IN THE COURT OF APPEALS OF TENNESS	EE
WESTERN SECTION AT JACKSON	

FILED

May 21, 1996

CHARLES M. WHITE,

Plaintiff/Appellee,

VS.

MARY EVELYN WHITE,

Defendant/Appellant.

) Shelby Circuit No. 141387-5 R.D.

) Appeal No. 02A01-9502-CV-00018

Cecil Crowson, Jr. Appellate Court Clerk

## ORDER ON PETITION TO REHEAR

Counsel for appellant has filed a petition to rehear based on the statement in the court's opinion that "[i]t is undisputed that the wife did not repudiate the stipulated agreement regarding property settlement at any time prior to the entry of the original final decree of divorce." Counsel takes offense at this statement and avers that he "is undertaking to check out and read several library books on the art of effective communication" because he stated otherwise during oral argument before the court.

The failure here, however, is not one of communication, but rather it is failure of support in the record. What counsel argued is one thing; what is revealed by the record is another. The appellate court is a court of review and our scope of review is confined to the record before us.

Counsel for appellant contends that he stated in oral argument that his client repudiated the stipulated agreement prior to its entry in the trial court. Counsel's argument does not constitute evidence. We find no evidence for his statement in the record. It is therefore undisputed that *in the record* wife did not repudiate the stipulated agreement prior to entry of the original final decree.

The petition to rehear is accordingly found to be without merit and is therefore denied.

Entered this \_\_\_\_\_ day of April, 1996.

HIGHERS, J.

CRAWFORD, P. J., W.S.

FARMER, J.