

35675

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

IN RE: THE MARRIAGE/CHILDREN OF: 2010 JAN -4 P 3: 34

**BRIAN MAYES,**  
Petitioner/Appellee

ADELL CHANDLER  
CIRCUIT CLERK  
CABELL WV

v.

**CIVIL ACTION NO. 08-D-255**  
Judge Alfred E. Ferguson

**MYLA MAYES**  
Respondent/Appellant

**ORDER AFFIRMING FAMILY COURT JUDGE**

This case came before this court on November 25, 2009 when the Appellant filed her Petition for Appeal from Family Court Judge Ronald Anderson's final order entered October 26, 2009. Appellant's Petition for Appeal is timely. Appellee filed a response to the Petition for Appeal. Appellee's Response is not timely.

Upon reviewing the Petition for Appeal and the record, this court makes the following findings:

1. The Appellant requested an opportunity for oral argument, and this request is hereby denied. The Petition for Appeal and the record in this matter are sufficient to determine this appeal.
2. The Family Court Judge reviewed the record, and, after due consideration of the issues raised, issued his decision.
3. The Judge reviewed all of the evidence and his findings of fact were not clearly erroneous, arbitrary, nor capricious, nor an abuse of his judicial discretion.

4. The Judge's conclusions of law were neither arbitrary, capricious, nor an abuse of his judicial discretion.

For these reasons, the Family Court Judge's order is hereby **AFFIRMED**. This is a final order disposing of the appeal in this domestic case.

The clerk shall distribute copies to the following parties:

**D. Scott Bellomy, Esq.**  
Counsel for Petitioner  
Bellomy & Turner, L.C.  
741 Fifth Avenue  
Huntington, WV 25701

**James T. Cooper, Esq.**  
Counsel for Respondent  
108 Hills Plaza  
Charleston, WV 25312

Enter this order this \_\_\_\_\_ day of December, 2009.

  
\_\_\_\_\_  
Judge Alfred E. Ferguson  
6<sup>th</sup> Judicial Circuit

STATE OF WEST VIRGINIA  
COUNTY OF CABELL  
I, 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 JAN 04 2010  
GIVEN UNDER MY HAND AND SEAL OF SAID COURT  
THIS JAN 04 2010  
 CLERK  
CIRCUIT COURT OF CABELL COUNTY WEST VIRGINIA

ENTERED Circuit Court Domestic Order Book  
No. \_\_\_\_\_ Page \_\_\_\_\_ this  
\_\_\_\_\_

**IN THE FAMILY COURT OF CABELL COUNTY, WEST VIRGINIA  
IN RE: THE MARRIAGE/CHILDREN OF:**

**BRIAN MAYES,**

**Petitioner,**

**And**

**CIVIL ACTION NO. 08-D-255  
FCJ: Ronald Anderson**

**MYLA MAYES (n/k/a BUSH),**

**Respondent.**

**FINAL ORDER ON EQUITABLE DISTRIBUTION**

On the 31<sup>st</sup> day of August, 2009, and appeared the Petitioner, Brian Mayes, by counsel, D. Scott Bellomy, and the Respondent, Myla Bush, in person, and by counsel, James T. Cooper; all before the Honorable Anderson, Family Court Judge for Cabell County Family, and for a hearing scheduled by Respondent for a *Petition for Modification, Petition for Contempt and Petitioner's Counter Petition for Modification and Counter Petition for Contempt.*

After the Court having taken into consideration the testimony of the parties, proffer from counsel, and the Memorandums as to the valuation of the business, taxes due and outstanding, student loans, and the uncompleted house, the Court here finds and **ORDERS** as follows:

1. The partially built home is valued at \$45,000.
2. The business value is \$1,760.00.
3. The student loan of the Respondent is \$17,923.10

4. Therefore, based upon these figures and those previously determined, the parties shall have the following:

<u>Petitioner</u>		<u>Respondent</u>	
Mobile Home	\$5,000.00	The Furnishings	\$4,000.00
Ford Truck	\$2,250.00	Student Loan	<u>[\$17,923.10]</u>
Ford Expedition	<u>[\$13,355.00]</u>		<u>[\$13,923.10]</u>
Partially built home	\$45,000.00		
Business Value	\$ 1,760.00		
IRS Debt	<u>[\$34,641.69]</u>		
State Tax Debt	<u>[\$ 6,497.00]</u>		
	[ 483.09]		

Since both parties have a net deficit the Petitioner's deficit is subtracted from the Respondent's deficit and the Petitioner shall be responsible to pay the Respondent one half of the balance of \$13,440.01 or the amount of \$6,720.00.

- Both parties shall be held responsible for their own attorney fees.
- This Order is a Final Order and any party aggrieved by this Final Order may take an appeal to either the Circuit Court or directly to the Supreme Court. A petition for appeal to the Circuit Court may be filed by either party within thirty (30) days after entry of the Final Order. In order to appeal directly to the Supreme Court, both parties must file, within fourteen (14) days after entry of the Final Order, along with a joint notice of intent to appeal and waiver of right to appeal to the Circuit Court.
- The Clerk of this Court is directed to mail a certified copy of this Order upon entry to the following: (1) D. Scott Bellomy, Esq., BELLOMY & TURNER, L.C., 741 Fifth Avenue,

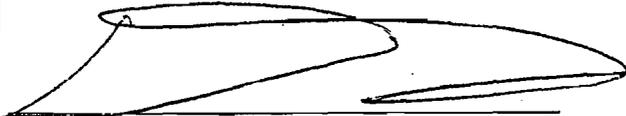
Huntington, WV 25701; (3) James T. Cooper, Esq., 108 Hills Plaza, Charleston, WV 25312.

ENTERED: This 26<sup>th</sup> day of October, 2009.

/s/ RONALD E. ANDERSON

RONALD E. ANDERSON  
FAMILY COURT JUDGE

Prepared by:

  
D. Scott Bellomy, Esq. (#8028)  
Counsel for Petitioner  
BELLOMY & TURNER, L.C.  
741 Fifth Avenue  
Huntington, WV 25701  
(304) 697-7200

Approved by:

James T. Cooper, Esq. (#802)  
Counsel for Respondent  
108 Hills Plaza  
Charleston, WV 25312  
(304) 344-3542

STATE OF WEST VIRGINIA  
COUNTY OF CABELL

I, 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 OCT 26 2009

GIVEN UNDER MY HAND AND SEAL OF SAID COURT

THIS OCT 26 2009  
 CLERK  
CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA