

**IN THE COURT OF APPEALS 1/14/97**

**OF THE**

**STATE OF MISSISSIPPI**

**NO. 95-CA-01015 COA**

**MARY LINDA SUTHERLAND**

**APPELLANT**

**v.**

**DANIEL CHILTON SUTHERLAND, JR.**

**APPELLEE**

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

TRIAL JUDGE: HON. EDWARD G. CORTWRIGHT, JR.

COURT FROM WHICH APPEALED: MADISON COUNTY CHANCERY COURT

ATTORNEY FOR APPELLANT:

E. MICHAEL MARKS

ATTORNEY FOR APPELLEE:

J.M. RITCHEY

NATURE OF THE CASE: CIVIL: DOMESTIC RELATIONS

TRIAL COURT DISPOSITION: FINDING THAT OBLIGATION TO PAY CHILD SUPPORT  
HAD TERMINATED UPON SON'S EMANCIPATION; ORDERED TO PAY CHILD SUPPORT  
ARREARAGE OF \$3,000, PLUS INTEREST, W/IN 60 DAYS FROM ENTRY OF JUDGMENT.

BEFORE McMILLIN, P.J., KING AND PAYNE, JJ.

KING, J., FOR THE COURT:

Mary Linda and Daniel Chilton Sutherland, Jr., were granted a divorce on the grounds of irreconcilable differences in October 1993. Pursuant to the divorce judgment Mary was granted, *inter alia*, custody of the couple's teenaged son Will Sutherland, and Daniel was ordered to pay child support, *inter alia*, in the amount of \$500.00 per month. Daniel failed to comply with this provision of the judgment, and Mary filed a motion for contempt of court and complaint for conversion of personal property in the Chancery Court of Madison County. The chancellor found that Will had been emancipated since June of 1994 and that Daniel's obligation to pay child support had terminated automatically as of that date. Aggrieved, Mary appeals contending that the chancellor erred by finding: that Will was emancipated on June 1, 1994; and, that Daniel was not obligated to pay child support retroactively to that date rather than to the date of the court's ruling in this cause. Finding no error in the chancellor's judgment, we affirm.

## FACTS

On October 15, 1993, Mary Linda and Daniel Chilton Sutherland, Jr., were granted a divorce on the grounds of irreconcilable differences. In the separation agreement, Daniel agreed to pay, *inter alia*, \$500.00 per month for child support, care and maintenance of their son, Will Sutherland. At the time of the hearing Will was seventeen years old. Daniel's support and maintenance of Will was to continue until such time as Will attained the age of majority or otherwise became emancipated.

In July 1993, two months prior to the Sutherland's separation agreement, Will began spending nights at the home of Pam and Barton Easley, his girlfriend's parents. Will first began by spending five nights per week at the Easley's and two nights per week at his mother's home. During that same summer, Mrs. Easley arranged for Will to enroll in night classes, and Will also began working at the local airport and later a cattle farm in Flora. After a brief visit with his father in Oklahoma, Will informed the Easleys that he was moving into their home permanently.

Will continued to work during the 1994-1995 school year, putting in as much as 30 hours per week at a local land company. Will testified during the present case that since residing with the Easleys in 1993, he has not asked his parents permission before undertaking any employment. The Easley's testified and it was corroborated by the Sutherlands that Will resides with the Easleys over the objections of both of his natural parents. However, except for \$900.00 given by Daniel Sutherland for dental work in 1993; \$200.00 given by Daniel when Mrs. Easley drove Will to Oklahoma; and, \$500.00 in support given directly to Will in November 1993, Daniel has not contributed to Will's support, care, and maintenance. Mary Sutherland contributed a total of \$500.00 toward Will's support in the Fall of 1993. Following this, neither Will, nor the Easleys made any demand upon his parents for his support.

The chancellor found that as of June 1, 1994, Will had abandoned his parents and they, likewise, had abandoned him and he stood emancipated. The chancellor further determined that as a result of abandonment and emancipation, Daniel Sutherland was not obligated to pay child support to Mary Sutherland. Because the Sutherlands had a brief period of reconciliation between May 1994 and November 1994, during which time they lived together, the chancellor determined that Daniel was obligated to pay back child support from December 1993 thru May 1994. The determination that Will

was emancipated as of June 1, 1994, precluded Daniel's obligation to pay any further child support and maintenance to Mary for the benefit of Will.

Mary appeals contending the following points of error:

- I. The chancellor erred in the finding that Will Sutherland became emancipated as of June 1, 1994, thus terminating his father's obligation to pay child support.
  
- II. The chancellor erred by terminating Daniel Sutherland's obligation to pay child support retroactively from the date of the chancellor's judgment.

#### SCOPE OF REVIEW

This Court's scope of review in both domestic relations and child support matters is limited. "This Court will not disturb the findings of a chancellor unless the chancellor was manifestly wrong, clearly erroneous or an erroneous legal standard was applied." *Crow v. Crow*, 622 So. 2d 1226, 1228 (Miss. 1993) (quoting *Bell v. Parker*, 563 So. 2d 594, 596-97 (Miss. 1990)). "[O]n appeal [we are] required to respect the findings of fact made by a chancellor supported by credible evidence and not manifestly wrong." *Id.* (quoting *Newsom v. Newsom*, 557 So. 2d 511, 514 (Miss. 1990)).

I. THE CHANCELLOR ERRED IN FINDING THAT WILL SUTHERLAND BECAME EMANCIPATED AS OF JUNE 1, 1994, THUS TERMINATING HIS FATHER'S OBLIGATION TO PAY CHILD SUPPORT.

AND

II. THE CHANCELLOR ERRED BY TERMINATING DANIEL SUTHERLAND'S OBLIGATION TO PAY CHILD SUPPORT RETROACTIVELY FROM THE DATE OF THE CHANCELLOR'S JUDGMENT.

Mary and Daniel Sutherland testified that in July 1993, two months prior to their entering into a separation agreement, Will moved into the Easley's home. Will has continued to reside with the Easley's since that time, and has received less than \$2,000.00 from his father toward his support and maintenance. Will's mother admits that she has attempted to convince Will to return home but to no avail. The Easleys have accepted Will into their home and have provided support, care, maintenance, and guidance. Mrs. Easley testified that neither she, nor her husband has demanded support from either of Will's parents. Will has continued to pursue his education throughout this time, and even planned to enroll in junior college. He has worked consistently throughout this period and has never sought guidance from either parent concerning his employment.

The chancellor determined through testimony that Will was freed from the care, custody and services of his parents. Because of Mary and Daniel Sutherland's lack of direct involvement in Will's life, and Will's continued employment and self-support they have conferred on Will the right to his own

earnings. Further, the chancellor found that over the objection of both parents' Will rejected living with either, and seemed to have severed all familial relations with both. According to the chancellor, this resulted in Will abandoning his parents and his parents abandoning him, leaving him emancipated from their care and support. Likewise, the chancellor found that Daniel Sutherland's obligation to support Will terminated on June 1, 1994. We agree and will not disturb the findings of the chancellor.

"A parent is relieved of the legal duty to support his child once the child is emancipated whether by attaining the age of majority or otherwise." *Crow*, 622 So. 2d at 1230. In the present case Will was considered emancipated as of June 1, 1994. Because the Sutherland's lived together sometime between May 1994 and November 1994, Mary Sutherland was not entitled to support for Will during this period of time. The chancellor found that Daniel was obligated to pay back child support from December 1993 thru May 1994, since the last recorded support to Will was in November 1993. Again, finding no cause to disturb the chancellor's findings we affirm his decision.

**THE JUDGMENT OF THE CHANCERY COURT OF MADISON COUNTY IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE TAXED TO THE APPELLANT.**

**FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., BARBER, COLEMAN, DIAZ, McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.**