

# Commonwealth Of Kentucky

## Court Of Appeals

NO. 2002-CA-000486-MR

CHRISTOPHER AUBREY

APPELLANT

v. APPEAL FROM JEFFERSON FAMILY COURT  
HONORABLE JOAN L. BYER, JUDGE  
ACTION NO. 01-FC-005841

HONORABLE JOAN L. BYER  
AND BONNIE SUE AUBREY

APPELLEES

OPINION  
AFFIRMING

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BEFORE: COMBS, DYCHE, AND POTTER<sup>1</sup>, JUDGES.

DYCHE, JUDGE: Christopher Aubrey appeals from the decree dissolving his marriage to Bonnie Sue Aubrey, claiming that he did not receive adequate notice of the referral of the matter to the Domestic Relations Commissioner for hearing. We affirm.

It is uncontroverted that Christopher did not file any response to the petition for dissolution. He did make some attempts to participate in the action *pro se*, with his main

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<sup>1</sup>Senior Status Judge John Potter sitting as Special Judge by Assignment of the Chief Justice pursuant to Section 110 (5) (b) of the Kentucky Constitution.

concern being visitation with his son. He was served, according to the certificate of service, with notice of the hearing on the motion for the entry of the default decree. He did not attend the hearing on that motion, or the proof hearing before the commissioner.

Bonnie's brief indicates that the judge counseled Christopher concerning the need to have counsel, and to respond to the petition in order to preserve his rights in this action. We have no copy of the tape of the hearing where these warnings were given to Christopher, however.

We find that Christopher received all the notice to which he was entitled. He chose not to participate in this action until the final decree was entered, except for seeking visitation with his son. We hope and trust that he will be allowed to pursue that goal, and be given full consideration; he is not in default as to that issue. Otherwise, the decree of the Jefferson Family Court is affirmed.

COMBS, JUDGE, CONCURS.

POTTER, SPECIAL JUDGE, DISSENTS.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE BONNIE SUE  
AUBREY:

Armand I. Judah  
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