

**IN THE COURT OF APPEALS OF TENNESSEE
MIDDLE SECTION AT NASHVILLE**

JULIA JONES,)	
)	
Plaintiff/Appellee,)	Summer Circuit
)	No. 14204-C
VS.)	
)	Appeal No.
)	01-A-01-9601-CV-00038
SAMUEL ROBERT JONES, JR.,)	
)	
Defendant/Appellant.)	

FILED
September 11, 1996
Cecil W. Crowson Appellate Court Clerk

OPINION
CONCURRING IN PART AND DISSENTING IN PART

I have prepared this separate opinion because I cannot concur with the portion of the majority’s opinion concerning the husband’s obligation to pay for the wife’s post-divorce medical expenses. Under the facts of this case, it is neither equitable nor fair to require the husband to pay for his former wife's post-divorce elective surgery. Except for this point, I concur with all other portions of the majority opinion.

Following the June 27, 1995 hearing, the trial court announced from the bench that the parties were divorced. On October 17, 1995, the trial court entered an order directing Mr. Jones to pay Ms. Jones’s \$5,203.75 bill for a tubal ligation she obtained on July 17, 1995. The trial court observed that this decision might be “reversible” and “improvident” but explained that it was “[d]ue to the fact that [Mr. Jones had] . . . cancelled [Ms. Jones’s] . . . health insurance coverage without notice to her.”

Mr. Jones has appealed from this decision arguing that he should not be required to pay these medical bills because they were not marital debts. He points out that the parties were no longer married when the surgery was performed and that he had no legal obligation to continue to provide Ms. Jones with medical insurance or to notify her that she had been removed from his policy. I cannot

agree with the majority's decision to affirm the trial court's decision to require Mr. Jones to pay for his former wife's elective surgery.

The majority recognizes that parties are ordinarily not liable for post-divorce debts of a former spouse. Nonetheless, they reason that the "unusual circumstances of this case" require a different result, but they fail to explain precisely what these "unusual circumstances" are. I see nothing unusual about this case.

Neither party disputes that the Joneses were effectively divorced on June 27, 1995. Since Ms. Jones's debts for the tubal ligation occurred after this date, they are her separate debts and cannot be attributed to the marriage. *See Mondelli v. Howard*, 780 S.W.2d 769, 773 (Tenn. Ct. App. 1989) (marital debts are those incurred during the marriage for the joint benefit of the parties or those directly traceable to the acquisition of marital property). Thus, in order to require Mr. Jones to be responsible for paying these medical bills, we must hold either (1) that Mr. Jones could not remove Ms. Jones from his insurance policy without specific permission from the trial court or (2) that Mr. Jones had some sort of continuing legal obligation to notify Ms. Jones when he removed her from his insurance policy. My research reveals no authority for either proposition.

That Ms. Jones scheduled this elective surgery before the divorce hearing is of little relevance. Even though the trial court's decision to declare the parties divorced following the June 27, 1995 hearing might have been a "surprise," Ms. Jones was in court and was well aware that the trial court had declared the parties divorced. Since her surgery was elective, she would have been able to inquire into the status of her insurance coverage before she underwent the procedure. Had she done so, she could easily have postponed the procedure until she obtained insurance coverage.

The record contains no evidence that Ms. Jones underwent a tubal ligation to treat a medical condition incurred during the marriage. Accordingly, the record provides no legal basis for requiring Mr. Jones to pay these medical bills as

additional support. *See Cranford v. Cranford*, 772 S.W.2d 48, 51-52 (Tenn. Ct. App. 1989) (wife entitled to increase in long-term support in order to pay escalating medical bills for treatment of multiple sclerosis diagnosed prior to the parties' separation). Thus, I would reverse the trial court's order insofar as it orders Mr. Jones to pay these medical bills for Ms. Jones.

WILLIAM C. KOCH, JR., JUDGE