

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
June 11, 2009 Session

NANCY RANDOLPH DEAKINS v. LYNN LAMPTON DEAKINS

**Appeal from the Circuit Court for Hamilton County
No. 06D1225 W. Jeffrey Hollingsworth, Judge**

No. E2008-00074-COA-R3-CV - FILED SEPTEMBER 30, 2009

D. MICHAEL SWINEY, J., concurring.

I concur fully in the Opinion of this Court. I write separately only to further address one specific issue concerning Husband's "need" as related to alimony. I agree with the Opinion of this Court that "the record did not indicate any apparent barrier preventing Husband from using his education and training to gain new employment..." and that Husband's successful treatment for his alcoholism rendered him capable of working at a paying job.

I agree with the Opinion of this Court that the evidence shows that Husband as an adult having both the ability and the health to work at some gainful employment has the responsibility to do so. I believe this principle would apply as equally if the parties' positions were reversed and it was Wife in Husband's position. Given this, I believe the holding of this Court as expressed in the Court's Opinion should be and would be the same even if the parties' positions were reversed.

D. MICHAEL SWINEY, JUDGE