

**NOT DESIGNATED FOR PUBLICATION**

**RONALD C. FILSON** \* **NO. 2002-CA-0974**  
**VERSUS** \* **COURT OF APPEAL**  
**SUSAN SAWARD FILSON** \* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**  
\*  
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\* \* \* \* \*

APPEAL FROM  
CIVIL DISTRICT COURT, ORLEANS PARISH  
NO. 95-19124, DIVISION “DRS-2”  
Honorable Madeleine Landrieu, Judge  
\* \* \* \* \*  
**Judge David S. Gorbaty**  
\* \* \* \* \*

(Court composed of Judge Joan Bernard Armstrong, Judge Charles R. Jones,  
Judge David S. Gorbaty)

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**AFFIRMED**

The plaintiff, Ronald Filson, appeals the trial court's judgment granting defendant's motion for contempt of court and costs associated with the filing of the motion. For the reasons set forth below, we affirm.

**FACTS AND PROCEDURAL HISTORY**

The parties were married in 1973 and divorced on May 15, 1996. The parties entered into an "Act of Settlement and Partition of Community Property" on December 17, 1997. The act of settlement and partition was recognized by the trial court in a consent judgment executed on December 17, 1997. The settlement and the consent judgment included provisions for permanent alimony. The act of settlement and partition of community property provided that:

B. In consideration of the mutual transfers and undertakings described herein, RONALD C. FILSON agrees to pay to SUSAN VIRGINIA SAWARD post divorce alimony in the amount of \$3000 per month, payable on the first day of each month beginning December 1, 1997, and terminating on May 31, 1998, \$2000 per month, payable on the first day of each month beginning June 1, 1998, and terminating on December 31, 2000, and \$1000 per month, payable on the first day of each month, beginning on January 1, 2001, and

terminating on December 31, 2002. This alimony is terminable on the death of either party.

C. Except for the provisions of Paragraph V (B) above, RONALD C. FILSON and SUSAN VIRGINIA SAWARD forever waive and relinquish any right, whether existing or potential, to receive from the other post divorce alimony.

The consent judgment also stated:

IT IS ORDERED that the Act of Settlement and Partition of Community Property By and Between Susan Virginia Seward and Ronald C. Filson, which has been executed by the parties, be and is hereby made judgment of this Court and further, shall be binding on the parties in the event that either party relocates or moves out of the State of Louisiana.

IT IS FURTHER ORDERED that Ronald C. Filson shall pay post divorce alimony to Susan Virginia Seward in the amount of Three Thousand and No/100 Dollars (\$3,000.00) per month, payable on the first day of each month beginning December 1, 1997 and terminating on May 31, 1998; in the amount of Two Thousand and No/100 Dollars (\$2,000.00) per month beginning on June 1, 1998 and terminating on December 31, 2000; and, in the amount of One Thousand and No/100 Dollars (\$1,000.00) per month beginning on January 1, 2001 and terminating on December 31, 2002, which alimony is to terminate on the death of the either party.

IT IS FURTHERED ORDERED that Ronald C. Filson and Susan Virginia Seward forever waive and relinquish any right, whether existing or potential, to receive post divorce alimony from the other, except as set out in the previous paragraph.

The plaintiff complied with the agreement and made the alimony payments until July 2001 when the defendant remarried. When the plaintiff failed to make the July 2001 payment, the defendant filed a motion for contempt of court and for costs and attorney's fees. After a hearing on October 8, 2001, the trial court rendered judgment on February 2, 2002, granting defendant's motion for contempt of court and costs and denying

defendant's requests for attorney's fees and sanctions. In rendering its judgment, the trial court concluded that the alimony payments were contractual in nature and that according to the settlement and partition agreement, alimony payments terminated on their own terms or upon the death of either party.

## **DISCUSSION**

The plaintiff filed this appeal, arguing that the alimony payments terminated upon the defendant's remarriage by operation of law. La. C.C. article 115 provides that "[t]he obligation of spousal support is extinguished upon the remarriage of the obligee, the death of either party, or a judicial determination that the obligee has cohabited with another person of either sex in the manner of married persons." However, the terms under which post divorce alimony is paid may be made the subject of a contractual agreement between the parties. *McAlpine v. McAlpine*, 96-1032 (La. 9/3/96), 679 So.2d 85.

In *Becker v. Becker*, 94-1224 (La. App. 1 Cir. 1995), 654 So.2d 1365, the First Circuit held that the ex-wife's open concubinage did not prevent her from receiving post divorce alimony as the community property partition

agreement provided that the ex-husband would pay post divorce alimony to the ex-wife until death or remarriage. Nothing in the contract provided for termination of post divorce alimony if the ex-wife lived in open concubinage. Similarly, in *Romero v. Romero*, 509 So.2d 681 (La. App. 3 Cir. 1987), the Third Circuit held that the ex-husband was bound to continue paying post divorce alimony even though the ex-wife was living in open concubinage. The court stated that the agreement between the parties provided that alimony would be terminated upon death of either party or remarriage by the ex-wife. The court noted that “[t]he wording of the contract with respect to the time when the agreed upon payments should cease is entirely unambiguous. Death or remarriage releases appellee from his obligation under the contract to pay alimony; open concubinage does not.” *Romero*, 509 So.2d at 684.

In the present case, the partition agreement and consent judgment is a contract between the parties. “The interpretation of a contract is the determination of the common intent of the parties.” La. C.C. article 2045. “When the words of a contract are clear and explicit and lead to no absurd consequences, no further interpretation may be made in search of the parties intent.” La. C.C. article 2046. The agreement entered into between plaintiff and defendant clearly provides that post divorce alimony would terminate on

December 31, 2002 or upon the death of either party. Remarriage by the defendant was not listed as an event that would cause the termination of post divorce alimony. The plaintiff is bound by the language of the settlement and partition agreement. The trial court did not err when it held that the defendant's remarriage did not terminate plaintiff's obligation to pay post divorce alimony.

### **CONCLUSION**

Accordingly, for the foregoing reasons, the judgment of the trial court is affirmed.

**AFFIRMED**