation necessary to remove her name from the title associated therewith. The value of the vehicle, or debt associated with, was not stated by either party. The distribution is based on the wishes of the

parties. Therefore, the Court finds that the value of the vehicle is equal to the other vehicle.

4. The Mother shall be awarded the 2005 Ford Focus and shall be responsible for all debts and insurance associated therewith holding the Husband harmless from any liability thereon. The Husband shall execute any and all necessary documentation necessary to remove his name from the title associated therewith. The value of the vehicle, or debt associated with, was not stated by either party. The distribution is based on the wishes of the parties. Therefore, the Court finds that the value of the vehicle are equal to each other.

5. Mother shall keep all personal property, including automobiles and clothing presently in her possession. Mother shall also be entitled to obtain from the former marital residence the following items that Father agreed to her keeping:

- Movable island in kitchen
- Two tables located in basement
- Wewel Castle drawing from Poland
- Dishes received from wedding
- Wedding dress
- Picture in Victoria's room made by Ashley's mom
- Red table and chairs on porch
- Items that were brought into the marriage by Ashley or were given to her as gifts during the marriage, including kitchen items, vacuum, and items in basement
- All of her dvds upstairs and in basement
- 1 tan blanket
- Chest in master bedroom
- The bed set down in the basement
- All the wall decorations that Ashley came into the house with
- Everything in the basement that is Ashley's
- 1/2 the kid's books (Ashely wants the keepsake books)
- Kitchen items that Ashley came into the house with.

6. The following items that are in dispute are awarded to Father and he shall be responsible for any debts associated with these items that is in the approximate amount of \$2,179.00 to the Room Place, holding Mother harmless from the same.

- Bed (mattresses and frame) in Master Bedroom
- Victoria's bed and one dresser from her room
- A dresser from Gunther's room
- Living room couch and entertainment center
- All the kid's clothes in the basement (they are the ones that are out grown)

7. The following disputed ownership of assets shall be given to Mother:
 - Kid's keepsakes
 - Some of Gunther's trucks/tractors
 - Half of the outdoor toys
8. Father shall keep all personal property, including automobiles and clothing, presently in his possession apart from the items noted above. Mother shall execute any and all documents required to effectuate transfer of ownership interest.
9. Mother shall keep all personal property, including automobiles and clothing, presently in her possession apart from the items noted above. Father shall execute any and all documents required to effectuate transfer of ownership interest.
10. Each party shall specify to the other what photographs in the possession of the other that they want copies of and shall pay the cost of obtaining such copies.

DEBTS

1. Each party shall be responsible for their respective personal debts incurred subsequent to the filing of Petition for Dissolution of Marriage.
2. Each party is responsible for all debts in their respective names.
3. Neither party shall incur any debt in association with the name of the other party.

ATTORNEY FEES/COSTS

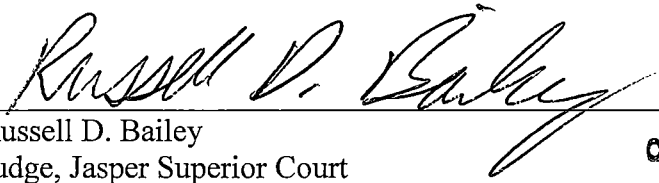
1. That Father and Mother's attorney fees shall be a debt owed by them individually to his or her respective counsel. Neither party shall be responsible for the payment of attorney fees to the opposing counsel and such request by Mother is denied.

So ORDERED ON THIS November 5, 2019

Entered on November 6, 2019

F I L E D
IN OPEN COURT

NOV 05 2019



Russell D. Bailey
Judge, Jasper Superior Court


Clerk of the Jasper Superior Court

November 6, 2019