

IN THE COURT OF APPEALS 12/03/96

OF THE

STATE OF MISSISSIPPI

NO. 95-CA-00933 COA

BOBBY JOE WELLS

APPELLANT

v.

SHIRLEY KAREN WELLS

APPELLEE

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. WOODROW WILSON BRAND JR.

COURT FROM WHICH APPEALED: OKTIBBEHA COUNTY CHANCERY COURT

ATTORNEY FOR APPELLANT:

GEORGE C. MCKEE

ATTORNEY FOR APPELLEE:

STEVE WRIGHT

NATURE OF THE CASE: DOMESTIC RELATIONS - EMANCIPATION AND CHILD
SUPPORT

TRIAL COURT DISPOSITION: DENIAL OF PETITION TO MODIFY CHILD SUPPORT AND
DETERMINATION OF APPELLANT IN CONTEMPT FOR FAILURE TO PAY CHILD
SUPPORT

BEFORE FRAISER, C.J., BARBER, AND SOUTHWICK, JJ.

BARBER, J., FOR THE COURT:

Bobby Wells appeals from a decision of the Oktibbeha County Chancery Court in favor of his former wife, Shirley Wells. The chancellor found that the couple's minor son was not emancipated and held Bobby Wells in contempt for failing to pay child support. Aggrieved by that decision, Bobby appeals raising the following issues:

I. DID THE COURT ERR IN REFUSING TO HOLD THAT MICHAEL SHANE WELLS WAS EMANCIPATED?

II. DID THE COURT ERR BY REFUSING TO CONSIDER EVIDENCE OF MICHAEL SHANE WELLS'S CRIMINAL RECORD AND CONDUCT?

III. DID THE COURT ERR IN REFUSING TO CONSIDER EVIDENCE OF EMANCIPATION AS SUBMITTED IN BOBBY'S MOTION FOR JNOV?

IV. DID THE COURT ERR IN HOLDING BOBBY IN CONTEMPT FOR FAILING TO PAY CHILD SUPPORT?

Bobby Wells addresses these issues collectively in his brief, as does the Appellee in hers. Accordingly, so do we.

FACTS

Bobby Wells commenced this action seeking to have the nineteen-year-old minor son of the parties declared emancipated so that child support for him would be terminated. The court held that the son was not emancipated and that evidence of the son's criminal record was irrelevant and inadmissible to the question of whether the son was emancipated. Subsequently, Bobby filed a motion for JNOV which was followed by Shirley's motion to cite for contempt for failing to pay child support. At the hearing on these motions, the court refused to consider the certified abstract of the son's criminal record. The court denied Bobby's JNOV motion and held him in contempt. Bobby Wells submitted at trial that his nineteen-year-old son was emancipated by virtue of 1) having graduated from high school, but making no effort to attend college; 2) having worked for a period of time as a roofer, but having been fired; 3) having been convicted of DUI; 4) having been charged, although not convicted of auto burglary; and 5) being in the job market and actively seeking employment.

The minor son testified that he was not currently able to work because he was suffering from arthritis, asthma, and was an alcoholic.

ANALYSIS

The standard of review for a chancellor's ruling is to reverse a chancellor only where his decision is manifestly wrong or not supported by substantial credible evidence. *Snow Lake Shores Property Owners Corp. v. Smith*, 610 So. 2d 357, 360 (Miss. 1992). The credibility of the witnesses and the weight of their testimony are properly resolved by the chancellor as the trier of fact. *Chamblee v. Chamblee*, 637 So. 2d 850, 860 (Miss. 1994).

The essence of Bobby's argument is that the court erred in refusing to consider evidence of the minor son's criminal record in its determination of whether emancipation had occurred. The motion for JNOV also relied upon the existence of the minor's criminal record. Bobby further contends that the chancellor did not properly consider the issue of the child's emancipation because he relied on an arbitrary rule stating that the child was a minor until he reached the age of twenty-one.

Emancipation has been defined as "the freeing of a child for all the period of its minority from the care, custody, control, and service of its parents; the relinquishment of parental control, conferring on the child the right to its own earnings and terminating the parent's legal obligation to support it." *Caldwell v. Caldwell*, 579 So. 2d 543, 549 (Miss. 1991). "[P]arental emancipation signifies a surrender and renunciation of the correlative rights and duties touching the care, custody, and earnings of the child." *Id.*

Despite Bobby's assertions to the contrary, the record reveals that the issue of whether emancipation had occurred was properly considered by the chancellor. There was uncontroverted testimony presented to the trial court that the couple's minor son was nineteen years old, lived with his mother, was not employed, had health problems, and was dependent upon his mother for support. Furthermore, there is no evidence that the mother had relinquished parental control and renounced her duties as a parent to this child. Finally, the chancellor was not required to consider the criminal record of the minor in making his determination. Consequently, the chancellor was well within his discretion in determining that under these facts, emancipation had not occurred.

Bobby completely fails to support his assertion that the trial court erred in finding him in contempt for non payment of child support. Arguably, this assertion is dependent upon our findings regarding the issue of emancipation. Because we find that the ruling of the trial court was correct with regard to that issue and because we are not required to consider claims of error which are supported by neither argument nor citation to authority, we find that the trial court did not err in holding Bobby in contempt.

THE JUDGMENT OF THE OKTIBBEHA COUNTY CHANCERY COURT IS AFFIRMED. STATUTORY DAMAGES AND INTEREST ARE AWARDED. COSTS ARE ASSESSED AGAINST THE APPELLANT.

FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., DIAZ, KING, McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR. COLEMAN, J., NOT PARTICIPATING.

