

STATE OF ALABAMA --- JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1965-66

5871

1 Div. 338

Louis Lee Riddle, alias, a Non-Compos
Mentis, by Gladys Riddle, Guardian

v.

Carolyn Jay Dorough

Appeal from Baldwin Circuit Court

HARWOOD, JUSTICE

This is an appeal from a judgment entered in favor
of the appellee, defendant below, in the Circuit Court of
Baldwin County.

Appellant sued appellee for \$25,000 for bodily

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injuries received when he was struck by the appellee's automobile while attempting to cross a public highway near Bay Minette. The appellant, who had been declared non-compos mentis, sued by his legal guardian, his wife, Gladys Riddle.

Count 1 alleged simple negligence and Count 2 charged wanton misconduct. The appellee plead the general issue and contributory negligence to Count 1 and the general issue to Count 2.

Upon conclusion of the testimony, the court gave the affirmative charge as to Count 2, the wanton count. The case was submitted to the jury on Count 1, and verdict was for the defendant. Judgment was entered pursuant to the verdict. No motion for a new trial was filed.

The plaintiff is a middle aged male who lives south of Bay Minette with his family. His residence is located approximately a half mile to the west of U.S. Highway 31 which runs from Bay Minette to Mobile. On the morning of the accident the appellant, around 8:30 o'clock, walked from his house to the highway to get mail from a mailbox which is located on the opposite or east side of the highway. The appellant's general health is poor and his eyesight is limited to some extent. He uses a walking cane to assist him in his movements.

The testimony establishes that the appellant went to the highway unaccompanied and crossed the highway to the mailbox. Upon removing the mail from the mailbox he

3.

turned and started walking in a northerly direction toward Bay Minette. After having walked a short distance, he turned and started back toward the mail box. He was walking on the east shoulder of the highway.

The appellee was driving her automobile in a northerly direction toward Bay Minette. The appellee's four children and her father were passengers in her automobile. Apparently it had rained earlier that morning though the rain had ceased at the time of the accident. The appellee had been driving approximately forty to fifty miles per hour but she had just passed a sign indicating a speed limit of forty miles per hour and she decreased her speed to approximately thirty to thirty-five miles per hour. The appellee testified she observed the appellant walking on the shoulder of the road approximately "a block or two" away and that he was walking on the side of the highway facing the approaching traffic. She testified that when the distance had closed to approximately fifteen feet the appellant made an abrupt turn and walked onto the highway directly in front of her vehicle. When he stepped in front of her automobile, he waved a walking stick in her direction.

The appellee applied her brakes and swerved her automobile to the right in an attempt to avoid hitting the appellant who was now nearly in the center of the highway. The appellee testified that she was unable to avoid striking the appellant despite all efforts to do so and the left front of

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her automobile struck him.

Two witnesses who were in an automobile directly behind the automobile of the appellee gave similar testimony. The substance of their testimony is that they had been following the appellee's automobile for a number of miles. The driver of this following vehicle testified that she observed the appellant when he was approximately four car lengths or a little more ahead of her. She was following some three car lengths behind the appellee's vehicle. When the appellee's vehicle was only some two car lengths away from the appellant, he started across the highway. The passenger in the following automobile testified he observed the appellant when he was approximately four or five car lengths away and that nearly at the same time he saw the appellant, he stepped in front of the appellee's vehicle. This witness estimated that the appellee was within a car length or two of the appellant when he left the shoulder of the highway.

The appellee's father testified he observed the appellant about "a block or a block and a half" away as he was walking in a southerly direction along the shoulder and was facing the approaching traffic. The witness further testified that when they were within two car lengths the appellant suddenly turned to his right and started across the highway waving his cane as he did so.

The appellant was found competent to testify. The substance of the appellant's testimony on direct examination

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was that after he had removed the mail from the box, he looked in both directions before attempting to cross the highway. To the north he observed a "van truck" which was proceeding in a southerly direction toward him. The truck was some 200 to 300 feet away from him at this time. He then looked to the south and observed two automobiles traveling toward Bay Minette. These vehicles were "500 feet or more" away. The appellant waited until the truck passed and then started to cross the highway. The appellant testified that when the truck passed the wind "sagged" him a little, but he felt he had time to get across and he attempted to cross the highway. The appellee's car struck him when he had nearly reached the center line of the highway. The appellant testified that just before the automobile struck him he waved his cane and hands in that direction.

On cross examination the appellant testified that after he removed the mail he walked up the highway for a short distance and then turned and started back. He observed the truck approaching from one direction and the two cars from the other. The appellant then testified that when the truck passed he felt that he had time to get across. The approaching automobiles were still approximately 200 feet away. The appellant testified that he took some five or six steps and had nearly reached the center line of the highway when he looked in the direction of the approaching vehicles and realized that the automobile was

6.

within one car length of him. He waved his walking stick and then the automobile struck him. The appellant was later asked on cross examination if it wasn't true that when he stepped out onto the paved portion of the highway that the approaching automobile was only one or two car lengths away from him. The appellant answered in the affirmative.

The appellee, her father, and the two witnesses traveling in the automobile following the appellee all denied that there was a truck approaching from the opposite direction just prior to the accident.

Testimony was submitted by the investigating officer and other witnesses establishing that the appellant, after being struck by the appellee's vehicle, was found to be lying in a position some 22 steps north of the mail box and nearly in the center of the highway.

The appellant argues some fourteen assignments of error in brief.

The appellant urges under assignment number 1 that the trial court erred in allowing, over appellant's objection, a city policeman to testify on cross examination that he had warned the appellant, because of his physical infirmities, not to ever get out on the highway unaccompanied.

It is appellant's contention that the questioning of the police officer concerning this prior transaction was error as the matter had not been gone into upon direct examination and the cross examination should have been limited to

7.

those matters brought out on direct examination.

"The right of cross examination thorough and sifting, belongs to every party as to witnesses called against him." Section 443, Title 7, Code of Alabama 1940.

In Alabama, the so-called English Rule of cross examination prevails, that is, the cross examination is not limited to matters brought out on direct examination of a witness, but extends to all matters within the issues of the case. Coward v. McKinney, 277 Ala. 513, 172 So. 2d 538; Madden v. State, 40 Ala. App. 271, 112 So. 2d 796; 1 Thompson on Trials, 2nd Ed., Sec. 430 et seq.

The appellant's complaint was founded upon the alleged negligence of the appellee and the appellee had pleaded that the appellant was guilty of contributory negligence. It therefore seems clear that the testimony solicited was directly related to the issues of the case. Assignment of error number 1 is without merit.

Assignment of error number 2 is related to the trial court's action in sustaining appellee's objection to a question propounded to a witness for appellant concerning whether or not the witness observed the appellant's cap at the scene of the accident. Previous testimony had established that the appellant was wearing a cap when he left home earlier that morning. The appellant then asked the witness a similar question and the witness answered in the negative. Granting, without deciding, that the trial court's ruling was in error, the subsequent admission

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of the witness that he did not see the cap at the scene would render any error harmless. Gunter v. Ganous, 269 Ala. 589, 114 So. 2d 389, [H.N. 6]; Nelson v. Johnson, 264 Ala. 422, 88 So. 2d 358, [H.N. 10]; Crescent Amusement Co. v. Knight, 263 Ala. 445, 82 So. 2d 919, [H.N.12]; Supreme Court Rule 45, Code 1940, Tit. 7 Appendix.

Assignment 3 is based upon the trial court's excluding the answer of a witness for the appellant that when the witness arrived at the scene of the accident some minutes after its occurrence, he observed that both shoes were not on the appellant's feet.

Evidence pertaining to the condition of the place or thing before or after an accident under certain conditions is admissible in a suit as evidence of its condition at the time of such accident.

There is no contradiction in the record as to the speed of appellee's automobile at the time the appellant was struck nor as to any of the facts surrounding the accident. The excluded answer may have tended to shed light upon the rate of speed of appellee's automobile had the matter been in dispute. The testimony of the appellee and her witnesses was to the effect that appellee was driving at between thirty and thirty-five miles per hour at the time appellant was hit, and that the impact was strong. Thus the answer excluded related to uncontradicted facts, and its exclusion in our opinion could not probably have injured the appellant in any substantial right. We will not posit

9.

a reversal upon the ruling in this instance. Supreme Court Rule 45.

Appellant's fourth assignment of error concerns the trial court's action in sustaining appellee's objection to a question propounded to a witness for the appellant as to whether or not he observed "any automobiles pull out on the right side of the road going north." The witness was driving a school bus proceeding in a southerly direction when he observed that an accident had occurred and that traffic was stopped ahead of him. According to the witness one or two vehicles were proceeding in front of him at that time. The witness stopped his bus and walked to where he observed the appellant lying in the middle of the road. At this point in his testimony, the witness was asked the following question, "Now did you see any automobiles pull out on the right hand side of the road going north?" The objection of the appellee was sustained. The action of the trial court in sustaining an objection to this question is without error, the witness having testified that he arrived at the scene after the accident occurred. Whether an automobile pulled out on the right hand side at this time was irrelevant and immaterial and could shed no light on the issues involved.

Appellant's fifth assignment of error is that "the verdict of the jury was contrary to the evidence in the case." This is not an adequate assignment of error; it alleges no error on the part of the trial court. Only adverse rulings

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of the trial court are subject to an assignment of error and reviewable on appeal. Accident Indemnity Insurance Co. v. Feely, 181 So. 2d 889; Mulkin v. McDonough Construction Co. of Georgia, 266 Ala. 281, 95 So. 2d 921; Alabama Digest, Appeal and Error, [key] 731(5).

Assignment of error number 6 urges that the trial court erred in giving the appellee's written requested charge number 3. The charge provided as follows:

"The Court charges the jury that the Defendant in this case had the right to assume that Louis Lee Riddle was in possession of all his faculties."

The appellant insists that this was an instruction on a question of fact and not a question of law and therefore invaded the province of the jury. The evidence shows that the appellant was walking on the shoulder of the road facing the approaching vehicle of the appellee. The appellee testified she observed the appellant walking on the shoulder and that when the distance between appellant and her vehicle was approximately fifteen feet, he turned and started across the highway directly in front of her vehicle. A similar charge was approved in the case of Vansandt v. Brewer, 209 Ala. 131, 95 So. 463, the court observing:

"In the absence of circumstances showing the contrary, an adult is generally presumed to be in possession of the normal faculties of mind and body, including the senses of sight and hearing."

11.

The appellant also contends that the charge was in error in that it did not specify whether the jury could assume the appellant was in possession of all his faculties at the time of the accident or at the time of the trial. This also is without merit. The tense of the charge was that of the past tense. It clearly referred to the circumstances surrounding the accident.

Assignments 7 and 8, allege error because of the giving of appellee's requested charges 4 and 6. These charges respectively pertain to contributory negligence on the part of the appellant as a defense.

Counsel for appellant does not attack the correctness of the charges per se, but argues that the giving of the charges was erroneous because of the insufficiency of the plea of contributory negligence, in that "defendant's plea of contributory negligence did not specify the specific acts of alleged contributory negligence by the plaintiff; hence no evidence of contributory negligence was admissible."

No demurrer was filed to the plea of contributory negligence, nor was any objection interposed to appellee's proffered testimony tending to establish such plea. The case was tried below on the issues of appellee's negligence, and appellant's contributory negligence, and the court in its oral instructions so advised the jury. No objection was interposed to these instructions.

Parties may frame their own issues, and immaterial matters may thereby be made material. Fraternal Aid Union v.

12.

Monfee, 230 Ala. 202, 160 So. 529. If the cause is tried upon an insufficient or immaterial plea without objection being first taken by demurrer, the judgment of the court must be pronounced in accordance with the result of the issues. Austin v. Clark, 247 Ala. 560, 25 So. 2d 415. In the present case not only was no demurrer filed to the plea of contributory negligence, but no objections were interposed either to the evidence tending to establish such plea, nor to the instructions of the court submitting the issue of contributory negligence to the jury. In this posture, assignments 7 and 8 are clearly without merit.

Assignment of error 9 charges that the court erred in charging the jury that they could find that the plaintiff was injured as a result of a mere accident. We have held that neither the giving or refusal of "unavoidable accident" or "mere accident" charges constituted reversible error, though the better practice is to refuse them. Taylor v. Thompson, 271 Ala. 18, 122 So. 2d 277; Tyler v. Drennen, 255 Ala. 377, 51 So. 2d 516 (19); Socier v. Woodward, 264 Ala. 514, 88 So. 2d 783.

Assignment of error No. 10 asserts as error the giving of appellee's written requested charge No. 11. This charge was given without error. Smith v. Crenshaw, 220 Ala. 510, 126 So. 127.

Assignment of error No. 11 asserts as error the action of the lower court in giving appellee's requested charge No. 15 which was affirmative in nature as to Count

13.

2 (wanton negligence).

It is our conclusion that the evidence did not support an inference of wanton conduct, that is, that the appellee, with reckless indifference to the consequences, consciously and intentionally did some wrongful act or omitted some duty which produced injury to the appellant. These essential elements of wantonness can be inferred from the evidence only by resort to surmise and conjecture. Taylor v. Thompson, 271 Ala. 18, 122 So. 2d 277. Charge 15 was therefore properly given.

The trial court refused appellant's written instruction number 9 and this action is presented as assignment of error 12. Assuming, without deciding, that this was a correct statement of law as applied to the evidence presented in the trial, the refusal of this charge requested by the appellant furnishes no predicate for reversal in that the principle of law set forth in appellant's requested written charge 9 was fairly and substantially covered by the court's oral charge and other written charges given at the request of the appellant. Code of Alabama 1940, Title 7, §273; Smith v. Lawson, 264 Ala. 389, 88 So. 2d 322; Atlantic Coastline R. Co. v. French, 261 Ala. 306, 74 So. 2d 266.

Assignments of error 13 and 14 are based upon the trial court's refusal to give appellant's requested instructions numbers 10 and 11, respectively. These charges

14.

were refused without error in that they were abstract under the evidence, and were misleading.

AFFIRMED.

Livingston, C. J., Merrill and Coleman, J. J. concur.

I, Richard W. Neal, Deputy Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appears of record in said Court.

Witness my hand this 2 day of June 1966

Richard W. Neal
Deputy Clerk, Supreme Court of Alabama

DIV. NO. _____

CERTIFICATE OF APPEAL. (Civil Cases.)

No. 5871

THE STATE OF ALABAMA

Baldwin County.

I, Alice J. Duck, Clerk of the Circuit Court of Baldwin County, in and for said State and County, hereby certify that the foregoing pages numbered from one to _____, both inclusive, contain a full, true and complete transcript of the record and proceedings of said Court in a certain cause lately therein pending wherein Louise Lee Riddle, also known as Louis Riddle also known as Louie Riddle, a non-compos mentis, suing by his legal guardian, Gladys Riddle, was plaintiff, and Carolyn Jay Dorough

was Defendant, as fully and completely as the same appears of record in said Court.

And I further certify that the said Plaintiff did on the 5th day of November, 1965, pray for and obtain an appeal from the judgment of said Court to the Supreme Court, _____ of Alabama to reverse said judgment of said Court upon entering into bond with Gladys Riddle and Kenneth Cooper, _____ as surety thereon, which said bond has been approved by me.

Witness my hand and the seal of said Circuit Court of 5th Baldwin County is hereto affixed, this the 5th day of November, 1965

Alice J. Duck
Clerk of the Circuit Court of
Baldwin County, Alabama.

(Code 1940, Title 7, Sec. 767)

THE STATE OF ALABAMA
Baldwin County - Circuit Court

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the 2nd
day of June, 1965 Monday in 196, in a cer-
tain cause in said Court wherein LOUISE LEE RIDDLE, also known as Louis Riddle and
also known as Louie Riddle, a non-compos mentis, suing by his legal guardian,
Gladys Riddle Plaintiff, and Carolyn Jay Dorrough
Defendant, a judgement was rendered against said
Louise Lee Riddle, also known as Louis Riddle and also known as Louie Riddle, a non
compos mentis, suing by his legal guardian, Gladys Riddle, Plaintiff,
to reverse which Judgment, the said Plaintiff
applied for and obtained from this office an APPEAL, returnable to the next
Term of our Supreme Court of the State of Alabama, to be held at Montgomery, on
the day of, 196next, and the necessary bond
having been given by the said Gladys Riddle and Kenneth Cooper
with, suretiesxx

Now, You Are Hereby Commanded, without delay, to cite the said Carolyn Jay Dorrough
or Chason, Stone & Chason
attorney, to appear at the next Term of our
said Supreme Court, to defend against the said Appeal, if they think proper.
Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 5th
day of November, A. D., 1965

Attest:

Alice J. Duck, Clerk.

Received 8 day of Nov 1965
and on 8 day of Nov 1965
served a copy of the within Citation
on Chason, Stone &
Chason
by service on John E. Chason

TAYLOR WILKINS, Sheriff
By W. A. Talbert
om

CASE NO. 5871

CIRCUIT COURT
Baldwin County, Alabama

LOUISE LEE RIDDLE, also known as
LOUIS RIDDLE, and also known as
LOUIE RIDDLE, a non-compos mentis,
suing by his legal guardian GLADYS
RIDDLE,
Plaintiff

Vs. } Citation in Appeal

CAROLYN JAY DOROUGH,
Defendant

Issued 5th day of Nov., 1965

serve: Chason, Stone & Chason

5471
Riddle vs Broughton

JURY LIST - MAY 31, 1965

1. Anacker, Walter R., Farmer, Fairhope
2. Beaty, Raymond, Laborer, Fairhope
3. Beck, John, Mechanic, Foley
4. Broughton, Joe N., Merchant, Cross Roads
5. Bryhn, Vernon A., Farmer, Elberta
6. Carlisle, D.E., Newport, Bay Minette
7. Carlisle, Otis A., Newport, Bay Minette
8. Corley, Horace W., Brookley Field, Bay Minette
9. Crook, Prince, Laborer, Bay Minette
10. Drinkard, Everette E., Farmer, Bay Minette
11. Dusek, Frank J., Jr., Civil Service, Lillian
12. Ebert, Charles J., Jr., Ins. Agt., Foley
13. Emmons, Floyd, Post Office Clerk, Bay Minette
14. Fell, Frank, Mechanic, Elberta
15. Fell, Neal J., Farmer, Lillian
16. Frank, George, Farmer, Elberta
17. Gilbert, B.B., Mechanic, Bay Minette
18. Gilbert, Jimmy, Insurance, Robertsdale
19. Hall, Gerald B., Jr., Newport, Bay Minette
20. Hall, Origen, Club Operator, Bay Minette
21. Hamilton, Percy, Town of Bay Minette, Bay Minette
22. Harrison, Joseph M., Farmer, Fairhope
23. Henderson, James M., Farmer, Fairhope
24. Hobbs, William G., Merchant, Bay Minette
25. Hodges, Willie Lee, Sawmill, Bay Minette
26. Homes, Pierce E., Electrician, Stockton
27. Kauler, Albert, Salesman, Loxley
28. Kauler, Jake W., Farmer, Loxley
29. King, Horace E., Farmer, Mag. Spgs.
30. McCarthy, James C., Merchant, Bay Minette
31. Meszaros, Michael A., Retired, Elberta
32. Morse, Wilson W., Civil Service, Foley
33. Nix, B. Coles, Ag. Teacher, Foley
34. Palmer, James J., Farmer, Robertsdale
35. Pridgen, J. Phillip, Farm Adm., Bay Minette
36. Ryan, Robert, Newport, Bay Minette
37. Seaburn, James, Farmer, Foley
38. Sirmm, Gordon, Farmer, Daphne
39. Stimpson, Carl, Clay Products, Fairhope
40. Toler, Johnnie G., Electrician, Foley
41. Trawick, Walter, Laborer, Bay Minette
42. Underwood, Hilary H., Farmer, Foley
43. Vasut, Charles F., T.V. Repair, Robertsdale
44. Weekley, Willard A., Newport, Bay Minette
45. Wilson, John R., Auto. Dealer, Bay Minette
46. Young, William Berton, Post Office, Bay Minette
47. Mikkelson, Roy, Farmer, Summardale
48. Stuart, Harold, Cleaners, Bay Minette
49. Fuller, David, Motel, Spanish Fort- Daphne

P. XXXXX XXXXX XXXXX X
D XXXXX XXXXX XXXXX

LOUISE LEE RIDDLE, also
known as Louis Riddle
and also known as Louie
Riddle, a non-compos
mentis, suing by his legal
guardian, Gladys Riddle,

Plaintiff,

Vs.

CAROLYN JAY DOROUGH,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

5871

NOTICE OF APPEAL

Comes now the Plaintiff in the above-styled cause
by his attorney, and appeals to the Supreme Court of
Alabama from the final judgment rendered in this cause in
and by the Circuit Court of Baldwin County, Law Side, on,
to-wit, 2 June, 1965.

Dated this 5 day of November, 1965.



Attorney For Plaintiff

Judgment having been rendered in this cause for the
defendant, supercedeas bond for this appeal is not required.

FILED

NOV 5 1965

ALICE I. DUCK, CLERK
REGISTER


Attorney For Plaintiff

LOUISE LEE RIDDLE, also
known as Louis Riddle and
also known as Louie Riddle,
a non-compos mentis, suing
by his legal guardian,
Gladys Riddle,

Plaintiff,

Vs.

CAROLYN JAY DOROUGH,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

5871

SECURITY FOR COSTS

I, the undersigned, do hereby acknowledge myself
as security for costs of the appeal taken by the plaintiff
in this cause.

Gladys Riddle
Plaintiff

Kenneth Cooper
Attorney For Plaintiff

Taken and approved
this 5 day of
November, 1965.

Alice F. Puck
Clerk, Circuit Court
Baldwin County, Alabama

LOUISE LEE RIDDLE, also
known as Louis Riddle and
also known as Louie Riddle,
a non-compos mentis, suing
by his legal guardian,
Gladys Riddle,

Plaintiff,

Vs.

CAROLYN JAY DOROUGH,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

5871

SECURITY FOR COSTS

I, the undersigned, do hereby acknowledge myself
as security for costs of the appeal taken by the plaintiff
in this cause.

Gladys Riddle
Plaintiff

Taken and approved
this _____ day of
November, 1965.

Clerk, Circuit Court
Baldwin County, Alabama

LOUIS LEE RIDDLE, also
known as LOUIS RIDDLE,
a Non-Compos Mentis, by
GLADYS RIDDLE, his wife,

Plaintiff,

vs.

CAROLYN JAY DOROUGH,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

Case No. 5871

Comes now the Plaintiff in the above styled cause, and amends his
complaint heretofore filed in this cause to read as follows, to-wit:

LOUIS LEE RIDDLE, also
known as LOUIS RIDDLE
and also known as LOUIE RIDDLE,
a Non-Compos Mentis, Suing
by his Legal Gardian, GLADYS
RIDDLE,

Plaintiff,

vs.

CAROLYN JAY DOROUGH,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

Case No. 5871


COUNT ONE:

The Plaintiff, Louis Lee Riddle, also known as Louis Riddle and
also known as Louie Riddle, a non-compos mentis, suing by his legal
guardian, Gladys Riddle, who was duly appointed by the Probate Court of
Baldwin County, Alabama, and who is still acting as such legal guardian
claims of the the Defendant TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS
as damages for that on, to-wit, the 1st day of March, 1963, while the
Plaintiff was crossing United States Highway No. 31, a public highway,
at a point approximately two miles south of Bay Minette, in Baldwin
County, Alabama, then and there the Defendant negligently drove an
automobile into, upon, over, or against the Plaintiff, and by reason
thereof and as a proximate result and consequence thereof the Plaintiff
received severe personal injuries in this, to-wit: Deep lacerations
through the entire muscle mass of the right leg; fracture of the left
occipital area of the skull; fracture of the inferior remus of the left
pubic and fracture of the inferior ramus of the right pubic; comminuated

subtrochanteric fracture of the right femur; fracture of the right lower 3rd tibia and fibula; bruises and lacerations on the body, he suffered and continues to suffer great mental anguish and physical pain for all of which he claims damages as aforesaid, hence this suit.

COUNT TWO:

The Plaintiff, Louis Lee Riddle, also known as Louis Riddle, and also known as Louie Riddle, a non-compos mentis, suing by his legal guardian, Gladys Riddle, who was duly appointed by the Probate Court of Baldwin County, Alabama, and who is still acting as such legal guardian claims of the defendant TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS as damages, for that, on, to-wit, the 1st day of March, 1963, the Defendant while operating an automobile upon United States Highway No. 31, a public highway, at a point approximately two miles south of Bay Minette in Baldwin County, Alabama, did wantonly injure the Plaintiff by wantonly operating the said automobile so as to cause the same to run into, upon, over, or against the Plaintiff, a pedestrian who was then and there crossing said highway, and as a direct and proximate consequence and result of said wantonness the Plaintiff was injured in that he received deep lacerations through the entire muscle mass of the right lower leg, with broken bones in the right leg, fracture of the left occipital area of the skull, fractures of the inferior remus of the left pubic and fracture of the inferior remus right femur, fracture of the right lower 3rd tibia and fibula, suffered, and continues to suffer great mental anguish and physical pain, and he has been permanently injured and will continue to suffer pain in the future, and he will be unable to walk, all for which the Plaintiff sues.


Attorney For Plaintiff

Attorney of Record
For Defendant:

Hon John Chason
Bay Minette, Alabama

FILED

MAY -- 1964

ALICE J. DUCK, CLERK,
REGISTER

659

LOUIS LEE RIDDLE, also known
as LOUIS RIDDLE and also
known as LOUIE RIDDLE, a Non-
Compos Mentis, Suing by his
Legal Guardian, GLADYS RIDDLE,

Plaintiff,

vs.

CAROLYN JAY DOROUGH,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5871

Comes the Defendant in the above styled cause and for plea
to "COUNT ONE" of the complaint as last amended, separately and
severally, says:

1. Not Guilty.

2. That the Plaintiff was himself guilty of negligence
at the time and place set out in the amended complaint which was
the proximate cause of his injuries and damages, hence he cannot
recover of the Defendant.

The Defendant, for plea to "COUNT TWO" of the amended com-
plaint, says:

3. Not Guilty.

FILED

MAY 25 1964

ALICE J. TUCK, CLERK
REGISTER

Jason Thomas Egan
Attorneys for Defendant

LOUIS LEE RIDDLE, also known
as LOUIS RIDDLE and also
known as LOUIE RIDDLE, a Non-
Compos Mentis, Suing by his
Legal Guardian, GLADYS RIDDLE

Plaintiff,

VS

CAROLYN JAY DOROUGH,

Defendant

* * * * *

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW NO. 5871

* * * * *

PLEAS

* * * * *

FILED

MAY 26 1964

ALICE L. IRWIN, CLERK
REGISTER

LOUIS LEE RIDDLE, also
known as LOUIS RIDDLE,
and also known as LOUIE
RIDDLE, a Non-Compos Mentis,
Suing by his Legal Guardian,
GLADYS RIDDLE,

Plaintiff,

vs.

CAROLYN JAY DOROUGH,

Defendant.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5871

DEMURRER:

Comes the Defendant in the above styled cause and demurs to
"COUNT TWO" of the amended complaint filed in said cause and as-
signs the following separate and several grounds, viz:

1. That said count does not state a cause of action.
2. That said count does not sufficiently allege wanton
negligence.
3. That said count does not sufficiently set out that the
Defendant wantonly injured the Plaintiff.

Graham, Stone & Hanson
Attorneys for Defendant

LOUIS LEE RIDDLE, also
known as LOUIS RIDDLE, and
also known as LOUIE RIDDLE,
A Non Compos Mentis, Suing
by his Legal Guardian,
GLADYS RIDDLE,

Plaintiff,

vs

CAROLYN JAY DOROUGH,

Defendant

* * * * *

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW NO. 5871

* * * * *

DEMURRER

* * * * *

FILED

FEB 20 1964

AND L. DICK, CLERK
REGISTER

LOUIS LEE RIDDLE, also
known as LOUIS RIDDLE,
a Non-Compos Mentis, by
GLADYS RIDDLE, his wife,

Plaintiff,

vs

CAROLYN JAY DOROUGH,

Defendant

) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA

) At Law

) Case No. 5871

)
) Comes now the Plaintiff in the above styled cause, and amends
his complaint heretofore filed in this cause to read as follows,
to-wit:

LOUIS LEE RIDDLE, also
known as LOUIS RIDDLE
and also known as LOUIE
RIDDLE, a Non-Compos
Mentis, Suing by his
Legal Guardian, GLADYS
RIDDLE,

Plaintiff

vs

CAROLYN JAY DOROUGH.

Defendant

) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA

) At Law

) Case No. 5871

COUNT ONE:

The Plaintiff, Louis Lee Riddle, also known as Louis Riddle and also known as Louie Riddle, a non-compos mentis, suing by his legal guardian, Gladys Riddle, who was duly appointed by the Probate Court of Baldwin County, Alabama, and who is still acting as such legal guardian, claims of the Defendant Twenty-Five Thousand (\$25,000.00) Dollars as damages for that on, to-wit, the 1st day of March, 1963, while the Plaintiff was crossing United States Highway No. 31, a public highway, at/a point approximately two miles south of Bay Minette, in Baldwin County, Alabama, then and there the Defendant negligently drove an automobile into, upon, over, or against the Plaintiff, and by reason thereof and as a proximate result and consequence thereof the Plaintiff received severe personal injuries in this, to-wit: Deep lacerations

through the entire muscle mass of the right leg; fracture of the left occipital area of the skull; fracture of the inferior ramus of the left pubic and fracture of the inferior ramus of the right pubis; comminuated subtrochanteric fracture of the right femur; fracture of the right lower 3rd tibia and fibula; bruises and lacerations on the body, he suffered and continues to suffer great *and was caused to incur hospital and medical expenses.* mental anguish and physical pain *for all of which he claims* damages as aforesaid, hence this suit.

COUNT TWO:

The Plaintiff, Louis Lee Riddle, also known as Louis Riddle, and also known as Louie Riddle, a non-compos mentis, suing by his legal guardian, Gladys Riddle, who was duly appointed by the Probate Court of Baldwin County, Alabama, and who is still acting as such legal guardian, claims of the Defendant Twenty-Five Thousand (\$25,000.00) Dollars as damages, for that, on, to-wit, the 1st day of March, 1963, the Defendant, while operating an automobile upon United States Highway No. 31, a public highway, at a point approximately two miles south of Bay Minette, in Baldwin County, Alabama, did wantonly operate the said automobile so as to cause the same to run into, upon, over, or against the Plaintiff a pedestrian who was then and there crossing said highway, and as a direct and proximate result of the Defendant's wanton misconduct as aforementioned, the Plaintiff was wantonly injured in that he received deep lacerations through the entire muscle mass of the right lower leg, with broken bones in the right leg, fracture of the left occipital area of the skull, fracture of the inferior ramus of the left pubic and fracture of the inferior ramus of the right public, comminuated subtrochanteric fracture of the right femur, fracture of the right lower 3rd tibia and fibula, suffered, and continues to suffer great mental anguish and physical pain, and he has been permanently injured and will continue to suffer pain in the future, all for which the Plaintiff sues.

Attorney of Record
For Defendant:

Hon John Chason
Attorney At Law
Bay Minette, Alabama

Kenneth Cooper
Attorney For Plaintiff

FILED
FEB 19 1964
ALICE L. DICK, CLERK
REGISTER

[illegible]
$$\frac{1}{\Gamma(\alpha)} \int_0^t (t-s)^{\alpha-1} f(s) ds = \frac{1}{\Gamma(\alpha)} \int_0^t (t-s)^{\alpha-1} f(s) ds = \frac{1}{\Gamma(\alpha)} \int_0^t (t-s)^{\alpha-1} f(s) ds = \frac{1}{\Gamma(\alpha)} \int_0^t (t-s)^{\alpha-1} f(s) ds$$

We the jury find for the defendant.

B. Cols Pitt

Foreman

6871

LOUIS LEE RIDDLE, also
known as LOUIS RIDDLE, a
Non-Compos Mentis, by
GLADYS RIDDLE, his Guardian
and wife,

Plaintiff,

vs.

CAROLYN JAY DOROUGH,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

DEMURRER

Comes the Defendant in the above styled cause and demurs to the complaint filed in said cause and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said complaint does not state a cause of action.
2. That said complaint does not allege that Gladys Riddle has been duly appointed as the legal guardian of Louis Lee Riddle.
3. That said complaint does not allege that Gladys Riddle has been legally appointed by the Probate Court of Baldwin County, Alabama, or by the Probate Court of any other County in the State of Alabama as the legal guardian of Louis Lee Riddle.
4. That Gladys Riddle, as the wife of Louis Lee Riddle, has no right to file suit in his behalf.
5. That "COUNT ONE" of the complaint does not allege whether the Plaintiff was crossing U. S. Highway 31 as a pedestrian or in a motor vehicle.
6. That said complaint does not allege that the place where the accident occurred is located in Baldwin County, Alabama.
7. That "COUNT TWO" of said complaint does not allege that the Defendant negligently injured the Plaintiff.
8. That "COUNT TWO" of the complaint does not allege that the Defendant wantonly injured the Plaintiff.

9. That said complaint does not allege any duty owing by the Defendant to the Plaintiff.


Attorneys for Defendant

Defendant demands a trial of this cause by a jury.


Attorneys for Defendant

FILED
FEB 7 1984
ALICE L. DUCK, CLERK
REGISTER

5871

LOUIS LEE RIDDLE, also known
as LOUIS RIDDLE, Non-Compos
Mentis, by GLADYS RIDDLE, his
Guardian and wife,

Plaintiff,

vs

CAROLYN JAY DOROUGH,

Defendant

* * * * *

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

* * * * *

DEMURRER

* * * * *

FILED

FEB 7 1964

ALICE J. DUCK, CLERK
REGISTER

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. _____

December _____ TERM, 1963

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Carolyn J. Dorough of _____Eight Mile, Mobile County, Alabama

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in the

Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against Carolyn JayDorough

Defendant

by Louis Lee Riddle

Plaintiff

Witness my hand this 16 day of December 19 63Alice J. Cook, ClerkEV-1-21-64

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

Louis Lee Riddle, also known
as Louie Riddle, a Non-Compos

Mentis by Gladys Riddle, his
Guardian and wife.

Plaintiffs

vs.

21/10/63
Carolyn Jay Dorough

Defendants

SUMMONS and COMPLAINT

FILED

Filed _____, 19____

DEC 16 1963

_____, Clerk

ALICE J. DUCK, CLERK
REGISTER

RECEIVED

DEC 17 1963

W. Cooper
SHERIFF'S OFFICE

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

~~Eight Mile, Mobile County,~~
RECEIVED IN OFFICE Alabama

Dec 16, 1963

Sheriff

I have executed this summons

this Jan 21, 1964

by leaving a copy with

Carolyn Jay Dorough

Ralph Bridges Sheriff
O. A. Hall Deputy Sheriff

LOUIS LEE RIDDLE, also)	
known as LOUIS RIDDLE,)	
a Non-Compos Mentis, by)	
GLADYS RIDDLE, his)	IN THE CIRCUIT COURT OF
Guardian and wife)	
)	BALDWIN COUNTY, ALABAMA
PLAINTIFF)	
VS)	AT LAW
CAROLYN JAY DOROUGH,)	5871
DEFENDANT)	

COUNT ONE:

The Plaintiff, Louis Lee Riddle, a non-compos mentis, suing by his guardian and wife, Gladys Riddle, claims of the Defendant Twenty-Five Thousand (\$25,000.00) Dollars as damages for that on, to-wit, the 1st day of March, 1963, the Plaintiff was crossing United States Highway No. 31, a public highway, at a point approximately two miles south of Bay Minette, Baldwin County, Alabama, and then and there the Defendant negligently drove an automobile into, upon, over, or against the Plaintiff, and by reason thereof and as a proximate result and consequence thereof the Plaintiff received severe personal injuries in this, to-wit: Deep lacerations through the entire muscle mass of the right leg; fracture of the left occipital area of the skull; fracture of the inferior ramus of the left pubic and fracture of the inferior ramus of the right pubis; comminuted subtrochanteric fracture of the right femur; fracture of the right lower 3rd tibia and fibula; bruises and lacerations on the body, he suffered and continues to suffer great mental anguish and physical pain, for all of which he claims damages as aforesaid, hence this suit.

COUNT TWO:

The Plaintiff claims of the Defendant Twenty-Five Thousand (\$25,000.00) Dollars as damages, for that, on, to-wit, the 1st day of March, 1963, the Defendant was operating an automobile upon United States Highway NO. 31 a public highway, at a point approximately two miles south of Bay Minette, Baldwin County, Alabama, when the same ran against the Plaintiff, a pedestrian, who was crossing said highway, and Plaintiff was thereby greatly injured, bruised and mangled, and the Plaintiff received deep lacerations through the entire muscle mass of the right lower leg, with broken bones in the right leg; fracture of the left occipital area of the skull; fracture of the inferior ramus of the left pubic and fracture of the inferior ramus of the right pubic; comminuted subtrochanteric fracture of the right femur; fracture of the right lower 3rd tibia and fibula; suffered, and continues to suffer great mental anguish and physical pain. And the Plaintiff avers that his said injuries and sufferings and damages were proximately caused by reason of, the wanton acts of the Defendant, hence this suit.


Kenneth Cooper
Attorney For Plaintiff

FILED

DEC 10 1963

ALICE L. DUCK, CLERK
REGISTER

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 19 65-66

To the Clerk of the Circuit Court,
Baldwin County—Greeting:

Whereas, the Record and Proceedings of the Circuit Court
of said county, in a certain cause lately pending in said Court between
Louis Lee Riddle, alias, a Non-Compos Mentis by, Appellant.,
Gladys Riddle, Guardian
and
Carolyn Jay Dorough, Appellee.,
wherein by said Court it was considered adversely to said appellant., were brought before our
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant.:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered, ordered, and adjudged by
our Supreme Court, on the 2nd day of June, 1966, that said
Judgment of said Circuit Court be in all things
affirmed, and that it was further considered, ordered, and adjudged that the appellant., ~~and~~
Gladys Riddle as legal guardian for Louis Lee Riddle, alias, a
Non-Compos Mentis and Gladys Riddle and Kenneth Cooper, sureties
on the appeal bond, pay

the costs accruing on said appeal in this Court and in the Court below, for which costs let execution
issue.

Richard W. Neal, Deputy
Witness, ~~Richard W. Neal~~, Clerk of the Supreme

Court of Alabama, at the Judicial Department

Building, this the 2nd day of

June, 19 66

Richard W. Neal
Deputy Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

October Term, 19⁶⁵-66

1 Div., No. 338

Louis Lee Riddle, alias, a
Non-Compos Mentis by Gladys
Riddle, Guardian

Appellant,

vs.

Carolyn Jay Dorough

Appellee.

From Baldwin Circuit Court.

5871

CERTIFICATE OF
AFFIRMANCE

The State of Alabama,

} Filed

County.

this day of 19