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## Commonwealth Of Kentucky

### Court of Appeals

NO. 2003-CA-001009-MR

JOHN PRINCE MEADE

APPELLANT

APPEAL FROM PIKE CIRCUIT COURT  
FAMILY COURT DIVISION  
v. HONORABLE LARRY E. THOMPSON, JUDGE  
ACTION NO. 03-CI-00206

REGENA FAYE BRANHAM MEADE

APPELLEE

#### OPINION

#### AFFIRMING

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BEFORE: COMBS, CHIEF JUDGE; GUIDUGLI AND KNOPF, JUDGES.

GUIDUGLI, JUDGE: In this domestic action, John Prince Meade (hereinafter "John") has appealed from the Pike Circuit Court's May 12, 2003, order finding him in contempt of a Status Quo Order and sentencing him to sixty days in the Pike County Detention Center. The sole issue John raises on appeal is that he was denied his due process rights. Having considered John's brief,<sup>1</sup> we affirm.

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<sup>1</sup> Regena did not file a brief, and her attorney of record withdrew both in the circuit court and in this Court.

John and Regena Faye Branham Meade (hereinafter "Regena") were married in Pike County, Kentucky, on June 2, 1999. No children were born of the marriage. John and Regena separated on January 30, 2003, and John filed a Petition for Dissolution of Marriage on February 6, 2003, in which he requested an equitable division of their marital property. On February 6, 2003, the circuit court entered the following Status Quo Order:

This Court is under a duty to restore the parties' non-marital property and equitably divide the parties' assets. KRS 403.190. The parties and attempt to mitigate the potential harm to them and their children caused by the process of legal dissolution of marriage KRS 403.110, KRS 403.100.(sic) To ensure the orderly accomplishment of these goals, it is important that during the course of this action the parties DO NOT dispose of any assets or incur unnecessary further liability pending further Orders of the Court or agreement of the parties.

Therefore, the Court ORDERS that, except as may be necessary to pay reasonable living expenses, neither party shall sell, encumber, gift, bequeath or in any manner transfer, convey or dissipate any property, cash, stocks or other assets currently in their possession or control to another person, company, legal entity or family member without first obtaining an Order from this Court giving them (sic) permission to do so or filing with the Court an Agreed Order signed by both parties or their attorneys. Further, neither party shall incur additional debt in his/her own name or the name of his/her spouse without first receiving the permission of the Court to do

so or filing with the Court an Agreed Order signed by both parties or their attorneys except that either spouse may incur reasonable debt associated with the day-to-day cost of living. The Law does not define what is "reasonable" in this context and the Court will not prejudge these matters; however, when incurring debt for day-to-day living necessities, the parties should keep in mind that they are in a dissolution proceeding and, therefore, what was a reasonable expense or debt during the marriage may not be reasonable under these circumstances. The parties are encouraged to consult with their attorneys before incurring any debt which they think may violate the tenor or spirit of this ORDER.

Finally, neither party shall cancel any health, life, automobile, casualty or disability insurance currently covering themselves or a family member or change the named beneficiaries on such policies prior to receiving permission of the Court to do so or filing an Agreed Order signed by both parties or their attorneys.

Intentional violation of this Status Quo Order may be considered contempt of Court subject to such sanctions as this Court deems equitable.

On March 5, 2003, Regena filed a domestic violence petition in Pike District Court<sup>2</sup> and received an emergency protective order that day. On March 13, 2003, Regena filed her own dissolution action in Pike Circuit Court.<sup>3</sup> The circuit court later dismissed Regena's action as John's action was already pending and ordered that any filings in Regena's case be re-

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<sup>2</sup> Case No. 03-D-00045-001. This petition was later dismissed following a determination that the testimony did not support grounds for the entry of a long-term domestic violence order.

<sup>3</sup> Case No. 03-CI-00414.

filed in the present matter. Also on March 13, 2003, Regena moved the circuit court for the temporary use of the marital home and of the 2003 Sonoma truck. On March 19, 2003, she filed a motion for a rule in the dissolution action, alleging that John had violated the Status Quo Order by intentionally burning their 2000 Jeep Cherokee in March 2003. The Court signed a Rule on April 15, 2003, ordering John to appear on April 21, 2003, to show cause why he should not be held in contempt. The Rule was served on John on April 18, 2003. As to the domestic violence action, Regena filed a motion for show cause order on March 13, 2003, stating that John had intentionally burned the marital vehicle. On March 19, 2003, Regena filed another motion for a show cause order, alleging that John had violated the emergency protective order by calling her after being served with the Petition for Emergency Protective Order. The same day, she also filed a motion for show cause order, motion for rule, and motion for sanctions, stating that John had called her at work on March 18, 2003, and was continuing to attempt to contact her, all in violation of the emergency protective order.

By a Calendar Order entered April 21, 2003, the circuit court indicated that all pending issues would be heard on April 29, 2003. Although the record in this action does not contain any record of the April 29, 2003, hearing, the record does contain three exhibits apparently introduced into evidence,

including photographs of the burned Jeep, an audio tape, and a Criminal Complaint and Summons filed against John by Regena on March 19, 2003. A Docket Order dated April 29, 2003, indicates that testimony was taken that day, and that the circuit court would watch a videotape of John and then issue a ruling. By order entered May 9, 2003, the circuit court ordered the parties to appear for a hearing on May 12, 2003.

At the May 12, 2003, court date, the circuit court issued rulings as to all of the pending motions and issues both in the domestic violence action and in the present matter. After stating that it had reviewed extensive testimony, the circuit court found John in contempt as to one of the domestic violence motions relating to telephone calls and as to the burning of the Jeep in the dissolution action only. The circuit court found by clear and convincing evidence that John burned the Jeep, and that it had occurred one month after the Status Quo Order was entered. As a result of the finding of contempt, the circuit court sentenced John to sixty days in jail, probated forty days for one year, and ordered him to serve twenty days in the Pike County Detention Center. After John indicated that he would be appealing the ruling, the circuit court allowed him to post a \$500 appeal bond to stay the sentence pending the appeal. John posted the bond and filed a notice of appeal on May 13, 2003. The same day, the circuit court entered a written order

memorializing its oral rulings, which had been reduced to writing on the Docket Order. As to the contempt issue, the circuit court stated:

2. The Court finds that the Petitioner herein violated the status quo order entered herein at the inception of this matter by intentionally burning the Respondent's Jeep Grand Cherokee, causing the same to be totally destroyed. The Court finds by clear and convincing evidence that the Petitioner is in contempt of this court and shall be sentenced to sixty (60) days in the Pike County Detention Center. Forty (40) days shall be probated on condition that the Petitioner, John Prince Meade, have no contact or communication with the Respondent, Regina (sic) Meade, and comply with all orders of this Court.

The circuit court made the May 13, 2003, order final and appealable.

On appeal, John argues that the circuit court's finding of contempt is not supported by the record because there is no evidentiary record to review in the dissolution action as to contempt. He also argues that he was denied due process because the evidence on which the contempt was found was not taken in the dissolution proceeding, citing Commonwealth v. Burge, Ky., 947 S.W.2d 805 (1996), and Newsome v. Commonwealth, Ky., 35 S.W.3d 836 (2001). We disagree with John's assertions.

While we agree that a person is entitled to due process protections in the area of contempt, we must hold that John received due process in that a hearing was clearly held

during which John testified, and that the circuit court reviewed this testimony prior to entering a ruling. This is evident in the circuit court's statements in open court on May 12, 2003, in the Docket Order entered that day, and in the written order entered May 13, 2003. Furthermore, there was nothing to prevent John from designating the record of the contempt hearing because it obviously concerned the present case, and the record on appeal contains notations of this hearing. Because John did not request that the circuit court include the contempt hearing in the designation of record, he cannot now use that omission to argue for a reversal on appeal.<sup>4</sup> Furthermore, because the record does not include this hearing, we must assume that the evidence introduced supports the circuit court's finding of contempt. CR 75.01. Colonial Life & Acc. Ins. Co. v. Weartz, Ky.App., 636 S.W.2d 891 (1982); Burberry v. Bridges, Ky., 427 S.W.2d 583 (1968); Hamblin v. Johnson, Ky., 254 S.W.2d 76 (1953).

For the foregoing reasons, the order of the Pike Circuit Court finding John in contempt is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT: No appellee brief filed.

W. Sidney Trivette  
Pikeville, Kentucky

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<sup>4</sup> We note that this is John's second attempt to circumvent the application of the Status Quo Order. In the May 13, 2003, order, the circuit court indicated that John had moved at the hearing to voluntarily dismiss the dissolution action, "to prevent a ruling on the violation of the status quo order."