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IN THE FAMILY COURT OF KANAWHA COUNTY, WEST VIRGINIA

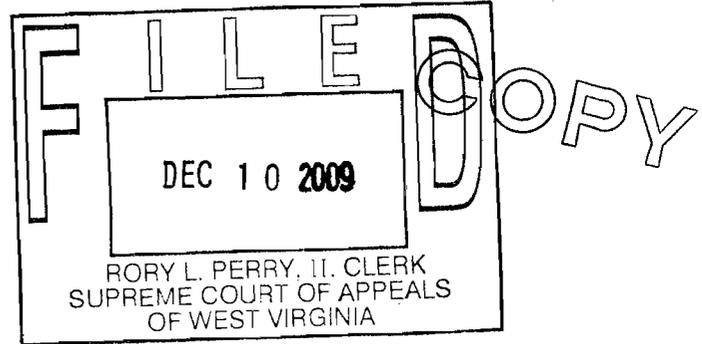
CIVIL ACTION NO. 99-D-816

IN RE: THE FORMER MARRIAGE/CHILDREN OF:

BEVERLY J. MULLINS  
k/n/a BEVERLY J. HEMMINGS,  
PLAINTIFF/PETITIONER,

v.

RICHARD R. MULLINS,  
DEFENDANT/RESPONDENT.



**PRO SE APPEAL BRIEF OF BEVERLY J. HEMMINGS  
OF RULING ON CHILD SUPPORT IN ARREARS**

I am filing this Appeal Brief without the assistance of my attorney because I can no longer afford to pay him to pursue the back child support owed to me by the defendant Richard Mullins.

1. I filed for Divorce from Richard Mullins and on June 2, 1999, a Final Order and Property Settlement Agreement was entered. (Document # 4, Final Order for Divorce entered June 2, 1999).
2. In that Order and Property Settlement Agreement, (a) Mr. Mullins agreed to pay me \$400.00 per month in child support, (b) Mr. Mullins agree to maintain our son Noah on his medical insurance, and (c) we agreed that we would share parenting time 50/50. (See pg. 4, 5, and 6 of the Property Settlement Agreement, Document # 4).
3. From June 2, 1999 to March 2006 (69 moths), Mr. Mullins made payments on only (12) twelve months. A majority of those payments were partial payments. (See Document # 46, Motion for an Order for Child Support in Arrears and to Hold Respondent Richard Mullins in

Contempt).

4. From June 2, 1999 to November 19, 2005 Mr. Mullins failed to maintain health insurance on Noah as required by the Order. ( See page 29, lines 4-21 of the Transcript of the Hearing on March 6, 2007 regarding Child Support, attached to this Appeal).

5. On March 30, 2006 I filed a Notice to relocate my son Noah to Raleigh North Carolina where I now live with my husband and our new one year old daughter. Judge Montgomery declined my request to relocate my son but entered an order giving me what works out to be 158 days of parenting time per year and Mr. Mullins 207 days. In essence, rather than the 50/50 we had initially, we now have a 44/56 split in parenting time. (See Document #59, Order from Hearing of March 6, 2007 filed on March 27, 2007 regarding parenting time).

6. I am appealing the Order by Family Court Judge Robert Montgomery entered on September 15, 2008 (Document # 99, titled "December 3, 2007 Order Announcing Ruling from Hearing of March 6, 2007"), requiring Mr. Mullins to pay me only \$12,212.00 rather than the over \$40,133.25 in unpaid child support and interest that he owes. ( I refer to the correct calculation submitted by my attorney Jim Cooper in Document # 66, Notice and Proposed "Final Order Regarding Arrearages," filed on May 4, 2007).

7. Specifically, Paragraph G of Judge Montgomery's Order gives the Defendant Mr. Mullins \$21,699.55 in credit for child care expenses. Much of this amount without was submitted by Mr. Mullins on a spreadsheet with no copies of checks to back up what he claims he paid.

8. Most importantly however, Judge Montgomery failed to give me credit for all of the child care expenses that I paid. (See Document # 54, Attachment to Petitioner's Motion for an Order for Child Support in Arrears and to Hold Respondent Richard Mullins in Contempt of Court filed on March 9, 2007) and (Document # 66, Notice and Proposed "Final Order Regarding Arrearages,"

filed on May 4, 2007).

9. Paragraph G is completely arbitrary and wrong as:

(a) it gives me only credit for child care in the amount of \$3,383.59 when I submitted proof that I paid \$18,656.18 by submitting actual copies of canceled checks. (See Document # 54, Attachment to Petitioner's Motion for an Order for Child Support in Arrears and to Hold Respondent Richard Mullins in Contempt of Court filed on March 9, 2007). There is no explanation why Judge Montgomery subtracted almost fifteen thousand (\$15,000.00) from the amount I proved that I paid.

(b) it gives Mr. Mullins an arbitrary credit for \$18,315.96 based on a made up spreadsheet he and his lawyer submitted to the Court. For the most part, the amount claimed on the spreadsheet is not supported by any canceled checks or proof of payment. It was made up, and Judge Montgomery arbitrarily accepted it.

10. Paragraph I of the Order is wrong because paragraph G is wrong and arbitrary.

11. Paragraph J is wrong and arbitrary as it does not require Mr. Mullins to pay me for any of the interest that accrued from June 2, 1999 to March 2006 (69 months).

12. Judge Montgomery also arbitrarily refused to give me any credit for the medical expenses I was required to pay because Mr. Mullins refused to follow the original Order in carrying our son on his health insurance. ( See page 29, lines 4-21 of the Transcript of the Hearing on March 6, 2007 regarding Child Support, attached to this Appeal). I incurred significant expenses in carrying my son on my insurance because Mr. Mullins refused to so as required by the first Order. I have submitted checks to establish \$896.75 in co-pay expenses over the relevant period of time to show he was not paying medical expenses. (See Document # 54, Attachment to Petitioner's Motion for an Order for Child Support in Arrears and to Hold Respondent Richard Mullins in Contempt of

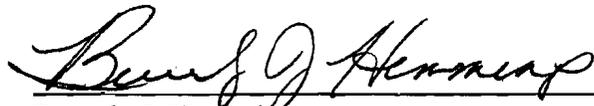
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Court filed on March 9, 2007). This was never considered by Judge Montgomery.

13. For my legal Arguments, I will rely on the points made in my lawyer Jim Cooper's Petition for Appeal from Final Family Court Order to the Circuit Court, filed on October 10, 2008. ( Document # 101).

I respectfully ask that this Supreme Court reverse Judge Montgomery's ruling on back child support and require him to give credit to both parties for only verified expenses rather than only Mr. Mullins for unverified expenses. I also request that this Court require Mr. Mullins to pay interest on the child support he owes as Judge Montgomery's Order allows him to avoid.

Date: 13/7/09

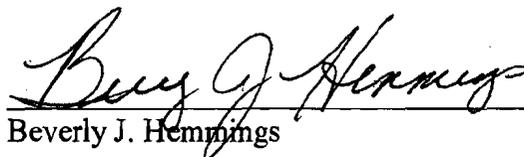


Beverly J. Hemmings  
3830 Casey Leigh Lane  
Raleigh, North Carolina 27612  
Phone: (919) 457-8221

I mailed a copy of this document to the opposing party's attorney Andrew Nason via US mail at:

Pepper & Nason  
8 Hale Street  
Charleston, WV 25301

Date: 12/7/09



Beverly J. Hemmings