

NUTT v. NUTT.

5-3695

396 S. W. 2d 930

Opinion delivered December 20, 1965.

DIVORCE—CHANCELLOR'S FINDINGS—WEIGHT & SUFFICIENCY OF EVIDENCE.—Evidence held to fully support the findings and order of the chancery court requiring appellant to pay \$230 per month for the support of his 2 children.

Appeal from Howard Chancery Court; *Royce Weisenberger*, Chancellor; affirmed.

James R. Howard, for appellant.

Shaver, Tackett and Jones, for appellee.

ED. F. McFADDIN, Associate Justice. By this appeal the appellant, Victor L. Nutt, challenges the order of the Chancery Court which requires him to contribute \$230.00 per month for the support of his two minor children. Appellant claims the amount is excessive.

Appellant and appellee are the parents of two children; one boy is now 10 years of age and the other is three years of age. When Mr. and Mrs. Nutt were divorced in November 1963 the Court awarded Mrs. Nutt the care and custody of the children and required Mr. Nutt (*inter alia*) to pay alimony of \$125.00 per month

and also \$200.00 per month for support of the children. No appeal was perfected from that decree.

In January 1964 Mr. Nutt sought to have the amounts reduced, stating that his total earnings were "the sum of \$8045.00 annually, and that out of this sum is withheld the regular deductions for Social Security, taxes, and the sum of \$11.26 per month insurance which covers the plaintiff's and defendant's two minor children." The said petition for reduction of payments was heard by the Chancery Court on December 30, 1964 and resulted in an order which, *inter alia*, eliminated all alimony payments to Mrs. Nutt and fixed the amount of support payments for the children at \$230.00 per month.

We deem it unnecessary to detail all the financial affairs of these litigants. It is sufficient to say that a careful review of the record shows that the evidence fully supports the findings and order of the Chancery Court. Mrs. Nutt is teaching music to support herself, and has to go to a nearby town two days a week to teach. She, therefore, must have a maid or "baby-sitter" to look after the two children. Mrs. Nutt detailed the expenses of the children; and the amount fixed is fair and reasonable. Mr. Nutt claims he is unable to pay such amount. The record shows that he now has "take-home pay" of \$7440.00 per year, with a possible increase in a short time. This father, with a net income of \$7440.00 per annum, is certainly able to pay \$2760.00 per annum for the support of his only two children.

Affirmed.