

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA
FILED

2007 OCT 15 P 2:49

IN RE
THE MARRIAGE OF:

SHARRON K. CHENAULT,
Petitioner,

ADELL CHANDLER
CIRCUIT CLERK
CABELL WV

Civil Action No. 94-D-863
Judge Alfred E. Ferguson

and

THOMAS D. CHENAULT,
Respondent.

Order Affirming Family Law Judge's Order

This matter first came before this Court on July 30, 2006 at which time Respondent filed a "*Petition for Appeal from Family Court Final Order.*" Petitioner did file an "*Answer to Appeal.*" No hearing was held in the matter. Based on a careful consideration of these matters and a review of pertinent legal authorities, the Court finds:

1. That the Family Law Judge's decision is supported by the testimony and other evidence offered to the court;
2. That said decision is warranted by the facts;
3. That said decision is not arbitrary nor capricious; and
4. That the Family Law Judge's decision is based on a correct application of the law.

Therefore, this Court **ORDERS:**

The Family Law Judge's Order is hereby **AFFIRMED** by this Court.

The Circuit Clerk shall distribute copies of this order to the parties at the addresses listed below:

Sharron K. Chenault
C/O Krista Conway
Conway Law Office
635 Seventh Ave.
Huntington, WV 25701

Thomas D. Chenault
J. Roger Smith, II, Esq.
Law Office of J. Roger Smith, II
6 Norway Ave.
Huntington, WV 25705

Enter this Order the _____ day of October, 2007.



Judge, Sixth Judicial Circuit

ENTERED Circuit Court Domestic Order Book

No. 356 Page 492 this
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ADELL CHANDLER
CIRCUIT CLERK
CABELL WV

2007 OCT 15 P 2:49

FILED

IN THE FAMILY COURT OF CABELL COUNTY, WEST VIRGINIA

IN RE: THE MARRIAGE OF:

SHARON K. CHENAULT,
Plaintiff,

and

CIVIL ACTION NO. 94-D-863
Judge Ronald E. Anderson

THOMAS D. CHENAULT,
Defendant.

SECOND AMENDED QUALIFIED DOMESTIC RELATIONS ORDER

This Order is issued pursuant to the Order filed on January 15, 1998 in the above-styled action and is for the purpose of making an equitable division of the employee benefit plans of the Defendant, Thomas D. Chenault, as more fully provided below:

A. The Court intends for this order to constitute a Qualified Domestic Relations Order (hereinafter "QDRO", as defined in Section 414 (p) (1) (A). of the Internal Revenue Code of 1986, as amended, and 29 U.S.C. Section 1056 (d) (3) (B), commonly known as the Employment Retirement Income Security Act of 1974, as amended, (hereinafter "ERISA).

B. The court has considered the requirements and standard terminology provided in part 838 of Title 5, Code of Federal Regulations. The terminology used in the provisions of this order that concern benefits under the Civil Service Retirement System are governed by the standard conventions established in the part."

C. Thomas D. Chenault, through employment with the United States Marshall Service, is a participant in the Federal Employees Retirement System and the Civil Service Retirement System through the National Finance Center for the Federal Retirement Thrift Investment Board. Thomas D. Chenault has accrued benefits under his employee benefit plans during his marriage to Sharon K. Chenault.

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D. The name of the Defendant, hereinafter sometimes referred to as the "Participant", is Thomas D. Chenault, Social Security Number [REDACTED]. His last known mailing address is 23 Deer Run Road, Esquire Country Club, Barboursville, West Virginia 25504.

E. The name of the Plaintiff is Sharon K. Chenault, Social Security Number [REDACTED]. She is the alternate payee as defined in Section 414 (p) (8) of the Internal Revenue Code of 1986, as amended, and hereinafter will sometimes be referred to as "Alternate Payee". Her last known mailing address is #17 Morgan Place, Huntington, WV 25705.

F. This order applies to the following qualified employee benefit plans: Those provided through the Federal Employees Retirement System and Civil Service Retirement System for Thomas K. Chenault through employment with the United States Marshal Service and the Army Reserve ("the Company"), participants in the Federal Employees Retirement System and Civil Service Retirement System through the National Finance Center for the Federal Retirement Thrift Investment Board ("the Plan"). The participant has accrued benefits under the Plan during employee's marriage to Sharon K. Chenault.

G. Plan benefits awarded to the participant and the alternate payee under this Order will be determined based upon the following information:

GENERAL:

- | | |
|-------------------------|------------------|
| (1) Date of Marriage: | November 6, 1972 |
| (2) Date of Separation: | October 1, 1994 |
| (3) Date of Divorce: | March 25, 1996 |

PARTICIPANT:

- | | |
|--------------------------|--|
| (4) Name and Address: | Thomas D. Chenault
23 Deer Run Road
Esquire Country Club
Barboursville, West Virginia 25504 |
| (5) Social Security No.: | [REDACTED] |

ALTERNATE PAYEE:

- (6) Name and Address: Sharon K. Chenault
#17 Morgan Place
Huntington, West Virginia 25705
- (7) Social Security No.: [REDACTED]

H. The benefits that accrued under the plan from the date of marriage to the date of separation are marital property and are subject to the marital property laws of the State of West Virginia.

I. The Court awards as the sole and separate property of Sharon K. Chenault an amount equal to one half the total value of the Plan.

J. If Thomas D. Chenault waives military retired pay to credit military service under the Civil Service Retirement System, Sharron K. Chenault is entitled to Fifty percent (50%) of Thomas D. Chenault's gross monthly ~~annuity~~ ^{Benefit PA} under the Civil Service Retirement System. The United States Office of Personnel Management is directed to pay Sharron K. Chenault's share directly to Sharron K. Chenault. The United States Office of Personnel Management is directed to pay Sharron K. Chenault's share directly to Sharron K. Chenault.

K. Thomas D. Chenault is eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. Sharron K. Chenault is entitled to Fifty percent (50%) of Thomas D. Chenault's gross monthly ~~annuity~~ ^{BENEFIT PA} under the Civil Service Retirement System. The United States Office of Personnel Management is directed to pay Sharron K. Chenault's share directly to Sharron K. Chenault.

L. If Sharron K. Chenault dies before Thomas D. Chenault, the United States Office of Personnel Management is directed to pay Sharron K. Chenault's share of Thomas D. Chenault's civil service retirement benefits to surviving children of the marriage including any adopted children, in equal shares. Upon the death of any child, that child's share will be distributed among the other surviving children.

M. Under section 834(h)(1) of title 5, United States Code, Sharron K. Chenault is awarded the maximum possible former spouse survivor annuity under the Civil Service Retirement System.

N. Pursuant to the equitable distribution as ordered by the Court in the Final Decree of divorce, the Court hereby ORDERS that the Alternate Payee be awarded Fifty Per Cent (50%) of the Participant's pension plan acquired as of October, 1994. The Alternate Payee shall be eligible to receive payment of the benefit awarded under this Order on the earliest date benefits could be paid to the Participant under the terms of the Plan. IT IS FURTHER ORDERED that from the benefits which would otherwise be payable to the Participant under The Plan., The Plan shall pay to the Alternate Payee, and the Alternate Payee shall receive directly from The Plan, an amount equal to Fifty Per Cent (50%) of those assets held in Participant's plan from November 1972 to October 1994, together with interest thereon included therein. The Participant shall receive the remaining assets held in his plan, together with any interest thereon included therein.

- O. (1) In the event of Sharon K. Chenault's death prior to the date benefit payments are scheduled to commence, the death benefit payable to Sharon K. Chenault's designated beneficiary shall be the value of the units at the date of death that were awarded to Sharon K. Chenault from the Variable Income Plan at the date of divorce, plus earnings. The death benefits payable under the Fixed Income Plan shall be an amount equal to the Participant's awarded interest of Participant's Basic Accumulation as of the date of divorce, plus interest to date of death.
- (2) The benefit payable as a result of Thomas D. Chenault's death shall be governed by the terms of the Plan, less the surviving spouse's annuity awarded to Sharon K. Chenault below.

- P. (1) The term "benefit" as used herein, includes retirement benefits, and death benefits.
- (2) The benefits awarded to Thomas D. Chenault and Sharon K. Chenault shall be paid pursuant to the terms and conditions of the Plan and applicable law at the time payments commence.
- (3) Sharon K. Chenault shall be eligible to receive payment of the benefit awarded under this Order on the earliest date benefits could be paid to Thomas D. Chenault under the terms of the Plan.
- (4) The benefit paid to Sharon K. Chenault shall be the actuarial equivalent of the portion of Thomas D. Chenault's benefit awarded to Sharon K. Chenault in this Order and shall be paid to Sharon K. Chenault in the form of a lifetime annuity or any other option provided by the Plan for which Sharon K. Chenault might qualify to receive.
- (5) The Court directs the Plan Administrator or its representative to issue separate checks to Thomas D. Chenault and Sharon K. Chenault or their designated beneficiary(ies), if applicable, for the respective interests of each party in the Plan at the time benefits become payable.
- (6) Upon full payment of benefits hereby assigned to Sharon K. Chenault, the Plan shall thereafter be discharged from all responsibility, obligation or duty with respect to Sharon K. Chenault.

(7) Notwithstanding anything in this Order to the contrary, in no event shall the Plan be required to provide any type or form of benefit or any option not otherwise provided under the Plan, nor shall the Plan be required to provide increased benefits (determined on the basis of actuarial value by the Plan's actuary).

Q. While it is anticipated that the Plan Administrator will pay directly to the Sharon K. Chenault all benefits awarded to her by this Order, Thomas D. Chenault is hereby designated Constructive Trustee to the extent that he receives or has received any benefits from the Plan that are or were due to Sharon K. Chenault, but are or were paid to Thomas D. Chenault. Thomas D. Chenault, as trustee, shall immediately pay or transmit within ten (10) days after receipt of any such benefits to Sharon K. Chenault, at Sharon K. Chenault's last known address.

R. Thomas D. Chenault shall notify Sharon K. Chenault, in writing, if application is made for any benefit under the Plan, or if any benefit shall become payable under the Plan on account of Thomas D. Chenault in the Plan to request copies of the Plan Document, Plan Description or any other information maintained by the Plan Administrator regarding the benefits awarded to Sharon K. Chenault under this Order.

S. Thomas D. Chenault and Sharon K. Chenault shall advise each other and the Plan Administrator of any changes in mailing address.

T. This Order does not require The Plan to provide any type or form of benefit, or any option, not otherwise provided under The Plan; does not require The Plan to provide increased benefits; and does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another Order previously determined to be a QDRO.

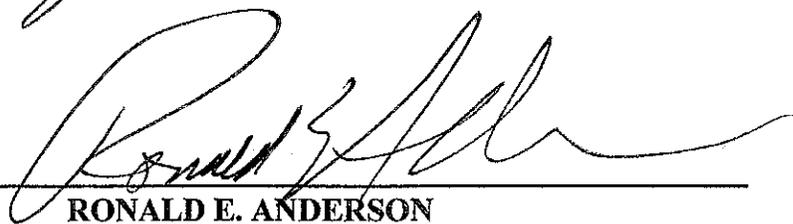
U. It is intended that this Order will qualify as a QDRO as defined in section 414 (p) (1) (A) and the provisions hereof shall be administered and interpreted in conformity with said Section 414 (p) of the Internal Revenue Code. The Family Court of Cabell County, West Virginia, shall retain jurisdiction to amend this Order only for purposes of establishing or maintaining its qualification as a QDRO. No amendment of this Order shall require The Plan to provide any type or form of benefit, or any option, not otherwise provided under The Plan to provide increased benefits; nor shall any amendment require the payment of benefits to an alternate payee under another Order previously determined to be QDRO.

V. The Court expressly reserves jurisdiction to supervise, interpret and enforce the division and distribution of the benefits awarded under this Order.

W. The Participant is hereby ORDERED to furnish a certified copy of this QDRO to the plan administrator of The Plan immediately upon receipt of a certified copy of the Order. Upon The Plan's receipt of a certified copy of this QDRO, the plan's administrator shall act in accordance and in compliance with Section 414 (p) (6) of the Internal Revenue Code of 1986, as amended.

X. Each party shall be responsible for the payment of any tax liability incurred by them this is attributable to their receipt of these benefits.

Order entered this 28 day of June, 2007



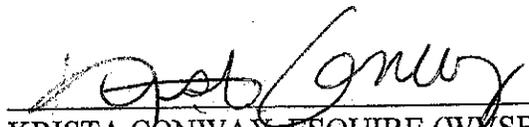
RONALD E. ANDERSON
Family Court Judge

STATE OF WEST VIRGINIA
COUNTY OF CABELL
ADELL CHANDLER, CLERK OF THE CIRCUIT
COURT FOR THE COUNTY AND STATE AFORESAID
DO HEREBY CERTIFY THAT THE FOREGOING IS
A TRUE COPY FROM THE RECORDS OF SAID COURT
ENTERED ON 6-29-07
GIVEN UNDER MY HAND AND SEAL OF SAID COURT
THIS MAR 6 2008
Adell Chandler CLERK
CIRCUIT COURT OF CABELL COUNTY WEST VIRGINIA

ENTERED Circuit Court Domestic Order Book
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JUN 29 2007

94-0863

Prepared by:



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Phone: (304) 529-9300
Fax: (304) 697-5022

Approved for entry by:

J. Roger Smith, II, Esquire (WVSB# _____)
6 Norway Avenue
Huntington, WV 25705-1361