

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

BHC, : NO. 97-20,555
Plaintiff :
 :
vs. :
 : CIVIL ACTION - Law
CLC, : In Divorce
Defendant :

OPINION AND ORDER

Before the Court is a Petition filed by Defendant, CLC, asking the Court to vacate the provisions of the July 21 and August 7, 2000 Orders requiring Petitioner to post bail and providing certain bail restrictions. The Court will grant the Petition with certain qualifications. The following chronicles the history of this case and the basis for the decision to grant the Petition.

At the heart of the bail issue, is the disappearance or dissipation of \$394,890.59 in marital assets. The existence and the dissipation of this money was established in previous hearings held throughout this case. The matter was considered by two (2) separate Courts, Family Court and the undersigned and in both instances it appears that the finders of fact have rejected Mr. C's contention the funds no longer exist.

While the transcripts have not been produced, the basis of this Court's finding should be memorialized.

It was established that shortly after the separation, Mr. C systematically withdrew \$394,890.59 from annuity and retirement accounts. The withdrawals were made in checks of slightly less than \$10,000.00 which were cashed by Mr. C. Mr. C then claims to have taken the money to various casinos and gambled it away.

When questioned by the undersigned, Mr. C was unable to identify the casinos. For example, in one exchange, he indicated that one of the casinos was on an Indian Reservation. After the Court

established it was Foxwoods, Mr. C incorrectly identified the state in which the casino was located. Further, it would appear that Mr. C knows little of the games he purports to have played. Mr. C opines he lost the money at roulette and yet he cannot state with any accuracy the odds of bets placed on that particular gaming table. Mr. C further indicates that as incredible as it may seem that he gambled away \$394,000.00 but was never comped by any casino. In fact, Mr. C maintains no casino would ever have a record of him being at the casino because he spent the night in his car. While this Court does not mean to appear to be flippant, it is hard to believe that any casino would allow a gambler of this magnitude to spend the night in his car. Not only would they provide him with a free room, they would probably provide his car with a heated garage.

As a result of the Court's cynical attitude of toward Mr. C's explanation of the dissipation of assets, the Court applied considerable pressure to Mr. C to provide some documentation or evidence of the fate of the approximately \$400,000.00. This culminated in a citation for contempt being issued against Mr. C. By Court Order dated April 24, 2000, Mr. C was found in contempt for failure to pay equitable distribution awarding counsel fees as provided by the Order of September 21, 1999.

Because Mr. C was not present, a bench warrant was issued on April 24, 2000 for his arrest and on June 28, 2000 he was apprehended and committed to the Lycoming County Prison. Bail was set by the Honorable William S. Kieser, at \$900,000.00. On July 21, 2000, the undersigned ordered the bench warrant to be vacated and as part of the July 21st Order, a Motion for Bail Reduction was granted by the undersigned and reduced to \$300,000.00. The Petitioner was required to surrender his United States Passport as he is a pilot and does fly internationally for private charter services. Also, after a review of the April 24, 2000 contempt, this Court found that it was improvidently granted because there was a question about whether the Petitioner had notice.

On August 7, 2000, a contempt hearing was reconvened but then could not continue because Mr. C had filed a Petition in bankruptcy in the eastern district of New York which divested this Court of jurisdiction. The proceedings on the Petition for Contempt now are suspended until such time as the bankruptcy court is divested of jurisdiction. Since there is not finding of contempt, it would appear the previous bail order must be lifted. However, in view of the fact that the Defendant no longer resides in the jurisdiction and that previously filed verified Petitions indicate that he is no longer

a resident of Pennsylvania, the Court will invoke the requirement of security under Pa.. R.C.P. 1920.44. As the \$400,000.00 in marital assets is still missing, the Court will require security in the amount of \$300,000.00.

ORDER

AND NOW, this 19th day of December, 2000, upon consideration of the Petition filed by CC for the vacation of the bail and the bail restrictions, the Petition is approved and the requirement of bail will be vacated upon the Defendant's posting of security pursuant to Pa. R.C.P. 1920.44 in the amount of \$300,000.00. In addition thereto, the Court hereby vacates the bail restrictions regarding the Defendant's passport contained in the Orders of July 21, 2000 and August 7, 2000.

By the Court,

Dudley N. Anderson, Judge

cc: Richard Callahan, Esq.
Randi Wenger Dincher, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson