

BERTHA BOONE (MOORE),  
Complainant,  
VS.  
WALTER BOONE,  
Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN EQUITY. NO. 2635½

ORDER

Comes now WALTER BOONE and shows unto this Court that, on, to-wit: the 19th day of June, 1957, this Court entered a Decree giving to the said Walter Boone the care, Custody and control of the minor children of the above marriage, RONNIE BOONE AND RANDY BOONE, and more than three weeks having elapsed and custody of said children not having been given to the said WALTER BOONE, and all of which having been considered by the Court, IT IS THEREUPON, ORDERED, ADJUDGED AND DECREED BY the Court as follows:

1. That the Sheriff of Baldwin County, Alabama, be, and he is hereby, authorized and empowered to take possession of the bodies of said minors, RONNIE BOONE AND RANDY BOONE, and to deliver the custody of said minors to their Father, WALTER BOONE.

2. That the said Walter Boone pay any costs that may be incurred in the premises.

DONE AND ORDERED this the 12th day of July, 1957.

Hubert M. S. Fall  
J U D G E.

Received \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
and on 12 day of July 1957

I served a copy of the within Order  
on Bertha Boone (Moore)

By service on \_\_\_\_\_

TAYLOR WILKINS, Sheriff  
By W. A. Tolbert D. S.  
Tolbert

and deliver Ronnie  
Boone and Randy  
Boone to the custody  
of their father Walter  
Boone

Sheriff claims 70 miles at  
Ten Cents per mile Total \$ 2.00  
TAYLOR WILKINS, Sheriff  
BY Tolbert  
DEPUTY SHERIFF

BERTHA BOONE (MOORE)

Complainant,

VS.

WALTER BOONE,

Respondent.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY. NO. 2635 $\frac{1}{2}$

\*\*\*\*\*

ORDER.

FILED

JUL 12 1957

ALICE J. DUCK, Register

BERTHA BOONE (MOORE),	I
Complainant,	I IN THE CIRCUIT COURT OF
vs.	I BALDWIN COUNTY, ALABAMA
WALTER BOONE,	I IN EQUITY NO. _____
Respondent.	I

Comes the Respondent in the above styled cause and demurs to that aspect of the bill of complaint filed by the complainant in said cause in which she seeks to have the Court modify the divorce decree between the parties so as to allow her the custody and control of Ronnie Boone and Randy Boone and to order the respondent to pay her support for such children, and assigns the following separate and several grounds, viz:

1. That said bill of complaint fails to show in whose custody the children were at the time of the divorce.

2. That it is alleged in Paragraph 4. of the bill of complaint that the decree failed to award the care, custody and control of the children to anyone and said bill of complaint fails to allege whether the complaint filed in that cause sought to have such children awarded to anyone.

3. That the allegation in Paragraph 5. of the complaint that the above named children have lived with their mother most of the time since the divorce was granted is but a conclusion of the pleader and fails to allege when such children have lived with her and when such children have lived with their father.

4. That said complaint fails to allege that it would be to the best interest of said minors to be awarded to the care, custody and control of the complainant.

5. That the allegation in Paragraph 6. of the complaint that the respondent fails to discipline the children properly is but a conclusion of the pleader and does not allege in what manner he fails to discipline them.

6. That the allegation in Paragraph 6. in the complaint that on one occasion the respondent's present wife has threatened to shoot one of the children fails to allege such child she threatened to shoot.

7. That the allegation in Paragraph 10. of the complaint that the income of the complainant is modest and that she needs additional money to support her children is but a conclusion of the pleader and fails to set out the amount of her income and also fails to state that she does not have sufficient principal or assets out of which she could properly support them.

The respondent also demurs to that aspect of the bill of complaint in which it is set out in paragraph 7. thereof that the Court failed to provide her any alimony at the time the divorce was granted and in which paragraph it is set out what the respondent had accumulated during his married life and assigns the following separate and several grounds of demurrer, viz:

A. That said paragraph fails to allege that she requested the Court that she be allowed alimony.

B. For aught that appears from said paragraph the Court denied her alimony on the hearing of said cause.

C. That it is immaterial at this time what the respondent had acquired as alimony must be granted in the divorce decree or cannot later be allowed.

D. That the paragraph 7. of the complaint is either surplusage or seeks relief to which the complainant is not entitled at this time.

FILED

NOV. 19

ALICE I. BUCK, Register

*Wm. A. Stone*  
*Wm. A. Stone*

Solicitors for respondent.

2635 1/2  
RECORDED

DEMURRER

BERTHA BOONE (MOORE),

Complainant,

vs.

WALTER BOONE,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. \_\_\_\_\_

Filed this 19th day of November,  
1954.

Archie J. French  
Register.

STATE OF ALABAMA  
BALDWIN COUNTY

BOOK 018 PAGE 234

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summons WALTER BOONE to appear and plead, answer or demur within thirty days from the service hereof, to the bill of complaint filed in the Circuit Court of Baldwin County, Alabama, in Equity, by BERTHA BOONE, as Complainant and against Walter Boone, as Respondent.

WITNESS my hand this the 19th day of October, 1954.

W. J. Newick  
Register

BERTHA BOONE (MOORE)

COMPLAINANT

VS

WALTER BOONE

RESPONDENT

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,

IN EQUITY

CASE NO. \_\_\_\_\_

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE TWENTY EIGHTH JUDICIAL CIRCUIT  
OF THE STATE OF ALABAMA, IN EQUITY SITTING.

Comes now your Complainant in the above styled cause and shows unto Your  
Honor as follows:

1.

That the Complainant is over the age of twenty-one years; that she is a bona fide resident-citizen of the State of Alabama and now resides in Escambia County, Alabama; that she has been a bona fide resident-citizen of the State of Alabama, for more than one year next preceding the time of the filing of this petition; that the Respondent, Walter Boone, is over the age of twenty-one years and is a resident-citizen of Baldwin County, Alabama.

2.

That the Complainant and Respondent were permanently divorced from the bond of matrimony by decree granted by the Circuit Court of Baldwin County, Alabama, on the 7th day of June, 1951, for and on account of cruelty on the Respondent's part.

3.

That there was born to the union of the Complainant and Respondent four children, Walter Glen Boone, age 19, Marvin Earl Boone, age 16, Ronnie Boone age 11 and Randy Boone, age 11.

4.

That the aforesaid decree failed to award the care, custody and control of these children to her, the Complainant, Respondent or anyone else.

5.

That Ronnie and Randy have lived with their mother most of the time since her divorce from the Respondent. That she provides a good Christian home for these children and while the children are with her they have a wholesome environment.

6.

That the home of the Respondent is not a suitable place in which to rear Ronnie and Randy; that the Respondent fails wholly to discipline these children properly. That there is great animosity between the Respondent's present wife and these two boys. That on at least one occasion she has verbally threatened to shoot them or one of them.

7.

Your Complainant avers that at the time of her divorce from the Respondent, the Court failed to provide her any alimony, support money or give her any of the property accumulated by the Complainant and Respondent jointly. Your Complainant avers that during their married life and by their joint efforts she and the Respondent purchased a 27 acre farm on which they built a three bedroom house and purchased an undivided  $\frac{2}{3}$  interest in 200 acres of timber land in Baldwin County, Alabama, and purchased a quarter interest in 80 acres of timber land in Monroe County, Alabama. That the Complainant and Respondent owned this at the time of the aforesaid divorce. That in addition to the aforesaid real estate they owned a new Chevrolet truck, a new Chevrolet automobile, 20 hogs, 8 cows, and a  $\frac{1}{4}$  interest in 20 cows.

8.

Your Complainant avers that the Respondent is an able bodied man; that he has an income from his job in Brookly Field, Mobile, Alabama, from his farm, from his cattle business and from his turpentine business.

9.

That the children Ronnie and Randy are desirous of living with their mother and their wishes should be considered by this court.

10.

That the Complainant is now living with her husband, G. W. Moore, in Atmore, Escambia County, Alabama. Their income is modest; that the Complainant needs additional money to support her children in order that they may be reared in keeping with their station in life.

PRAYER FOR PROCESS

WHEREFORE, the premises considered, the Complainant prays that your Honor will by proper process make the said Walter Boone party respondent to this cause of action, requiring him to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

PRAYER FOR RELIEF

WHEREFORE, the premises considered, your Complainant respectfully prays that on a final hearing of this cause, your Honor will enter a decree modifying the divorce decree entered on the 7th day of June, 1951, so as to grant the Complainant the permanent care, custody and control of Ronnie Boone and Randy Boone.

Your Complainant further prays that Your Honor will enter a decree ordering the Respondent to pay her support money in such an amount as Your Honor may deem proper, the premises considered.

Your Complainant prays for such, other, further, and different relief as in the premises she may be entitled to receive.

Respectfully submitted,

Wilters & Brantley

BY: John M. Brantley  
Solicitor for the Complainant



RECORDED 2635 1/2

Received 19 day of Oct 1954  
and on 3 day of Nov 54  
I served a copy of the within Petition for  
Modification & Custody

By service on Walter Boone

TAYLOR WILKINS, Sheriff  
By James D. S.

BERTHA BOONE (MOORE)

COMPLAINANT

VS

WALTER BOONE

RESPONDENT

PETITION FOR MODIFICATION  
AND CUSTODY

FILED

OCT 19 1954

ALICE L. DUCK, Registrar

PETITION FOR MODIFICATION AND CUSTODY

BERTHA BOONE

COMPLAINANT

VS

WALTER BOONE

RESPONDENT

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO.

TO THE HONORABLE H. M. HALL, JUDGE OF THE TWENTY-EIGHTH JUDICIAL CIRCUIT  
OF THE STATE OF ALABAMA. IN EQUITY SITTING.

Comes now your Petitioner in the above styled cause and shows unto  
your Honor as follows:

1.

That the Complainant is over the age of twenty-one years; that she is  
a bona fide resident citizen of the State of Alabama and now resides in  
Escambia County, Alabama; that she has been a Bona fide resident citizen  
of the State of Alabama, for more than one year next preceding the time  
of the filing of this petition; that the Respondent Walter Boone, is over  
the age of twenty-one years and is a resident citizen of Baldwin County,  
Alabama.

2.

That your Complainant and Respondent were permanently divorced from  
the bonds of matrimony by decree granted by the Circuit Court of Baldwin  
County, Alabama, in Equity, on the 7th day of June, 1951; for and on  
account of cruelty on the Respondent's part.

3.

There was born to the marriage between your Complainant and the  
Respondent four children, Walter Glen Boone, Age 18, Marvin Earl Boone,  
age 15, Ronnie Boone, age 10 and Randy Boone, age 10.

4.

That the said decree fails to award the care, control and custody  
of these children to either the Complainant or the Respondent.

5.

That the Respondent is in no wise fit to have the care, custody and  
control of these children and that some of these are now living with the  
said Respondent.

6.

That your Complainant has married G. W. Moore since the said decree was granted and her name has been changed to Bertha Moore. That she and her husband are living in Atmore, Escambia County, Alabama; that they provide a good christian home for these children to be reared in. That both are of good moral character, fit and qualified to have the care, custody and control of the said children. That G. W. Moore is willing and able to support and maintain these children if the Complainant be awarded their custody.

PRAYER FOR PROCESS.

To the end that equity may be had in the premises; Complainant prays that Walter Boone be made party Respondent to this petition of modification by the usual process of this court requiring him to plead, answer or demur within the time allowed by law.

PRAYER FOR RELIEF.

Wherefore, the premises considered, your petitioner respectfully prays that on a final hearing of this cause your Honor will enter a decree modifying the decree entered on the 7th day of June, 1951, so as to grant the Complainant the care, custody and control of the minor children, Walter Glen Boone, Marvin Earl Boone, Ronnie Boone and Randy Boone, and petitioner prays for such other, further and different relief as in the premises may to Your Honor seem just and proper.

WILTERS AND BRANTLEY

BY:

James M. Brantley  
Solicitor for Complainant

Received in Sheriff's Office  
this 9 day of Sept 1953  
TAYLOR WILKINS, Sheriff

2635 1/2

RECORDED

BERTHA BOONE  
COMPLAINANT  
VS  
WALTER BOONE  
RESPONDENT

PETITION FOR MODIFICATION  
AND CUSTODY

FILED  
SEP 9 1953

ALICE J. DUCK, Register

Received day of 19  
and on 17 day of Sept 1953  
I served a copy of the within  
on  
By service on Walter Boone  
TAYLOR WILKINS, Sheriff  
by T. W. Boone

BERTEA BOONE,	X	
Complainant,	X	IN THE CIRCUIT COURT OF
vs.	0	BALDWIN COUNTY, ALABAMA
WALTER BOONE,	X	IN EQUITY NC.
Respondent.	X	

Comes the Respondent in the above styled cause and demurs to the Petition filed by the Complainant in said cause and to each and every paragraph thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said Petition does not state a cause of action.
2. That said Petition fails to allege which children are now living with the Respondent and are in his custody.
3. That said Petition fails to allege why the Respondent is not a fit and proper person to have the care, custody and control of such minor children.
4. That it is affirmatively shown in said Petition that all of such children are boys who are over the age of seven years and said Petition fails to allege why the Complainant can take better care of such children than the Respondent can.
5. That it is affirmatively shown by said Petition that such children have been with the Respondent for more than two years since the divorce was granted and it is not shown that there has been any change of circumstances since such children were left by the Complainant with the Respondent.

Chason & Stone

By:

  
Solicitors for Respondent.

26357<sub>12</sub>  
RECORDED

DETURNER

BERTHA BOONE,

Complainant,

vs.

WALTER BOONE,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO.

Filed October 7, 1953.

*Rice J. Jencks*  
Register

\$600 Motion for Decree Pro Confesso on Personal Service.

3107 Code

mpco.

THE STATE OF ALABAMA,  
Baldwin County

No. 2635½ Circuit Court, In Equity.

BERTHA BOONE MOORE

Complainant

Vs.

WALTER MOORE

Defendant

Motion is hereby made for a Decree Pro Confesso against

BERTHA BOONE MOORE

Complainant

~~Defendant~~

in the above stated cause, on the ground that more than thirty days have elapsed since service of summons

Complainant

Complainant

upon said ~~Defendant~~; and that said summons was duly served according to law, and that said ~~Defendant~~

Petition

has failed to demur, plead to or answer the ~~Petition~~ in this cause to this date.

This 17th day of June 19 57

*Jeffrey J. Marshall*  
Solicitor.

No. \_\_\_\_\_ Page \_\_\_\_\_

THE STATE OF ALABAMA  
BALDWIN COUNTY

Circuit Court, In Equity

Vs.

Motion for Decree Pro Confesso on  
Personal Service

Filed 6-17 19 57

*Alice J. Duck*  
Register.

Recorded in \_\_\_\_\_ Record

Vol. \_\_\_\_\_ Page \_\_\_\_\_

Register.



## CIRCUIT COURT COMPLAINT

Printed by the Baldwin Times, Bay Minette, Alabama.

BERTHA BOONE MOORE  
 Complainant,  
 Vs. WALTER BOONE  
 Respondent.

In the Circuit Court.  
 In Equity No. 26351

## DECREE PRO CONFESSO ON PERSONAL SERVICE.

In this cause, it appears to the Register, that service was had on the Complainant,  
Respondent  
 on Respondent's Petition for Modification on

by the Sheriff of Mobile County, on the 12th day of March,  
 1957.

And it further appears to the Register, that that the said

Complainant  
 the ~~Respondent~~, having to the date hereof,  
 failed to plead, demur to or answer the Petition  
~~Bill of Complaint~~ filed in this cause, it is now, therefore,

on motion of Telfair J. Mashburn, Jr Solicitors

for Complainant, ordered, and decreed by the Register that the Petition  
~~Bill of Complaint~~ in this cause be,

and it hereby is, in all things taken as confessed against the said BERTHA BOONE MOORE

This 17th day of June, 1957

Telfair J. Mashburn, Jr  
 Register.

BERTHA BOONE (MOORE),  
Complainant  
VS  
WALTER BOONE,  
Respondent

BOOK 023 PAGE 118

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN EQUITY. NO. \_\_\_\_\_

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

Comes now Bertha Boone (Moore) and moves the Court to set aside the final decree rendered in this cause on the 19th day of June, 1957, and for grounds for said motion says: That she was not represented by counsel in this cause, hence no formal pleading has been heretofore filed by her.

That it was her intention to be present in Court on the day the testimony was taken and to give testimony in her own behalf. That she did verily believe that she would be given notice of the date of this hearing.

Your movant says further that she had no notice of the date on which testimony was taken in this cause. That when she discovered the testimony had already been taken in this said case, that she came to the Court-house in Bay Minette, Alabama and inquired about it. That she was informed that the case had already been heard and that she had been given notice by mail of the date set for the aforesaid hearing.

Your movant says further that she then went to the Post Office in Fairhope, Alabama, and inquired about this notice; that she was given the letter and envelope attached hereto and marked as movant's Exhibit "A" at that time. She says further that when she was given this letter she asked the Postmaster to note the date of this delivery to her on the face of the envelope; that her request was complied with.

Premises considered, your petitioner respectfully moves the Court set aside the final decree, heretofore rendered in this cause and grant her a rehearing thereof.

Your movant hereby offers to pay whatever cost the Court deems equitable, premises considered.

*Bertha Boone Moore*

*I hereby acknowledge receipt of service of the above on behalf of Walter Boone and waive service by the sheriff -*

*Jeffrey J. Marshall*  
*Solicitor for Bertha Boone*

STATE OF ALABAMA

BOOK 023 PAGE 119

BALDWIN COUNTY

Before me, Tolbert M. Brantley, a Notary Public, in and for said County and State, personally appeared Bertha Boone (Moore), who is known to me and who by me being first duly sworn, deposes and says that she has read the allegations of this motion and has been informed of the facts alleged therein and says that the facts therein stated are true and correct.

Bertha Boone Moore

Sworn to and subscribed before me this the 28 day of June, 1957.

Tolbert M Brantley  
Notary Public, Baldwin County, Ala.

7/5/59 The Motion being presented  
and after hearing the Court  
is of the opinion that the  
Motion should be and it  
is hereby overruled and denied  
Hubert M. Moore  
Judge

BERTHA BOONE (MOORE)

COMPLAINANT

VS

WALTER BOONE

RESPONDENT

IN EQUITY

*is recorded* BOOK 023 PAGE 121

June  
14th  
1957

Mrs. Bertha Boone Moore  
General Delivery  
Fairhope, Alabama

Dear Mrs. Moore:

This is to inform you that no answer has been filed in your behalf in the custody suit in the Circuit Court, in Equity, of Baldwin County, Alabama and that I plan to take testimony in this case at the regular call of the docket on Tuesday, June 18, before Judge Hall at Bay Minette.

If you desire, you may be present with such witnesses as you care to bring.

Yours very truly,

*Telfair J. Mashburn*

Telfair J. Mashburn  
TJM:b



Q. You are Mr. Walter Boone?

A. Yes sir.

Q. You are the petitioner in this case?

A. Yes sir.

Q. You heard me read the allegations of this petition?

A. I did.

Q. Is that the information you gave me?

A. It is.

Q. Were all of the allegations that I read to you from the petition true and correct?

A. Yes sir.

Q. You are presently a resident of Baldwin County, Alabama?

A. I am.

Q. You were the Respondent in this case when the divorce was granted in this court?

A. Yes sir.

Q. By decree at that time were you given custody of the children of that marriage?

A. Well I'm not positive about whether the custody was given to me or not; I had the children.

Q. The children were left with you?

A. Yes sir, they stayed with me about a year. If you remember, Judge, she wanted custody of the kids and I wouldn't sign the papers until that was taken off.

Q. The children were left with you?

A. Yes sir, she deliberately walked off and left them for over a year.

Q. Later on did you and your ex-wife enter an agreement with regard to the custody of the children?

A. Yes sir.

Q. Tell the Judge what that was?

A. Where she was living at that time, she was at Atmore -

Q. That was in 1954?

A. Yes sir.

Q. Tell the Judge what agreement you all had?

- A. They were to stay with her; she said she was willing and able to take care of both of them, so they stayed on -
- Q. She also represented to you that they had a proper home for them?
- A. Yes sir.
- Q. And that they would support the children -- that they were able financially to support the children and if you would let them stay with her that they would bear the expense of their maintenance and support while they were with them?
- A. Yes sir, and when they were with me I would do it.
- Q. Later on did your ex-wife file a suit against you in Mobile for non-support?
- A. Yes sir.
- Q. At that time did she get up and tell the Judge, and did she allege in her petition, that she was no longer financially able to support the children?
- A. Yes sir.
- Q. Did she tell the court that she had to have help in spite of the agreement she had entered into?
- A. Yes sir.
- Q. Was she living in Mobile County at the time she filed this petition?
- A. Yes sir.
- Q. Do you know where she is living now?
- A. Fairhope.
- Q. She has moved there within the last few weeks?
- A. Yes sir.
- Q. Have you remarried since your divorce?
- A. Yes sir.
- Q. Do you have an adequate home for the care of your children?
- A. I do.



Q. Do you own farm lands there?

A. Yes I own a farm.

Q. Is your present wife willing to help you take care of the children and rear and educate them and train them properly?

A. Yes sir.

Q. Are you financially able to take care of them and educate them?

A. Yes sir.

Q. Do you think it would be to the best interest of these children that their custody be given to you?

A. Yes sir.

Q. Are you willing for them to visit their mother at any reasonable and suitable times and her visit them?

A. Them visit her, but not her them at my place.

Q. You are willing for them to visit her?

A. Yes sir - perfectly willing for them to visit her.

MRS. BOONE, BEING FIRST DULY SWORN, TESTIFIED:

Examination by Mr. Mashburn.

Q. What is your name, please?

A. Opal Boone.

Q. Are you the wife of Mr. Walter Boone, who just testified?

A. Yes sir.

Q. Do you know his children?

A. Yes sir.

Q. Have you been around them?

A. Yes sir.

Q. Do you keep house for him?

A. Yes sir.

Q. Do you have a proper place to rear and maintain and educate these children?

A. Yes sir.

Q. If the court sees fit to give Mr. Boone custody of the children, will you act as a mother to them and give them a home?

A. Yes sir.

Q. Will you treat them as your own children?

A. Yes sir, that one back there will tell you that I have done as much for them as I have done for my own children.

Q. Do you want these children to be brought to your home?

A. Yes sir, we will take them.

-----

C E R T I F I C A T E:

I hereby certify that the foregoing is a true and correct transcript of the testimony taken in open court in the above styled cause.

This the 18th day of June, 1957.

Louise D. [Signature]  
COURT REPORTER

This the 18th day of June, 1957.  
at Los Angeles, California.

Transcript of the testimony taken in open court in the above  
captioned cause.

EXHIBIT A

FILED  
JUN 20 1957

ALICE A. DUCK, Register

- A. Yes sir, we will take them.
- Q. Do you want those children to be brought to your home?  
as much for them as I have done for my own children.
- A. Yes sir, that one back there will tell you that I have done.
- Q. Will you stand there as your own children?

MOTION TO SET ASIDE DECREE PRO CONFESSO

BERTHA BOONE (MOORE)	Ø	IN THE CIRCUIT COURT OF
COMPLAINANT	Ø	BALDWIN COUNTY, ALABAMA
VS	Ø	IN EQUITY
WALTER BOONE	Ø	CASE NO. _____
RESPONDENT	Ø	

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

Comes now Bertha Boone (Moore) and moves the Court to set aside the decree pro confesso rendered in this cause on the 17th day of June, 1957 and for grounds for set motion says: That she was not represented by counsel in this cause, hence no formal pleading has been heretofore filed by her.

That she had no notice of the date on which this decree pro confesso was rendered. That she did not know that a decree pro confesso could be rendered against her without her being present in court.

Your Movant says further that she has a meritorious defense to this suit. A copy of the answer and crossbill which she proposes to file in the event this decree proconfesso is set aside, is attached hereto and marked petitioner's Exhibit "B".

Premises considered, your petitioner respectfully moves the court to set aside the decree proconfesso heretofore rendered in this cause and allow her to file an answer and crossbill.

Your petitioner hereby offers to pay whatever cost the court deems equitable, premises considered.

Bertha Boone Moore

I J. J. Mashburn Attorney for  
Walter Boone hereby accept service  
of the foregoing motion and waive  
any further service I may be entitled  
to as relates to service of this  
motion

J. J. Mashburn Jr.  
Solicitor for Walter Boone

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Tolbert M. Brantley, a Notary Public, in and for said County and State, personally appeared Bertha Boone (Moore), who is known to me and who by me being first duly sworn, deposes and says that she has read the allegations of this motion and has been informed of the facts alleged therein and says that the facts therein stated are true and correct.

Bertha Boone Moore

Sworn to and subscribed before me this the 22 day of June, 1957.

Tolbert M. Brantley  
Notary Public, Baldwin County, Ala.

Exhibit "B"

ANSWER AND CROSS-BILL

BERTHA BOONE (MOORE)	Ø	IN THE CIRCUIT COURT OF
COMPLAINANT	Ø	BALDWIN COUNTY, ALABAMA,
VS	Ø	IN EQUITY
WALTER BOONE	Ø	CASE NO. _____
RESPONDENT	Ø	

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE TWENTY EIGHTH JUDICIAL CIRCUIT OF THE STATE OF ALABAMA, IN EQUITY SITTING.

Comes now Bertha Boone (Moore), the Complainant in the above styled cause and for answer to the Respondent's petition filed in this cause on March 8, 1957 says:

1.

That she admits the allegations in Section one of the petitioner's Complaint except that she now lives in Fairhope, Baldwin County, Alabama.

2.

She admits the allegations of Section two.

3.

She admits the allegations of Section three of the Complaint except as to the part relating to the custody of her children. For answer to this part of the petition, your Complainant says that she has had continuous custody of Ronnie and Randy since the time of her divorce except for very short intervals.

4.

She admits the allegations of Section four thereof.

5.

That she admits the allegations of Section five thereof.

6.

That she admits the allegations of Section six thereof and for further answer to this Section says that this is not such a change of circumstances as would authorize a change of the custody of Ronnie and Randy.

7.

Complainant denies the allegations of Section seven of this Complaint and says further that the fact that the Respondent lives on a farm, in no wise should influence the Court in changing the custody of the children.

8.

Complainant says that the Respondent is financially able to educate and train Ronnie and Randy but has always failed to use his money to this end.

9.

Your Complainant denies the allegations of Section nine of this Complaint and says further that this section of the Respondent's petition is answered more fully in your Complainant's Cross Bill.

Now having fully answered the Respondent's petition of Complaint, comes now and files this, her Cross Bill to the Respondent's petition.

10.

That the Complainant is over the age of twenty-one years; that she is a bona fide resident-citizen of the State of Alabama and now resides in Fairhope, Alabama; that she has been a bona fide resident-citizen of the State of Alabama, for more than one year next preceding the time of the filing of this petition; that the Respondent, Walter Boone, is over the age of twenty-one years and is a resident-citizen of Baldwin County, Alabama.

11.

That the Complainant and Respondent were permanently divorced from the bond of matrimony by decree granted by the Circuit Court of Baldwin County, Alabama, on the 7th day of June, 1951, for and on account of cruelty on the Respondent's part.

12.

That there was born to the union of the Complainant and Respondent four children, Walter Glen Boone, age 21, Marvin Earl Boone, age 18, Ronnie Boone age 13, and Randy Boone, age 13.

13.

That the aforesaid decree failed to award the care, custody, and control of these children to her, the Complainant, Respondent or anyone else.

14.

That Ronnie and Randy have lived with their mother most of the time since her divorce from the Respondent. That she provides a good Christian home for these children and while the children are with her they have a wholesome environment.

15.

That the home of the Respondent is not a suitable place in which to rear Ronnie and Randy; that the Respondent fails wholly to discipline these children properly. That there is great animosity between the Respondent's present wife and these two boys. That on at least one occasion she has verbally threatened to shoot them or one of them.

16.

Your Complainant avers that at the time of her divorce from the Respondent, the Court failed to provide her any alimony, support money or give her any of the property accumulated by the Complainant and Respondent jointly. Your Complainant avers that during their married life and by their joint efforts she and the Respondent purchased a 27 acre farm on which they built a three bedroom house and purchased an undivided  $\frac{2}{3}$  interest in 200 acres of timber land in Monroe County, Alabama. That the Complainant, and Respondent owned this at the time of the aforesaid divorce. That in addition to the aforesaid real estate they owned a new Chevrolet truck, a new Chevrolet automobile, 20 hogs, 8 cows, and a  $\frac{1}{2}$  interest in 20 cows.

17.

Your Complainant avers that the Respondent is an able bodied man; that he has an income from his job in Brookly Field, Mobile, Alabama, from his farm, from his cattle business and from his turpentine business.

18.

That the children, Ronnie and Randy, are desirous of living with their mother and their wished should be considered by this court.

19.

That the Complainant is now living with her husband, G. W. Moore, in Fairhope, Alabama. Their income is modest; that the Complainant needs additional money to support her children in order that they may be reared in keeping with their station in life.

#### PRAYER FOR PROCESS

WHEREFORE, The premises considered, the Complainant prays that your Honor will by proper process make the said Walter Boone party respondent to this cause of action, requiring him to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.



PRAYER FOR RELIEF

WHEREFORE, the premises considered, your Complainant respectfully prays that on a final hearing of this cause, your Honor will enter a decree modifying the divorce decree entered on the 7th day of June, 1951, so as to grant the Complainant the permanent care, custody and control of Ronnie Boone and Randy Boone.

Your Complainant further prays that Your Honor will enter a decree ordering the Respondent to pay her support money in such an amount as Your Honor may deem proper, the premises considered.

Your Complainant prays for such, other, further, and different relief as in the premises she may be entitled to receive.

Respectfully submitted,

Walters & Brantley

BY:

Sallie M. Brantley  
Solicitor for the Complainant

FILED

11M 152 1021

11M 152 1021

SUMMONS AND COMPLAINT

BOOK 023 PAGE 112

Moore Ptg. Co.

The State of Alabama,  
Baldwin County.

Circuit Court, Baldwin County

No. 2635 $\frac{1}{2}$

TERM, 19--

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon

~~WALTER BOONE~~

*Mrs. Bertha Boone (Moore)*

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

~~WALTER BOONE~~

Defendant

by ~~BERTHA BOONE~~ (MOORE)

Plaintiff

Witness my hand this 8th day of March 19--57

Clerk

STATE OF ALABAMA, 0  
COUNTY OF BALDWIN. 0

6- 013-1113

BOOK 023 PAGE 44

You are hereby commanded to summon BERTHA BOONE (MOORE) to appear and plead, answer or demur within thirty days from the service hereof to the petition filed by WALTER BOONE in the Circuit Court of Baldwin County, Alabama, in Equity, against the said BERTHA BOONE.

WITNESS MY HAND this \_\_\_\_ day of March, 1957.

REGISTER.

\*\*\*\*\*

BERTHA BOONE (MOORE),	0	
Complainant,	0	
VS.	0	IN THE CIRCUIT COURT OF
WALTER BOONE,	0	BALDWIN COUNTY, ALABAMA.
Respondent.	0	IN EQUITY. NO. _____

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

Comes now the petitioner, Walter Boone, the respondent in the above styled cause, and represents and shows unto your Honor and this Honorable Court as follows:

1. That petitioner is over the age of twenty-one years and is a bona fide resident citizen of Baldwin County, Alabama, and has been for more than ten years next preceding the filing of this Petition; that the complainant is over the age of twenty-one years and is presently a resident citizen of Mobile County, Alabama;
2. That the complainant and respondent (Petitioner) were permanently divorced from the bonds of matrimony by decree granted in this Honorable Court on, to-wit: the 7th day of June, 1951.
3. That there was born to the marriage of the complainant and respondent four children, Walter Glen Boone, age 21, Marvin Earl Boone, age 18, Ronnie Boone, age 13, and Randy Boone, age 13; that the aforesaid divorce decree filed to award the care, custody and control of these children to the complainant; and that they were left in the care of the respondent;
4. That, on, to-wit: the 9th day of September, 1953, the complainant filed a petition, asking for the custody of these children, in this Honorable Court, which petition~~ex~~ was dismissed out of this Honorable Court on, to-wit: the 15th day of December, 1953.

5. That, on, to-wit: the 19th day of October, 1954, the complainant filed another petition in this Honorable Court, asking for the care, custody and control of said minor children; that at the time said petition was filed the complainant and her present husband were residing in Atmore, Alabama; that said petition resulted in the complainant and respondent entering into a written agreement whereby the complainant and her husband, G. W. MOORE, were to have the custody and control of Ronnie and Randy Boone, during certain periods of the year, and were to bear the entire costs of supporting and maintaining said Ronnie and Randy Boone during the time said children remained in their custody;

6. That, since <sup>said</sup> agreement was entered into between the complainant and your respondent (Petitioner) conditions have changed materially in this: (A) The complainant and her husband have moved from Atmore, Alabama, to Mobile, Alabama; and (B) The financial affairs of the complainant and her husband have worsened so that they are no longer financially able to support and maintain said children;

7. That your respondent lives on a farm in the northern part of Baldwin County and that it would be to the best interests of said Ronnie and Randy Boone to be placed in his care, custody and control, and to live in the country, so that they can learn to farm live off the land;

8. That your respondent is financially able to educate said children and to train them to earn a living;

9. That he has a suitable and proper home in which to rear said childre; and that it would be to their best interests to be placed in his care, custody and control, with rights of reasonable visitation in the complainant.

WHEREFORE, THE PREMISES CONSIDERED, your respondent prays that your Honor will by proper process make the said BERTHA BOONE (MOORE) a party to this action, requiring her to plead, answer or demur to this petition within the time and under the pains and penalties prescribed by law and the practice of this Honorable Court.

Your Petitioner further prays that on a hearing hereof your Honor will make and enter a proper decree, or order, giving him the permanent care, custody and control of RONNIE BOONE AND RANDY BOONE.

And your Petitioner prays for such other, further, different or general relief as in equity and good conscience he may be entitled to receive and, as in duty bound, he will ever pray, etc.

Julian D. Madhury  
SOLICITOR FOR RESPONDENT (PETITIONER)

ORDER SETTING DATE FOR HEARING

BERTHA BOONE MOORE	Ø	IN THE CIRCUIT COURT OF
COMPLAINANT	Ø	BALDWIN COUNTY, ALABAMA
VS	Ø	IN EQUITY
WALTER BOONE	Ø	
RESPONDENT	Ø	

This day came Bertha Boone (Moore) and by a verified petition, moved the Court to set aside a final decree rendered in this cause on the 19th day of June, 1957; and further moved the Court by a verified motion to set aside a decree pro confesso rendered in this cause on the 17th day of June, 1957.

Upon consideration thereof, the Court set both these motions down for hearing on the 5th day of July, 1957 at 9<sup>30</sup> A.M.

Done this the 28 day of June, 1957.

Robert M. Stace  
CIRCUIT JUDGE

BERTHA BOONE (MOORE)

Complainant,

VS.

WALTER BOONE,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 2635½

DECREE

This cause coming on to be heard is submitted on the Petition of Walter Boone, the respondent, for a decree giving him the care, custody and control of Ronnie Boone and Randy Boone, minor children of the said parties, age 14 years, Decree Pro Confesso on Personal Service against the said Bertha Boone (Moore), the complainant, and the testimony of Walter Boone and Opal Boone, heard ore tenus by the Court, and this cause being heard on a day regularly set for the call of Equity Cases, and the Court, after consideration of all of which, being of the opinion that the Petition of Walter Boone should be granted, IT IS, THEREUPON, ORDERED, ADJUDGED AND DECREED BY THE COURT AS FOLLOWS:

1. That permanent care, custody and control of the said minors, Ronnie Boone and Randy Boone, be, and it is hereby, awarded to the said Walter Boone.

2. That the complainant, BERTHA BOONE (MOORE), be, and she is hereby, given the right to have said minors visit her at all reasonable times, on week-ends and during vacation periods, when it will not interfere with their education.

3. That jurisdiction of this cause and of said minors is retained for such orders and decrees as may be necessary for their welfare in the future.

4. That the costs of this proceeding be, and it is hereby, taxed against the said Walter Boone, for which let execution issue.

DONE AND ORDERED this 19 day of June, 1957.

Hubert M. Hall  
J U D G E.

2635

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN EQUITY. NO. 2635<sup>1</sup>/<sub>2</sub>

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BERTHA BOONE (MOORE)  
Complainant,  
VS.  
WALTER BOONE,  
Respondent.

\*\*\*\*\*

DECREE.

FILED 1951  
JUN 20  
J. H. HARRIS, Clerk



"A"

Morant's  
Exhibits

Hon. Telfair J. Mashburn  
Attorney at Law  
Bay Minette, Alabama

Received  
by Mrs B.B. Moore  
on 6-18-57  
RDM

BOOK 023 PAGE 120

Mrs. Bertha Boone Moore  
General Delivery  
Fairhope, Alabama

