

REL: 01/06/2006 CAROLINE COOK V. GEORGE COOK

Notice: This opinion is subject to formal revision before publication in the advance sheets of Southern Reporter. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 242-4621), of any typographical or other errors, in order that corrections may be made before the opinion is printed in Southern Reporter.

ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2005-2006

2040079

Caroline Cook

v.

George Cook

Appeal from Houston Circuit Court

(DR-03-840)

BRYAN, Judge.

AFFIRMED. NO OPINION.

See Rule 53(a)(1) and (a)(2)(C), Ala. R. App. P.; Rule 45, Ala. R. App. P.; Ex parte O'Daniel, 515 So. 2d 1250 (Ala. 1987); Johnson v. Langley, 495 So. 2d 1061 (Ala. 1986); Harmon v. Harmon, __ So. 2d __ [Ms. 2031063, November 5, 2005] (Ala. Civ. App. 2005); Green v. Georgia-Pacific Corp., 906 So. 2d 961, 963 (Ala. Civ. App. 2005); Walls v. Walls, 860 So.2d 352 (Ala. Civ. App. 2003); Baggett v. Baggett, 855 So. 2d 556 (Ala. Civ. App. 2003); Parrish v. Parrish, 617 So. 2d 1036 (Ala. Civ. App. 1993).

The appellant's and appellee's requests for attorney's fees on appeal are denied.

Crawley, P.J., and Pittman, J., concur.

Thompson, J., dissents, with writing, which Murdock, J., joins.

THOMPSON, Judge, dissenting.

I must respectfully dissent. I note that although the trial court purported to award the wife one-half of the husband's retirement benefits that had been accumulated during the parties' 20-year marriage, that award was a nullity. See Crawford v. Crawford, 876 So. 2d 1167, 1168 (Ala. Civ. App. 2003) ("an award ... [of] Tier I [railroad retirement] benefits is prohibited by federal law"). After careful consideration, I have concluded that the property division, even if it properly included those Tier I railroad retirement benefits, disproportionately favors the husband and is inequitable.

Murdock, J., concurs.