

FOR IMMEDIATE RELEASE

Contact: Gina Davis

April 26, 2006

(865) 607-5951

PRESS RELEASE

JUDGE BILL SWANN REFUSED TO PAY CHILD SUPPORT

Knoxville—In at least one of his three divorces, Bill Swann was found to not be keeping his word to both the court that ordered the payments and his family that needed them.

“It is an absolute shame for my opponent to allege through his political advertisements the same exact thing that he illegally committed,” said David Lee, candidate for Fourth Circuit Court Judge. “We need a judge that is fair and that listens to both sides. Bill Swann obviously did not listen to the court when ordered to pay child support.”

On March 28th 1997, Judge Dale Young ordered Bill Swann to pay \$14,000 in back child support to his ex-wife.

“Bill Swann refused to acknowledge the court system and failed to pay the proper child support,” Lee said. “This was not a one-time mistake, this was an egregiously illegal attempt to deceive those who needed him most.”

In the petition for contempt against Judge Swann, his former spouse and mother of the parties' two children alleged that Bill Swann “is in fact an unsuitable custodian for the parties' children due to his neglect of the children's medical, psychological and emotional needs. Furthermore, [mother] avers that [Bill Swann] is an improper moral example for the children.”

The documents are attached.

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FILED

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

WILLIAM KIRK SWANN, III

RESPONDENT

VS.

NO. 127967-2

DIANA LYNN SWANN

PETITIONER

PETITION FOR CONTEMPT

COMES NOW THE PETITIONER, Diana Lynn Swann, and would respectfully show unto this Honorable Court as follows:

1. That the parties hereto were divorced by Final Judgment on the 17th day of January, 1996.
2. Pursuant to said Final Judgment of Divorce entered into this Honorable Court, the Respondent was ordered to pay child support for the parties' two minor children and to properly divide in half his 401K retirement funds.
3. Petitioner would show that the Respondent has attempted to deny the Petitioner 401K funds that are rightfully hers by unilaterally and without authorization withholding funds to which she was entitled.
5. Additionally, the Respondent has unilaterally and without authorization reduced the amount of his child support payment to the Petitioner due to monies he has allegedly expended on the children exclusive of such child support payments. Respondent has no right or authority to reduce the amount of his child support payments in this manner.
3. Petitioner would further aver that the Respondent repeatedly is in wilful contempt of the orders of this Honorable Court for his refusal and failure to properly divide 401K assets and to properly pay child support to the Petitioner. Petitioner further avers that the Respondent is in wilful contempt for his failure and refusal to abide by the Final Judgment for Divorce with the incorporated Marital Dissolution Agreement of this Honorable Court.

WHEREFORE, PETITIONER MOVES THIS HONORABLE COURT AND PRAYS AS FOLLOWS:

the level of threat of immediate and irreparable injury, loss or damages warranting the issuance of ex parte injunctions. There was no evidence of an immediate or pressing danger any where in the Petition or supporting Affidavit as to require actions so swift that notice to the Respondent would not be feasible. The bare allegations by the Petitioner that the children were at risk is not sufficient evidence warranting the issuance of an ex parte injunction.

4. The Respondent denies the factual allegations made by the Petitioner that she is any way a threat to the children or an improper parent. If proper notice had been given of the temporary injunction sought, the Respondent would have provided relevant and compelling testimony contradicting the sworn affidavit of the Petitioner as will be further shown at the hearing of this cause.

5. The Respondent, alleges the Petitioner is in fact an unsuitable custodian for the parties' children due to his neglect of the children's medical, psychological and emotional needs. Furthermore, the Respondent avers that the Petitioner is an improper moral example for the children.

6. The Respondent further avers that the Petitioner comes to the Court with unclean hands in that he has not paid child support or divided marital property in accordance with the orders of the Court.

THEREFORE, the Respondent respectfully requests that the temporary injunctions issued in this case on August 1, 1997, concerning custody of the parties' minor child, medication of the parties' son and suspension of the Petitioner's duty to pay child support for the minor child be dissolved.

THIS the 8th day of August, 1997.

Diana Lynn Swann
DIANA LYNN SWANN
Petitioner

STATE OF TENNESSEE *
*
COUNTY OF BLOUNT *

I, DIANA LYNN SWANN, being duly sworn, hereby make oath that the facts stated in the foregoing Petition for Contempt are true to the best of my knowledge and belief, and that this Petition for Contempt is not made out of levity or by collusion with the Respondent but in sincerity and truth for the causes mentioned in the foregoing Petition for Contempt.

Diana Lynn Swann
DIANA LYNN SWANN

Subscribed to and sworn
before me this 8th day of August, 1997.

Amy M. Cowden
Notary Public

My commission expires:
10/27/99

APPROVED:

Jerry G. Cunningham by 1/1/01
JERRY G. CUNNINGHAM
Attorney for Petitioner
KIZER & BLACK, ATTORNEYS
329 Cates Street
Maryville, Tennessee 37801
(423) 982-7650
with power to be

CERTIFICATE OF SERVICE

We, the undersigned, hereby certify that a true and exact copy of the foregoing motion to Dissolve Temporary Injunctions has been sent to the Respondent in care of his attorney, Sarah Shepherd, 606 West Main Avenue, Main Plaza, Suite 200, P.O. Box 2149, Knoxville, Tennessee, 37901-2149, via facsimile (637-7300) and by United States mail, postage prepaid.

THIS the 8 day of Aug, 1997.

Jerry G. Cunningham by 1/1/01
JERRY G. CUNNINGHAM
with power to be

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

WILLIAM KIRK SWANN, III

PLAINTIFF

VS.

NO. 127967-2

DIANA LYNN SWANN

DEFENDANT

SUBPOENA TO TESTIFY

GREETINGS:

SUMMON: IAN SWANN

to appear on August, 15, 1997, at 9:00 o'clock a.m. before Judge W. Dale Young at the courthouse in Maryville, Tennessee to testify and the truth to say in a cause pending in the Circuit Court at Knoxville, Tennessee wherein William Kirk Swann, III, Plaintiff, and Diana Lynn Swann, Defendant, on behalf of Diana Lynn Swann.

WITNESS, Clerk & Master, of our said court at Knoxville, Tennessee this 14th day of August, 1997.

CLERK & MASTER

BY: *Ottie Davis*
Deputy Clerk

SERVICE RETURN

Came to hand this 14 day of August, 1997, and

serviced to the hand of Ian Swann

This 14 day of August, 1997.

[Signature]

FILED

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

WILLIAM KIRK SWANN, III

PETITIONER

VS.

NO. 127967-2

DIANA LYNN SWANN

RESPONDENT

MOTION TO DISSOLVE TEMPORARY INJUNCTIONS

COMES NOW THE RESPONDENT, DIANA LYNN SWANN, and respectfully moves this Honorable Court to dissolve the temporary injunction issued on August 1, 1997, concerning custody of the parties' minor child, medication of the parties' minor son and suspension of the Petitioner's duty to pay child support for the minor children. As grounds for this Motion, the Petitioner would state as follows:

1. The temporary injunction were improperly issued pursuant to the Tennessee Rules of Civil Procedure and the local rules of Court. TRCP 65.041 mandates notice to the adverse party before a temporary injunction will issue. Local Rule 14 for the Chancery Court of the 6th Judicial District, presumably well known to the Petitioner, states that for injunctions in domestic relations cases, temporary injunctions can be issued without hearing upon verified complaint or affidavit showing the applicants rights are being or will be violated by the adverse party and the applicant "will suffer immediate and irreparable injury, loss or damage before notice can be served and a hearing had thereon" (emphasis added).
2. While TRCP 65.07 allows for some latitude in domestic relations cases concerning temporary injunctions, where any attorney of record is involved in a case and the Petitioner's attorney has had actual and repeated contact with the Respondent's attorney of record, notice should be provided. In the case at bar, the Respondent was represented throughout her divorce and in post divorce matters by Ms. Glenna Ramer, Esq. of Chattanooga. However, neither the Respondent nor her attorney were given any sort of notice concerning the temporary injunctions issued in the present case. As a result, it is the Respondent's position that she was ambushed by the issuance of these injunctions without notice to her or her counsel of record.
3. The factual allegations in the Petition are disputed by the Respondent and do not rise to

1. That she be allowed to file this Petitioner for Contempt in this cause.
2. That a proper Notice issue and be served on the Respondent in care of his attorney, Sara Shepherd, requiring him to appear before the Chancery Court for Knox County, Tennessee, and show cause, if any he has, why he should not be adjudged, in wilful contempt of the prior orders of this Honorable Court and be punished accordingly therefor.
3. That upon the hearing of this cause, the Respondent be adjudged in wilful contempt of the prior orders of this Honorable Court and be punished accordingly therefor.
4. That your Petitioner have such other, further and general relief to which it she may be entitled.

RESPECTFULLY SUBMITTED, this the 8th day of August, 1997.

Diana Lynn Swann
 DIANA LYNN SWANN
 Petitioner

STATE OF TENNESSEE *
 *
 COUNTY OF BLOUNT *

I, DIANA LYNN SWANN, being duly sworn, hereby make oath that the facts stated in the foregoing Petition for Contempt are true to the best of my knowledge and belief, and that this Petition for Contempt is not made out of levity or by collusion with the Respondent but in sincerity and truth for the causes mentioned in the foregoing Petition for Contempt.

Diana Lynn Swann
 DIANA LYNN SWANN

Subscribed to and sworn before me this 8th day of August, 1997.

Amy M. Cowden
 Notary Public

My commission expires:

10/27/99

Jerry G. Cunningham
 JERRY G. CUNNINGHAM
 Attorney for Petitioner
 KIZER & BLACK, ATTORNEYS
 329 Cates Street
 Maryville, Tennessee 37801
 (423) 982-7650

CERTIFICATE OF SERVICE

We, the undersigned, hereby certify that a true and exact copy of the foregoing Petition for Contempt has been sent to the Respondent in care of his attorney, Sarah Shepherd, 606 West Main Avenue, Main Plaza, Suite 200, P.O. Box 2149, Knoxville, Tennessee, 37901-2149, via facsimile (637-7300) and by United States mail, postage prepaid.

THIS the 8 day of June, 1997.

Jerry G. Cunningham
JERRY G. CUNNINGHAM *by [Signature]*
with permission

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

344624
WILLIAM KIRK SWANN, III

PLAINTIFF

VS.

344632

DIANA LYNN SWANN

DEFENDANT

NO: 127967-2

BOOK
721-815

ORDER

340

THIS MATTER CAME TO BE HEARD on the 19th day of December, 1997, before the Honorable W. Dale Young, sitting by designation as Chancellor for the Chancery Court of Knox County, Tennessee, upon Motion of William Kirk Swann, III, to reduce child support and Motion of Diana Lynn Swann to recover unpaid child support and attorney fees, argument of counsel, and the record as a whole, from all of which the Court finds as follows:

1. That Mr. Swann is not entitled to a reduction in child support because no significant variance exists to require such reduction where private school tuition and other fees and expenses connected with the children's education do not place an undue financial burden on the father and where such expenses were foreseen at the time the parties entered into their Marital Dissolution Agreement.
2. That Mr. Swann should have paid child support as previously ordered until otherwise ordered by this Court.
3. That Ms. Swann is awarded a judgment therefore against Mr. Swann in the sum of \$14,000.00 for back child support due plus interest at the rate of 10% per annum from August 2, 1997, until the date of the entry of this judgment. After the entry of this Order, the judgment will bear post judgment interest at the statutory rate.
4. That Mr. Swann shall bear Ms. Swann's reasonable attorney fees in connection to this matter and that in connection therewith, Jerry G. Cunningham shall submit an affidavit relative to his charges and expenses, such amount to be paid by Mr. Swann unless he wishes to return to the Court to challenge the reasonableness of such fees.
5. That costs in this matter shall be taxed to Mr. Swann, whose address is
c/o Sarah Y. Sheppard, P.O. Box 2149, Knoxville, TN 37901.


Handwritten notes in left margin:
This motion is denied.

He is employed as Circuit Court Judge, 6th Judicial District, Division 3, M-38 City County-Building, 420 Main Avenue, Knoxville, Tennessee, 37902-2406, where execution may issue if necessary. Accordingly, the Court issued a Memorandum Opinion dated February 25, 1998, a copy of which is attached hereto and incorporated herewith verbatim and conformity with the Court's opinion:

(CLERK PLEASE ATTACH HERETO A COPY OF THE COURT'S MEMORANDUM OPINION)


It is hereby ORDERED, ADJUDGED AND DECREED that the Motion to Reduce Child Support is denied and Ms. Swann is to receive judgment in the amount of \$14,000.00 plus appropriate interest in addition to her reasonable attorney fees.

ENTER this the 24th day of March, 1998.



W. DALE YOUNG, JUDGE

APPROVED:



JERRY G. CUNNINGHAM
Attorney for Diana Lynn Swann



SARAH Y. SHEPPARD
Attorney for William Kirk Swann, III

CELESTINE
I, Clerk of the Court, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the files of the Court.
Order
20 March 1998
John F. Weaver
Clerk of the Court

EXHIBIT
#1 6/23/98

EXHIBIT 1

BACK CHILD SUPPORT OWED BY BILL SWANN

	Amount Owed
August 1997 thru February 1998 - In February, 1998, Bill Swann was ordered by Judge Young to pay the \$14,000 in child support owed for these seven months, plus 10% interest, and to resume paying \$2,000/month.	
- He paid \$7,000 in March 1998 - interest on it of \$408.33 is still owed.	408.33
- He still hasn't paid \$7,000 of that \$14,000.	7,000.00
- If paid July 1, 1998, interest owed on that \$7,000 is \$641.67.	641.67
Subtotal =	\$ 8,050.00
 March 1998 - Bill swann paid no child support for March 1998.	
- Still owes \$2,000	2,000.00
 April 1998 - Bill Swann paid \$1,000 in child support.	
- Still owes \$1,000	1,000.00
 May 1998 - Bill Swann paid \$1,000 in child support.	
- Still owes \$1,000	1,000.00
 June, 1998 - Bill Swann paid \$1,000 in child support.	
- Still owes \$1,000	1,000.00
Owed for March -June, 1998 =	\$ 5,000.00
Request 10% interest from March 1, 1998, on \$5,000 (if paid on July 1, 1998) =	166.67
Subtotal =	\$ 5,166.67
 TOTAL OWED by Bill Swann (if paid by July 1, 1998) =	 \$ 13,216.67

REQUEST check for this amount be written today and turned over to court.
REQUEST further child support be withheld from Bill Swann's paycheck and paid through court.