

2016-TS-1504

FILED

OCT 28 2016

## IN THE CHANCERY COURT OF RANKIN COUNTY, MISSISSIPPI

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALSKIMBERLY JAYROE STRICKLAND DAY  
And THOMAS DAY

FILED

OCT 18 2016

PLAINTIFFS

VS.

MEC NO. 15-2370

CHRISTINA STRICKLAND

LARRY SWALES  
Chancery Clerk, Rankin County  
Rec. In Bk. \_\_\_\_\_ Pg. \_\_\_\_\_

DEFENDANT

## FINAL JUDGMENT OF DIVORCE

THIS CAUSE having come on for hearing on the 27<sup>th</sup> day of September, 2016, and the parties, Kimberly Jayroe Strickland Day and Christina Strickland, both appearing and represented by counsel, and the Court having heard and considered all the testimony and evidence presented, **ORDERS, RULES AND ADJUDICATES** the following, to wit:

1. That the Court has jurisdiction over the parties and the subject matter.
2. That the Court has heard and considered all the evidence, not only the documents that were introduced into evidence, but also the testimony of witnesses. And the Court has considered the competence, the demeanor, veracity, and truthfulness of those witnesses.
3. That the Court finds the parties Kimberly Day and Christina Strickland should be and are awarded a divorce absolute from one another on the ground of Irreconcilable Differences.
4. That the Court finds the parties have made adequate and sufficient provision for the settlement of all property rights between them within the written Consent and Stipulation instrument, which has been filed by the Court and which is made inclusive and a part of this

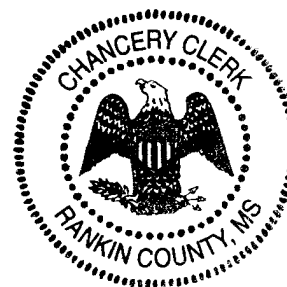
Final Judgment of Divorce as follows:

STATE OF MISSISSIPPI  
RANKIN COUNTY

I, LARRY SWALES, Chancery Clerk of the above named County and State, do certify that the foregoing instrument is a true and correct copy of the original. Witness my signature and seal of court this the 16<sup>th</sup> day of October, 2016

LARRY SWALES, Chancery Clerk

DC



- A. The parties agree the parties may, and shall, at all times hereafter, live separate and apart, and each shall be free from interference, authority and control, direct or indirect, by the other, as fully as if he or she were never married. The parties shall not molest or interfere with each other, nor shall either of them compel or attempt to compel the other to cohabit or dwell with him or her by any means whatsoever, and each party shall respect the privacy of the other. Each party shall live at such place or places as he or she shall select.
- B. The parties agree that neither shall pay unto the other alimony now or in the future.
- C. The parties agree Kimberly Day is entitled to and shall retain the permanent and exclusive use, possession, control and ownership of all household goods, furnishings, appliances and other items of personality currently in her possession and/or under her control and Kimberly Day shall be responsible for payment of any and all debt on the items she retains and shall hold Christina Strickland harmless therefore. The parties agree Christina Strickland shall retain the permanent and exclusive use, possession, control and ownership of those items currently in his possession and/or control and Christina Strickland shall be responsible for payment of any and all debt on said items and shall hold Kimberly Day harmless therefore.
- D. The parties agree that each relinquishes all right, claim or interest in the others automobiles, stocks, investments, pension, checking accounts, savings accounts, retirement, or 401K benefits accrued during the marriage of the parties. The parties shall both cooperate in executing any and all documents necessary to transfer full ownership to the party retaining said asset.
- E. The parties agree that Kimberly Day shall pay all debts incurred by her in her name alone, while holding Christina Strickland harmless from any liability thereon. The parties agree that Christina Strickland shall pay all debts incurred by

her in her name alone, while holding Kimberly Day harmless from any liability thereon.

- F. That each party releases all right to share in the estate of the other party, or to serve as Executor or Administrator of the estate of the other party.
  - G. The parties agree there is no real property to be divided between them.
  - H. The parties agree there are no joint debts to be divided between them and each shall be responsible for their individual debts.
  - I. The parties agree Kimberly Day has a policy of medical insurance which covers the minor child Zayden Rhage Strickland and a secondary policy of insurance and the parties agree to equally divide any and all reasonable and necessary medical costs of Zayden Rhage Strickland not covered by said policies and should Zayden Rhage Strickland no longer qualify for the secondary policy then the parties shall equally divide any and all reasonable and necessary medical costs of Zayden Rhage Strickland not covered by the primary policy.
  - J. The parties agree to equally divide any and all reasonable and necessary school expenses of Zayden Rhage Strickland through High School. The parties reserve the right for the Court to consider and decide any college expenses owed by the parties, if any, at such time as Zayden reaches the age to attend college and shows an aptitude for college.
  - K. That Kimberly Day shall have sole, exclusive ownership of any and all embryos currently stored in any facility.
5. That Christopher Elijah Jayroc, born September 14, 2000, was adopted by Kimberly Day prior to the date of the marriage between Kimberly Day and Christina Strickland.

6. That Christopher Elijah Jayroe became a part of the family unit made up of Kimberly Day and Christina Strickland. That Kimberly Day and Christina Strickland were involved in a relationship. That from time to time, Christina Strickland helped to parent Christopher Elijah Jayroe to some extent and as acted in loco parentis to Christopher Elijah Jayroe.

7. That Kimberly Day and Christina Strickland were married on November 21, 2009 in Boston, Massachusetts.

8. That Zayden Rhage Strickland, born April 12, 2011, was born during the marriage of Kimberly Day and Christina Strickland via in vitro fertilization process with a sperm donor which was obtained in another State.

9. That Zayden Rhage Strickland was born during the marriage and he was very much cared for by both of these parties. That for a continued period of time during the first year of Zayden's life, Christina actually stayed home more than Kimberly and cared for Zayden. That Elijah and Zayden were both in the home at this time.

10. That there is a question of first impression before the Court: Is Zayden Rhage Strickland a child born of the marriage or a child born during the marriage? That the Court finds a distinction there: "Of the marriage" assumes that both parties are parents under Mississippi law and "During the marriage" may mean something else, wherein both parties are not considered parents.

11. That the Court finds, considering the facts and circumstances in this case, as well as the statutory and case law that Zayden is a child born during the marriage, not of the marriage.

12. That the marriage of the mothers was not the pivotal issue here; it was the conception of the child. That Zayden has got a natural father somewhere. Our Supreme Court

*J.S.* <sup>and</sup> has been very, very strict about parental rights ~~absent~~ fathers. And there is a natural father somewhere of Zayden, whose parental rights have not been terminated. That the natural father may have signed something somewhere in another State, but I haven't seen any such document. The Court hasn't seen anything placed before it to show that the natural father's parental rights have been terminated. The Court questions: is the natural father not Zayden's father, even though he is an absent one? The Court is of the opinion the natural father is Zayden's father.

13. The Court also questions: Can Zayden have three parents? Both these ladies who are married to each other and the father? The Court is of the opinion the answer is No. The Court finds two women cannot conceive a child together. The Court does not find it opinion to <sup>reasonable</sup> be a discriminatory statement but a biological fact. The Court ~~finds~~ <sup>and that conception must occur between</sup> it is impossible for two women to conceive a child ~~that there has to be~~ a man and a woman.

14. That the Court therefore concludes that Zayden is a child born during the marriage, not of the marriage, because the conception of Zayden is impossible between two females. The Court concludes there is a natural father. The natural father may never come into Court. He may never be known, and probably won't be, but he is still a father; and that is a right that our Supreme Court has recognized for many, many years.

15. The Court finds Christina Strickland does have rights with regards to the minor children. The Court finds Christina stood in a position of "in loco parentis" with both children for an extended period. The Court finds a bond was created between Christina and the children and Christina is therefore allowed visitation rights with both children.

16. That Court finds no basis for giving custody of the minor children to Christina and further that there has been an insufficient showing that it is in the children's best interests that Christina be given legal and physical custody.

17. The Court finds it is in the best interest of these children that they be awarded and are awarded to the custody of Kimberly Strickland Day. The Court finds not only based upon the Court's findings about the child born during the marriage but assuming that both of these parties are eligible for custody, that under the circumstances, considering the totality of the circumstances, that the Albright factors would slightly favor Kimberly Day. Therefore, Kimberly Day is awarded the legal and physical custody of both Christopher Elijah Jayroe, born September 14, 2000, and Zayden Rhage Strickland, born April 12, 2011, subject only to the visitation rights granted to Christina Strickland as follows:

- A. The Court finds Elijah is an older child and visitation between he and Christina will be as agreed to between Elijah and Christina with the consent, not to be unreasonably withheld, by Kimberly Day.
- B. The Court finds with regards to Zayden, Christina's visitation shall be as follows:
  - i. For the month of October 2016, Christina shall have the first and third weekends from 10:00 a.m. to 4:00 p.m. on Saturday and 1:00 p.m. to 5:00 p.m. on Sunday. The first weekend of the month being designated as being the first weekend Friday is in the month;
  - ii. For the month of November 2016, Christina's shall have the first and third weekends from Friday at 6:00 p.m. until Saturday at 6:00 p.m. The first weekend of the month being designated as being the first weekend Friday is in the month;
  - iii. For the month of December 2016, Christina shall have the first and third weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m. The first weekend of the month being designated as being the first weekend Friday

is in the month. Also Christina shall have from 2:00 p.m. on Christmas Day until 2:00 p.m. on January 1, 2017;

iv. Beginning in January 2017, and continuing until Zayden is emancipated or further order of this Court, the visitation/holiday schedule shall be as follows:

- a. Christina shall have the Zayden every first and third weekend from Friday at 6:00 p.m. until the following Sunday at 6:00 p.m. unless the following Monday is a Federal holiday in which case the visitation shall end on Monday at 6:00 p.m. The first weekend of the month being designated as being the first weekend Friday is in the month;
- b. During every even-numbered year Christina shall have visitation with Zayden beginning at 6:00 p.m. on the day Zayden's school recesses for Easter break (or the day the Rankin County School System recesses if Zayden is not in school) until the Sunday at 6:00 p.m. prior to school resuming following the Easter Holiday. Kimberly shall have the same period with Zayden in odd-numbered years;
- c. During every odd-numbered year Christina shall have visitation with Zayden from 6:00 p.m. on the day the minor children's school recesses for the Thanksgiving holidays (or the day the Rankin County School System recesses if Zayden is not in school) until Sunday at 6:00 p.m. prior to school resuming following the Thanksgiving Holiday. Kimberly shall have the same period with Zayden in even-numbered years;

- d. During even-numbered years, Kimberly shall have Zayden from 6:00 p.m. on the day Zayden's school recesses for Christmas vacation (or the day the Rankin County School System recesses if Zayden is not in school) until 2:00 p.m. on December 25. Also, during even-numbered years, Christina shall have the right to visitation with Zayden from 2:00 p.m. on December 25 until 2:00 p.m. on January 1, of the next year;
- e. During odd-numbered years, Kimberly shall have Zayden from 2:00 p.m. on December 25 until 2:00 p.m. on January 1 of the next year. During odd-numbered years, Christina shall have the right to visitation with Zayden from 6:00 p.m. on the day Zayden's school recesses for Christmas vacation (or the day the Rankin County School System recesses if Zayden is not in school) until 2:00 p.m. on December 25;
- f. Christina shall have visitation with Zayden during the Summer break in even numbered years for the first two weeks in June and for the first two weeks in July and in odd numbered years for the third and fourth weeks June and the third and fourth weeks in July.

18. The Court finds the award of child support is warranted in this matter. The Court orders Christina to pay child support in the amount of \$224.00 per month beginning October 2016, with one-half of said support payable on the 1<sup>st</sup> day of the month and the second half payable on the 15<sup>th</sup> of the month. Said child support is to be paid each and every month thereafter until the minor children are emancipated or further order of this Court. The Court finds this award of child support is more than would be calculated based upon the earning Christina placed on her 8.05 financial statement as calculated by the



statutory guidelines. The Court finds a deviation from the statutory guidelines is appropriate in this matter and basis the award of child support on a scale equal to minimum wage for two children.

19. The Court finds Kimberly Day shall claim both Elijah and Zayden for tax purposes, both State and Federal.

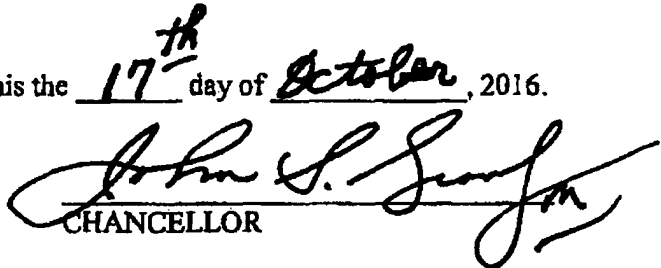
20. That neither of these parties shall excessively consume or allow the excess consumption of alcohol by any persons while the minor children are present.

21. The Court admonishes both parties herein on the fact each has been living with someone to whom they are not married. The Court does recognize that at this time no adverse effect has been shown on the children because of these relationships. However, the Court does state should an adverse effect be shown on either of these children due to the relationships of the parties then there could certainly be some repercussions and results of that adverse effect.

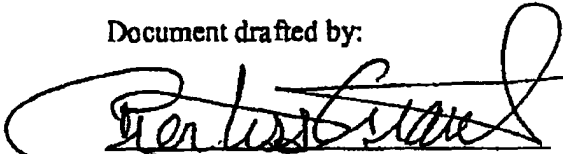
22. The Court finds Kimberly Day shall make Christina Strickland aware of any counseling the children are participating in and if appropriate, in the view of the counselor, Christina Strickland shall attend counseling with the children.

23. That Kimberly Day is stayed from seeking an adoption of Zayden Rhage Strickland until such time as the Supreme Court makes a decision on any appeal filed in this matter or the time for filing said appeal has expired.

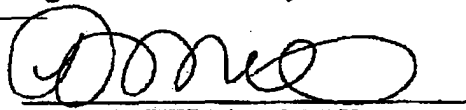
SO ORDERED AND ADJUDGED, this the 17<sup>th</sup> day of October, 2016.

  
CHANCELLOR

Document drafted by:

  
PRENTISS M. GRANT,  
ATTORNEY FOR KIMBERLY DAY

Agreed as to form only:

  
DIANNE HERMAN ELLIS  
ATTORNEY FOR CHRISTINA  
STRICKLAND