

IN THE SUPERIOR COURT OF FLOYD COUNTY
ROME JUDICIAL CIRCUIT
ROME, GEORGIA

COPY

PRESTON WILLIAMS SMITH,

* FILE NO: 08CV03241-JFL0003

Petitioner

FILED IN OFFICE

vs.

*

JAN 27 2009

CHRISTINA MICHELLE SMITH,

Respondent

*

FOR THE PETITIONER:

FRANK JONES
Attorney at Law

FOR THE RESPONDENT:

CHARLES MEDLIN
Attorney at Law

December 19, 2008, Rome, Georgia

BE IT REMEMBERED, the above-styled case came up for hearing on this date before the HONORABLE ADELE GRUBB, Judge of said Court, when all parties announced ready.

BEVERLY BAILEY DANIEL
OFFICIAL COURT REPORTER
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Rome, Georgia 30161
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I N D E X

CHRISTINA MICHELLE SMITH

Direct by Mr. Medlin.....10
Cross by Mr. Jones.....30
Redirect By Mr. Medlin.....49
Recross by Mr. Jones.....56

PRESTON WILLIAMS SMITH

Cross by Mr. Medlin.....58
Direct by Mr. Jones.....95
Recross by Mr. Medlin.....105

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(Friday - December 19, 2008)

THE COURT: I have to say I have not been in this courtroom before and it is configured a little differently than I'm used to.

We're here on Preston Smith versus Christina Smith. Are we ready for the movant?

MR. MEDLIN: Yes, Your Honor. I'm Charles Medlin on behalf of Ms. Smith.

THE COURT: Respondent?

MR. JONES: Frank Jones. We're ready, Your Honor.

THE COURT: Okay. Are there any issues that are resolved?

MR. MEDLIN: Your Honor, I think we just need the court to help us make some decisions because we haven't been able to resolve any of our issues.

THE COURT: Oh, okay. Okay. If you will give me an opening statement and tell me what the issues are, please, sir.

MR. MEDLIN: Yes, Your Honor. The issues are a threefold, Your Honor. First, we, on behalf of Ms. Smith, represent a mother of children who needs to be available very much for her children at home. The youngest is five. There's four -- there's four children, Preston Williams, Jr., Christina Morgan, Jordan Victoria, and Marshall Conner.

1 Marshall was born in 2003. Jordan Victoria was
2 born in 2000. Preston William Smith, Jr. in '94 and
3 Christina Morgan Smith in '97. All four of the children
4 reside with their mother.

5 Your Honor, the domestic relations financial
6 affidavits on file will show that the mother does not
7 have income.

8 THE COURT: Can I have the file, the court file?

9 I don't have -- what's been forwarded to me does
10 not include any financial information by the mother. I
11 have the information on the father.

12 MR. MEDLIN: Let me hand you, Your Honor, the
13 mother's --

14 THE COURT: So I don't have the mother's financial
15 affidavit or her child support worksheet.

16 MR. MEDLIN: May I approach, Your Honor?

17 THE COURT: Yes, sir.

18 MR. MEDLIN: And I will hand you the child support
19 worksheet also.

20 THE COURT: Okay. Go ahead.

21 MR. MEDLIN: May I continue, Your Honor?

22 THE COURT: Yeah. Yeah. I just didn't have those
23 for some reason.

24 MR. MEDLIN: The evidence will show, Your Honor,
25 that the petitioner in this case, Mr. Smith, derives

1 income as a state senator. He also derives income from
2 his employment as an attorney through a medical
3 insurance company. His income is in excess of \$200,000
4 a year.

5 The evidence will also show that the mother
6 definitely needs the ongoing payments for the house, but
7 must also receive a minimal amount each week. We will
8 be asking the court for a reasonable monthly amount to
9 the mother so that she can make the expenses she needs
10 to make.

11 We also will ask for an attorney's fee allotment.
12 This is not a case where either party has a large amount
13 of funds on their own. So as opposed to the typical time
14 when I might be asking for a \$12,000 retainer or some
15 larger amount -- I understand Mr. Jones has not gotten a
16 significant retainer either -- we're simply asking for a
17 monthly stipend of \$3,500 a month until the conclusion
18 of the case. We've already spent in excess of that
19 preparing the initial stages of this case, Your Honor.

20 We think the evidence will show that right now the
21 mother receives woefully inadequate amounts each month.
22 Right now she only receives \$500 each month. She can't
23 even buy groceries with that. We've got a husband that
24 makes in excess of \$200,000 a year. She doesn't have a
25 vehicle right now. She's literally living on the

1 kindness of strangers.

2 The evidence will show that her vehicle was totaled
3 and that she needs a substitute vehicle. We're going to
4 ask for Mr. Smith to finance a vehicle -- not an
5 exorbitant one -- but one in the \$15,000 price range
6 that would be safe for her and the children so that she
7 may have a vehicle. He has offered his second-hand
8 vehicle to her. She would like a vehicle that is one
9 that she can go out and choose for the children at a
10 reasonable expense.

11 Your Honor, these prayers will be made to the court
12 at the conclusion. And we appreciate the court
13 traveling here from Cobb County. And we will be
14 presenting evidence today toward that end. Thank you,
15 Your Honor.

16 THE COURT: Well, let me ask you this question then.
17 Is the issue of custody and visitation resolved?

18 MR. MEDLIN: For the most part it is, Your Honor.
19 We have a parenting plan that we've exchanged which
20 varies in very little differences. The only tweaking,
21 Your Honor, we would ask -- and it may be something that
22 Mr. Jones and I might be able to agree if there's a
23 break or whatnot. Since there's a five year old
24 involved having the overnight mid week, which Mr. Jones
25 has proposed, and returning on Sunday night as opposed

1 to Monday morning -- since the youngest child is five
2 we've asked for the return of the children on Sunday
3 nights. And we've asked for the Wednesday night not to
4 be an overnight yet.

5 We're certainly agreeable -- and I know this court
6 is familiar with parenting plans where you might have a
7 nine four where you do have that overnight of Sunday
8 night that goes to Monday morning. What I would
9 propose, Your Honor, is when the youngest child is eight
10 to have the Sunday night --

11 THE COURT: Well, this is a temporary.

12 MR. MEDLIN: It's just a temporary.

13 THE COURT: Yeah, so we're not going to -- surely to
14 goodness we're not going to be trying this when this
15 child is eight.

16 MR. MEDLIN: But I would say -- I would just say for
17 right now -- I'm just saying, Your Honor -- what I'm
18 just saying is that for right now we'd ask for the
19 return on Wednesday evening at 8 or 8:30 and on Sunday
20 evenings at 8:00. Again, not that in the future we
21 wouldn't have that overnight, but because of the age of
22 the youngest child.

23 And those would be the only tweaks that I would
24 have to the parenting plan that Mr. Jones has forwarded
25 to me.

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THE COURT: Okay.

MR. MEDLIN: Your Honor, let me also hand you our parenting plan.

THE COURT: We're talking joint legal primary in the mother. Is that what we're talking about?

MR. JONES: I'm sorry, Your Honor?

THE COURT: Are we talking joint legal primary in the mother?

MR. MEDLIN: Yes, Your Honor.

THE COURT: Okay.

MR. MEDLIN: This is our parenting plan.

MR. JONES: And I have not yet seen a copy of it. As soon as I have an opportunity to review it and see what the differences are --

THE COURT: Absolutely.

MR. JONES: -- I'll be glad to respond.

THE COURT: I will take a break.

MR. JONES: Thank you. Your Honor, with regard to Mr. Smith, he has -- as you know, the parties have been separated almost three and a half years. He has been paying all of the expenses including the first and second mortgage. She's been charging her gas. So I did not want the court to get the impression that he's been giving her \$500 a month. He's been paying all the bills and giving her, in addition, \$500 a month, and then

1 paying extra expenses for the children. That's in
2 addition to his living expenses. What he's been paying.

3 The mother is capable of employment. She has a
4 bachelors of arts in business administration degree and
5 is not employed. She says she is self-employed. And, I
6 believe, in her financial affidavit it states that she
7 makes \$100 per month.

8 The children are all in school. And she is capable
9 of obtaining employment during the day and there's no
10 reason that she cannot go to work and participate and
11 assist in the finances.

12 As you can see from the financial affidavit of Mr.
13 Smith, there's probably about \$140,000 in unsecured
14 debt. It's listed on exhibit 8, which is the last page
15 -- next to the last page, payments to creditors. And in
16 addition to what is on his affidavit he is also paying
17 her first mortgage payment, which is about \$1500 per
18 month. So that is in addition to what he's paying on
19 his financial affidavit. Unfortunately, the parties
20 have quite a bit of credit card debt.

21 Mr. Medlin is correct so far as any assets from
22 which to acquire funds to pay for attorney's fees. I've
23 been paid \$2,500. And my bill probably is close to
24 that. We've done some discovery. But Mr. Smith is
25 simply not able to borrow funds. There is no asset that

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he could obtain or use as collateral.

The car that Mr. Medlin states is needed is as a result of a wreck that the mother had in the vehicle. And it was totaled. We signed the title certificate over to him. I don't know what funds he has received from the insurance company. My guess would be somewhere -- five/six thousand dollars. And, I think, those - those will be the issues.

THE COURT: Okay. Call your first witness.

MR. MEDLIN: Thank you, Your Honor. We'll call Michelle Smith to the stand, Your Honor.

Should I swear the witness, Your Honor?

THE COURT: Whatever is normal up here.

THE CLERK: Raise your right hand.

(WITNESS IS DULY SWORN)

MR. MEDLIN: And you'll need to speak up for the court and the court reporter, Ms. Smith.

Whereupon, **CHRISTINA MICHELLE SMITH**, after first having been duly sworn, testified as follows:

DIRECT EXAMINATION: By Mr. Medlin

Q Can you state your full name for the record?

A Christina Michelle Smith.

Q And what do you go by?

A Michelle.

1 Q And where do you currently reside?
2 A In Rome, Georgia, at 43 Twickenham Road.
3 THE COURT: Can she pull the mike just a little bit.
4 Okay. Thanks.
5 Q Can you say that address again?
6 A I live at 43 Twickenham Road, Rome, Georgia.
7 Q How long have you lived at that address?
8 A Between ten and eleven years. Since June of 1998.
9 Q And tell the judge since 1998 who has lived in that
10 house with you. I know some children have been born since
11 then. Correct?
12 A Yes.
13 Q And who is your youngest child?
14 A Marshall.
15 Q And Marshall is how old?
16 A Five.
17 Q And all four children live with you. Correct?
18 A Yes.
19 Q When did their father leave the house?
20 A In 2005.
21 Q Have you filed for divorce in this case?
22 A No, sir.
23 Q Why have you not filed for divorce?
24 A Because I still love my husband and I'd like for
25 him to come home and seek the further counseling we've

1 already agreed upon.

2 Q Above the age of five, Marshall, who's next in
3 line? Tell me about the eight year old.

4 A It's Jordan. And it's a female.

5 Q And what grade is Jordan?

6 A She's in second grade.

7 Q And the eleven year old?

8 A She's in fifth grade.

9 Q And what does she go by?

10 A Christie.

11 Q And the fourteen year old? Tell the judge about
12 the fourteen year old Preston Williams Smith, Jr.

13 A He is a freshman at Rome High School. And he's the
14 namesake of my husband.

15 Q And does he go by Preston or Williams?

16 A Preston.

17 Q Tell the judge about what your obligations are
18 regarding the children on a daily basis.

19 A On most days I have a car pool situation that I try
20 to work out where a friend of mine helps me with the
21 elementary school children and I get -- I'm in charge of
22 getting to the high school every day. So getting four
23 children up and out of the house is quite challenging just
24 for me because of the unusual circumstances I find myself in.
25 When I had a newborn, and Preston was in the senate early on,

1 I became quite overwhelmed and have progressively gotten more
2 capable of handling it. But it's still very much a challenge
3 for me. And then other duties would include -- I volunteer
4 frequently at their school because that makes them more
5 successful students. I also go and make myself available for
6 field trips and do all that I can to completely devote myself
7 to raising my children. And our family made that choice when
8 Preston was still in the home. That's the history of our
9 marriage.

10 Q Did Preston agree with the choice of your staying
11 home to be -- to raise the children?

12 A Yes, I did. But before financial strains -- the
13 history of our marriage is such that I have done small menial
14 part-time jobs for the history of our marriage, which I
15 continue now. But with the economy as it has been the
16 business I'm doing now is -- mostly I break even because it's
17 just -- it's a luxury item as opposed to being a necessity.

18 Q Tell the judge what these -- these part-time jobs
19 are.

20 A I started helping raise money when he was in law
21 school throwing newspapers in the middle of the night to be a
22 mother during the day. I have worked at baby superstores for
23 retail. I have attempted to sell real estate while nursing a
24 child and taking her with me back when I just had two. And
25 then since then, because of having the multiple children,

1 it's gotten progressively harder to continue a consistent
2 full-time career mode. So, therefore, I have taught
3 preschool and been involved with wherever my children are. I
4 have either volunteered or been a paid volunteer in those
5 preschools for many years. And I also volunteer quite
6 frequently in our church with no pay.

7 Q Where do you attend church?

8 A At West Rome Baptist Church.

9 Q Do you take the children there by yourself?

10 A Yes.

11 Q How long have you been a member there?

12 A Approximately nine years.

13 Q When did you first meet Mr. Smith?

14 A In college when we went to Baylor University
15 together. And I met him -- I believe it was in March of
16 1992.

17 Q And when were you married?

18 A In September of 1993.

19 Q And where were you married?

20 A In Tarrant County in Texas where I'm from.

21 Q Did you work the entire time when Preston was in
22 law school?

23 A On a part-time basis, yes, as well as being a
24 mother.

25 Q When did he graduate from law school?

1 A In 1998.

2 Q And you'd already had a couple of children by then?

3 A Yes.

4 Q And so, let's see, at that point it would have been
5 Preston and Christie who were born before he finished law
6 school.

7 A Yes.

8 Q How often did you do your paper route? I assume
9 you couldn't have done that while you were late in labor with
10 Christie. Is that correct?

11 A No. I, at that point, had tried to support my
12 family with the beginnings of a real estate company that a
13 neighbor -- or, I guess, a community person had started. And
14 so I was helping her there.

15 Q And how did Preston do while he was in law school?

16 A He did quite well. He is a good student and was
17 even on the honor court.

18 Q Your husband is currently employed?

19 A Yes.

20 Q And you're aware that's with a medical insurance
21 company and through the state senate?

22 A Yes.

23 Q You've seen his financial affidavit of making over
24 \$200,000 a year. Do you believe that to be accurate?

25 A Yes, mostly.

1 Q There are bonuses I suppose he'll make, but you
2 don't know what those are yet.

3 A No. I have no knowledge of those or any of our
4 retirement accounts that might have been used or liquidated.

5 Q Okay. What was his schedule like as a senator when
6 you were still married to him?

7 A He was very preoccupied --

8 Q I mean, when you were still in the home. I'm
9 sorry. You are still married to him today.

10 A He is very much a driven and successful person.
11 And I'm very proud of him. He was very preoccupied in
12 wanting to be a success. He now serves as the judiciary
13 committee chairman for our state. And I'm very proud of him.
14 However, it did take him away from the children because he
15 was always distant and preoccupied with the success of being
16 the very best that he could be.

17 Q What were the schedules when he was with the
18 legislature versus when he would be working and living with
19 you?

20 A It absorbed most of his time. He tried the first
21 session to come home during mid week and it just miserably
22 failed because he was so exhausted. So he got to where he
23 only came home on the weekends during the following sessions.
24 And then now, because of our strained situation, he now --
25 every other weekend is when he sees the kids. And I suspect

1 that in January when the session starts again that will
2 probably -- the history repeating itself where he stays there
3 all week for the session because it somewhat is -- it's out
4 of his control sometimes when they meet and I understand
5 that. So I have been very understanding and have just taken
6 on the role of being the parent and being in charge during
7 his absence.

8 Q You said already that he moved out in February of
9 2005. Is that right?

10 A Yes, approximately.

11 Q Why did he move out?

12 A We just emotionally didn't see eye to eye anymore.
13 And I had a hard time recovery from some infidelity that I
14 suspected.

15 Q Did you find him with another person at a place
16 where they shouldn't have been together?

17 A Yes, I did.

18 Q Let me ask you about the five year old and what
19 your day is like.

20 You've heard Mr. Jones in opening state that you
21 should be actively employed. Can you tell this judge whether
22 you think it would be possible to do that without the
23 children suffering a lot more disruption in their lives?

24 A Was that a yes or no question?

25 Q Well, tell the judge what kinds of things would --

1 you feel would happen or suffer if you had to work, say, an
2 eight to five job during the week.

3 A My opinion, Your Honor, is that my children have
4 suffered enough by losing one parent because of this election
5 that happened in 2002. And, I think, if I had a full-time
6 career they would suffer all the more. It's all I can do
7 just to keep it together right now and do what I do on a
8 daily basis because I find myself very overwhelmed. And I'm
9 not complaining because I have so much joy in my children.
10 But simply putting me out in the cruel world I don't feel
11 like I am capable at this time to do.

12 Q Tell the court about when you finish the car
13 pooling in the morning. About what time is that, Ms. Smith?

14 A Approximately 8:30. I can't get anywhere before
15 8:30 because of traffic in Rome.

16 Q And then so when do you actually get back home
17 after the car pooling?

18 A I don't always go home. I sometimes have to run
19 errands or go to the grocery store or, you know, volunteer at
20 the school. I have -- let me explain, Your Honor, if you
21 don't mind. Prior to Preston's election my two older
22 children were privileged enough to be involved in a private
23 education, a private school here in Rome. And when he was
24 elected he choose to take them out and decided that we would
25 do the public school route one year at a time. Since that

1 time it has not been a discussion each year that goes by. I
2 have now resolved to the fact that that's fine that they're
3 in a public education. I'm pleased with their success. They
4 have been very successful there. However, there are things
5 that are lacking and I have -

6 Q Hold on. I want you to --

7 MR. JONES: If I might -- I don't think we're
8 addressing --

9 THE COURT: Mr. Medlin, there's an objection on the
10 floor. Let's hear the objection, please.

11 MR. MEDLIN: I'm sorry.

12 MR. JONES: I object. I think the answer is
13 nonresponsive. I'm not objecting to going into all the
14 past history. This is a temporary hearing. However,
15 you know, I don't object to, Your Honor, hearing what
16 you need to hear. But I believe we're getting into the
17 trial of the case rather than on the issues that are
18 being presented here this morning.

19 And we would request that the witness respond to
20 the question asked.

21 THE COURT: Mr. Medlin, you -

22 MR. MEDLIN: Well, let me rephrase my question.

23 THE COURT: Let me say this to Ms. Smith. Just
24 answer the question.

25 THE WITNESS: I apologize.

1 THE COURT: This is just a temporary hearing.

2 THE WITNESS: Okay.

3 THE COURT: This is not -- the final is when we let
4 it all hang out.

5 THE WITNESS: Okay.

6 THE COURT: This is a temporary.

7 Q (By Mr. Medlin) So right now I just want to know if
8 you were taking the car pool about what time would you get
9 back home during the morning?

10 A Between 8:30 and 9.

11 Q Okay.

12 A Unless I'm volunteering at the school, which was
13 the reason I went into the history.

14 Q I understand. So the volunteering -- about when
15 would the volunteering occur?

16 A Between 8 and 9.

17 Q No. No. No. If you were volunteering there.

18 A I'd be there at 9. I'd start at 9 and typically --
19 two days a week I volunteer at their school because there are
20 things lacking that they didn't have in the other schools
21 they previously attended.

22 Q And are you there those two days a week all day or
23 just part of the day?

24 A Most days it's all day because even if there's a
25 gap between classes I'm still there helping and organizing an

1 art closet, which we're organizing at the school.

2 Q And do you average two days a week doing that?

3 A Typically two or three days a week.

4 Q Let me ask you about some afternoon activities.

5 What's the first time of the day when your children are

6 released from school or when you have to be directly

7 supervising them at home?

8 A Around 3:00.

9 Q And what happens at 3:00?

10 A My children are coming home from school. And
11 they've enjoyed the security of seeing me when they open the
12 door and come in.

13 Q So Marshall, the five year old --

14 A Uh-huh.

15 Q -- does he come home about 3?

16 A Yes.

17 Q How do they get home?

18 A They ride the bus because it's faster than car
19 pool.

20 Q What if you're volunteering at the school?

21 A They come home with me.

22 Q Tell the court -- I need to ask you about some of
23 the finances involved in this case. Tell the court about
24 your car. What are you driving right now?

25 A I'm driving my -- a Jeep Wrangler. I don't know

1 the year. It is something that my Sunday school teacher has
2 lent me during this time. The six weeks before that I was
3 able to borrow a car from a former neighbor who has a
4 dealership here in Rome. And she needed the inventory back,
5 so I gave it to her. And now I'm in the Jeep Wrangler, which
6 no -- it does not have the capacity for my children. It only
7 has four seatbelts so I can't ride with them all at one time.

8 Q All right. And are you asking this court for
9 \$15,000 financed by your husband so that you can obtain a
10 safe vehicle that you and all four children can ride in?

11 A Yes.

12 Q Are you asking for a brand new car?

13 A No, sir. I -- no.

14 Q Okay. Have you been able to find and identify cars
15 on the market such as Toyota Siennas and vehicles like that
16 in the \$15,000 price range that would have reasonable mileage
17 that you wouldn't always be in a maintenance shop?

18 A Yes, Your Honor, I have.

19 Q Right now what -- other than paying the -- what
20 I'll call the house bills. And we agree that Preston is
21 currently paying the mortgage on the house. Correct?

22 A Yes, that's correct.

23 Q Is that about \$1,500?

24 A I think it's fifteen on the first and two hundred
25 approximately on the second mortgage, which was financed

1 after the first filling. Refinanced.

2 Q Okay. And then he's also paying utilities on the
3 home.

4 A Yes.

5 Q And he's paying for your gas cards that you get gas
6 on.

7 A Yes.

8 Q And he's keeping up the insurance.

9 A Yes, as far as I know.

10 Q Okay. Other than that who pays for all the
11 groceries?

12 A He pays for the majority of them and what I don't
13 get from him I have family or community people help me.

14 Q How does he pay for the majority of the groceries?
15 Does he give you money each month?

16 A He gives me a check each month.

17 Q And how much is the check he gives you each month?

18 A \$500.

19 Q Is that all he gives you each month?

20 A Yes.

21 Q So of the \$200,000 a year he makes you get \$500 a
22 month to spend on the children for groceries?

23 A Well, yes. But, Judge, it also would include field
24 trip money or any minor things that come up. I obviously
25 have to come out-of-pocket with cash when things come up at

1 school. So that takes out of our grocery money.

2 Q Does he give you money for clothing in addition to
3 the \$500?

4 A No.

5 Q None at all for you or the children?

6 A No.

7 Q Does he give you money for dry cleaning or laundry
8 each month?

9 A No. But in the past he has taken it occasionally
10 for me because it's so minimal.

11 Q Does he give you money so that you can eat out in
12 addition to the \$500 a month?

13 A No, sir, he has not.

14 Q Does he give you -- has he -- how much has he given
15 you to buy Christmas gifts this Christmas season?

16 A None. But he was asked.

17 Q So the \$500 -- has he given you \$500 for December?

18 A Yes, I got that the other day.

19 Q Tell the Judge where you -- how you eat. Tell the
20 Judge -- if the \$500 doesn't even cover your groceries, much
21 less all your other expenses, tell the judge how you've been
22 feeding your children.

23 A Well, just the kindness of my family and people in
24 the area that will occasionally take us to dinner or gift
25 cards, that kind of thing. I really am not one to eat out a

1 lot. I'm very much a tightwad in that I eat at home and the
2 children and I all eat at home quite frequently. So it's
3 unusual that we would go out.

4 Q Tell the judge the last time you took the children
5 out to eat anywhere.

6 A We had to meet my oldest son at a restaurant, I
7 think it was last month, when he was meeting with the youth
8 group. And so, I think, we went then just because he had to
9 be there anyway.

10 Q Were you able to pay for that bill?

11 A I had to use my credit card.

12 Q And what did you -- where did you eat that time?

13 A It was a Mexican restaurant that's really
14 inexpensive here in Rome.

15 Q When you were in a car accident -- you heard Mr.
16 Jones talk about that.

17 A Yes.

18 Q Was that back in October?

19 A It was on the 10th of October.

20 Q And was that vehicle you were driving -- that was a
21 Chevrolet Suburban?

22 A Yes.

23 Q Was that totaled?

24 A Yes.

25 Q When you asked your husband to sign the title, did

1 he?

2 A He said that he did and he gave it to Frank Jones.

3 Q Did it take some time before you actually got the
4 title?

5 A I didn't see that for well over a month or maybe
6 even six weeks, I guess, before I actually had it in my
7 hands.

8 Q And then finally through asking me to get it, we
9 finally got it?

10 A Yes, that's correct.

11 Q Have you found out how much money the insurance
12 company will give you for that totaled vehicle? How much
13 actual cash they will write you a check for?

14 A Your Honor, the insurance company has not settled
15 up with me yet, but their plan is to try to forward me a
16 settlement of \$4,200 because of the wear and tear and the
17 mileage and the age of my car.

18 Q Are you willing to use that \$4,200 either to apply
19 toward legal fees or to apply to the \$15,000 if the Judge
20 would rather do it one way or another?

21 A Yes. I mean, I plan to use every dime of that to
22 obviously get another car. I don't have a choice.

23 Q Are you -- are you asking the Judge for enough
24 today for you to be able to buy your groceries and pay for
25 some clothing and take care of what you have to do on a daily

1 basis for the children?

2 A Yes, ma'am.

3 Q Have you totaled that up on your financial
4 affidavit that it's around a minimum of \$2,000 a month or
5 \$500 a week?

6 A That's correct.

7 Q Okay. Would you -- would you also like some amount
8 in addition to that for December so that you could buy some
9 Christmas gifts for the children?

10 A Yes, that would be very helpful.

11 Q What amount would you like for your Christmas gifts
12 for the children -- for four children?

13 A I think no more than \$1,000 would be reasonable.

14 Q If you were to tell the Judge about your house --
15 did you bring a picture of your house today?

16 A I did. It's over there.

17 Q Is it in good repair?

18 A It has some issues that need to be resolved.

19 Q Would you like as part of the order of the court
20 that if there's reasonable and necessary expenses you're
21 willing to get an appraisal of whatever the expenses or
22 (unintelligible) and give quotes to your husband and have
23 those taken care of?

24 A Yes.

25 Q Are you able to pay me attorney's fees to represent

1 you?

2 A No.

3 Q Are you asking this court for \$3,500 a month so
4 that your husband has a way of paying me since he --
5 obviously, there's not a big pot of money out there. You
6 don't think -- so far as you know we haven't found a big pot
7 of money somewhere. Correct?

8 A That's correct.

9 Q And are you asking this court for \$3,500 a month
10 until we reach a final in the case so that I can continue to
11 represent you?

12 A Yes, that would be helpful.

13 Q Do any of your children have health problems?

14 A I'm very blessed. I have very healthy children. I
15 think that's because I devote myself to their nutrition and
16 being around them and keeping them healthy.

17 Q The last issue, which is more of a minor issue, but
18 at this time are you asking the court to adopt our parenting
19 plan which basically tweaks Mr. Jones' parenting plan in that
20 the children return on Wednesday nights at 8 and Sunday
21 nights at 8 because of the five year old?

22 A Yes. It's very exhausting on my children to do the
23 overnights during the week.

24 Q And with that exception, the parenting plan that
25 we've submitted is the one that you would like for this court

1 to adopt?

2 A Yes.

3 Q And other than that you would be the tie breaker on
4 all the issues for the children to which your husband doesn't
5 object. And the other things that he's put in his parenting
6 plan -- you would have the first week of Christmas each year.
7 He would have the second week. That sort of thing. Which
8 really only governs this year since we're talking about a
9 temporary order. But you're in agreement with the rest of
10 the parenting plan?

11 A Yes.

12 Q Is there anything else about your expenses on a
13 monthly basis that this Judge needs to know. Do you now have
14 monthly medical expenses you need to pay for?

15 A Not at this time. But I do have pins in my leg
16 from an accident a couple of years ago. And I haven't had
17 glasses in two years or so, which I just use briefly when I
18 drive for the purposes of seeing street signs, of course. I
19 don't -- I don't wear them all the time. I just wear them
20 when I drive so therefore I haven't asked for that. But
21 those are things that are expenses that I've been avoiding
22 because of limited resources.

23 Q But if you have \$500 a week for your expenses, do
24 you feel like you might have enough that you could have some
25 of these other things seen about?

1 A Yes, I could afford to pay copays to go to the
2 doctor. Yes.

3 Q And right now with \$500 a month not even covering
4 groceries --

5 A No.

6 Q -- it's a problem -- it's a problem to have copays?

7 A No, that's extremely unreasonable.

8 MR. MEDLIN: Thank you.

9 THE WITNESS: You're welcome.

10 THE COURT: Mr. Jones.

11 MR. JONES: If it would please the court.

12 -----

13 CROSS-EXAMINATION: By Mr. Jones

14 Q Hasn't it been the practice on the copays that you
15 simply give those to Preston and he pays those?

16 A Retroactively possibly he will reimburse me when I
17 ask him to, yes. But it's always that I have to go out-of-
18 pocket.

19 Q But he reimburses you. Yes?

20 A Yes.

21 Q With regard to the vehicle that you wrecked, you
22 have taken or shown Preston or requested that he purchase for
23 you an Acura. Is that right? And the list price of that was
24 \$10,000. Is that correct?

25 A It was actually 10,999.99 which would have been

1 closer to 11,000.

2 Q 11,000. Is that the same vehicle that you are
3 interested in now?

4 A If I find that it's still available.

5 Q Okay.

6 A But so much time has passed waiting on the title I
7 have no idea if it's still available.

8 Q And you have \$4,200 possibly from the insurance
9 company at a minimum. Is somebody negotiating that claim for
10 you?

11 A I'm working with the insurance agent and the
12 adjuster that's helping me.

13 Q Is Mr. Medlin helping you with that?

14 A No.

15 Q Okay. With regard to the vehicle, Mr. Smith
16 offered to give you his vehicle and try to find one for
17 himself during the interim. Is that correct?

18 A Yes.

19 Q All right. With --

20 A He wanted payment for it though. He didn't give it
21 to me.

22 Q It's paid for, isn't it?

23 A No. He owes like sixty-five to seven thousand --

24 Q That's right. There's no equity in that vehicle
25 either, is there?

1 A No, he's upside down on the note.

2 Q Okay. With regard to the reasons that you have
3 given for him moving out, actually you and he have been to
4 counseling for a number of years before he moved out.
5 Correct?

6 A That's incorrect, sir.

7 Q And y'all have had substantial acrimony during the
8 marriage. He would move to a separate room. In fact, he
9 moved to the basement. And you told him you wanted to live
10 in the basement and he had to move out of the basement. Is
11 that correct?

12 A What time period are you talking about. I don't --

13 Q Before you separated in 2005.

14 A Immediately before, a couple of months before, yes.

15 Q With regard --

16 A That's not several years though. That's just right
17 before -

18 Q With regard to your educational background, you
19 graduated from Baylor in 1995. Is that correct?

20 A Yes.

21 Q And what degree did you have?

22 A I have a bachelor of arts in business
23 administration --

24 Q All right.

25 A -- which Mr. Medlin has already referred to.

1 Q Do you have a real estate license also?

2 A I believe it's about to lapse --

3 Q Do you have --

4 A -- because I cannot pay to get my continuing
5 education.

6 Q Do you have a real estate license, Ms. Smith? If
7 you'd just answer the question.

8 A Yes.

9 Q Okay. And the continuing legal -- the continuing
10 education for the real estate is due when?

11 A In less than two weeks.

12 Q All right. And you can get an extension on that?

13 A I haven't looked into it, but I suppose I could.
14 My focus has been on mothering my children so I have not even
15 really dealt with that.

16 Q Okay. If you would just answer the questions,
17 please, ma'am, I would appreciate it.

18 A Yes, uh-huh.

19 Q So you have a real estate license and you have a
20 bachelor of arts in business administration. Some of your
21 jobs have been a salesperson at IBM or a receptionist. Is
22 that correct?

23 A That is incorrect. Straight out of college Preston
24 and I decided to --

25 Q What were your jobs?

1 A I was a customer service entry level -- customer
2 service -- I guess they called it a coordinator. A customer
3 service coordinator is what it was.

4 Q Okay. And how much were you paid?

5 A I only worked there for the summer and it was
6 between ten and twelve thousand dollars and it was to raise
7 money for Preston to go to law school. That was the only
8 time I've had full-time employment in our marriage.

9 Q Did you -- did you work at Floyd Medical Center?

10 A Part-time on the weekends at night.

11 Q As -- as what?

12 A As a unit secretary in the ER.

13 Q And how much were you paid?

14 A Not more than minimum wage. I don't really
15 remember. I made a little -- a small one dollar an hour
16 premium for working nights, I believe.

17 Q And as I understand it the children car pool, go to
18 school, and you're available at 8:30. And they come home on
19 the bus and they would get home about 3 or 3:30. Probably
20 3:30. Is that correct?

21 A Yes, that's correct.

22 Q Okay. And you do volunteer work but you do not
23 receive any pay for that.

24 A No, I do not.

25 Q Okay. Is there any reason that you have not sought