

3254

WILLIAM KILLIUS,
Complainant,
VS.
MAJORIE KILLIUS,
Respondent.

IN THE
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.
IN EQUITY.

This cause coming on to be heard is submitted on the original petition of the Complainant, the answer of the Respondent, documentary evidence and the testimony of the witnesses taken on oath, and the Court, after considering the matter and hearing and observing the witnesses is of the opinion that the Complainant is entitled to relief.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED BY the Court that the memorandum of agreement made and entered into by and between the Complainant and the Respondent on the 28th day of August, 1953, which is as follows:

MEMORANDUM OF AGREEMENT:

MADE THIS 28th day of August, 1953, between WILLIAM KILLIUS, hereinafter referred to as the father and MARJORIE KILLIUS, hereinafter referred to as the mother.

WHEREAS, the parties hereto have for divers reasons been living separate and apart and;

WHEREAS, the said parties desire to make some provisions for the care, custody and maintenance of their minor child Sandie.

NOW IN CONSIDERATION OF THE PREMISES AND MUTUAL COVENANTS herein contained the parties hereto do hereby agree as follows:

1.

The said mother shall have the general custody of the said child subject to the right of the father to have her custody during twelve (12) weeks of the usual summer school vacation period

2.

The said father agrees to pay towards the support, education and medical care of the said child the sum of TEN (\$10.00)

DOLLARS per week, except during the summer period when he shall have her custody, provided that should the child be taken out of the State of Pennsylvania, said payments shall be suspended during said period.

-3-

So long as the father makes the payments aforesaid, the said mother agrees not to institute any proceedings to compel him to support the said child and agrees not to incur any debts or obligations whereby the said father could be charged therewith.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals the day and year aforesaid.

WILLIAM J. KILLIUS (SEAL)

Signed, sealed and
delivered in the presence of

MAJORIE KILLIUS (SEAL)

Melton D. Rosenberg.

Is still in full force and effect.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Complainant is entitled to the custody of the minor child, Sandie Killius, as of this date and his right of custody to continue for a period of twelve (12) weeks from this date.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said Complainant is given the right to take the said minor child, Sandie Killius, to his home in California, Washington County, Pennsylvania, and no other place, except with the permission of this Court.

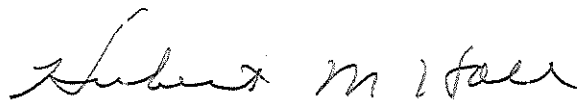
~~IT IS FURTHER ORDERED,~~ ADJUDGED AND DECREED BY the Court that the said Marjorie Killius Maddock is entitled to, and shall have the custody of said minor child beginning twelve (12) weeks from this date and her possession shall continue for a period of time until the 17th day of May, 1955.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that this decree shall go forward from year to year subject to the conditions and restrictions herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that this order and decree is subject to such other orders and decrees by the Court as may seem proper and necessary from time to time.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Complainant and the Respondent pay the cost herein accrued, each paying one half thereof, for which execution may issue.

Dated at Bay Minette, Alabama, this 17th day of May, 1954.



Judge of the 28th Judicial Circuit
of Alabama.

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Filed 5-17-54
Aircraft Register

WILLIAM KILLIUS,
Complainant

-vs-

MARJORIE MADDOCK,
Respondent

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

Comes the Respondent and in answer to the bill filed against her says:

FIRST: In answer to paragraph 1 the Respondent admits the allegations as to age and residence of the Complainant and that her residence is Fairhope, Alabama.

SECOND: As to paragraph 2 the Respondent admits the parties were married on 15 June, 1938, as alleged, but states they were separated in March, 1953. Respondent also states that their daughter, SANDI KILLIUS, who is now six years of age is residing with this Respondent.

THIRD: As to paragraph 3 Respondent denies all allegations in paragraph 3 and demands strict proof.

FOURTH: As to paragraph 4 Respondent says that she obtained a divorce from the Complainant because of indignities and denies that it is to best interest of the minor child, Sandi Killius, if the Complainant was awarded the complete care, custody and control and states to the contrary; that said child is of a tender age and it is to her best interest to be with her mother.

FIFTH: As to paragraph 5 Respondent denies that said agreement has been complied with on the part of the Complainant and alleges that said Complainant breached said agreement by taking said child from this Respondent by force, on to-wit, the 19th day of February, 1954, and also, on to-wit, the 28th day of December, 1953, and by his failure to support said child.

SIXTH: As to paragraph 6 Respondent denies each and every allegation thereof and demands strict proof.

Respondent in further answer to said bill says that:

ONE: The Complainant is not a fit or proper person to have the care, custody and control of his said daughter, Sandi Killius.


TWO: Respondent says that she is a fit and proper person to have the care, custody and control of her daughter, Sandi Killius, and that she and her husband, ERNEST MADDOCK, have provided a good and proper home for said child in Fairhope, Alabama.

WHEREFORE Respondent prays that this answer be taken as a cross-bill and notice of same be given to Complainant,

And that on a hearing thereof this Court determine that this Respondent is the proper person to have the care, custody and control of her daughter, Sandi Killius, and that on a hearing thereof this Court determine that this Respondent is the proper person to have the care, custody and control of her daughter, Sandi Killius, and that said custody be given to her and that the agreement heretofore made between the parties be voided because of the breach hereinabove mentioned and that the Court make such proper orders as to the care and custody of the said minor child as to equity may seem meet.

RICKARY & RICKARBY

By:


E. G. Rickarby, Jr.
Solicitor for Respondent

THE STATE OF ALABAMA--JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 610

Marjorie Killius Maddock, Appellant

vs.

William Killius, Appellee,

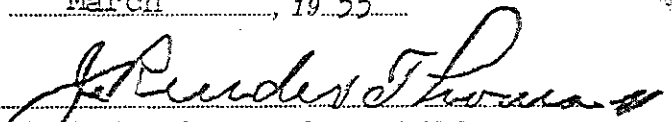
From Baldwin Circuit Court.
In Equity

The State of Alabama,
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to five inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, this the 24th day of

March, 19 55


Clerk of the Supreme Court of Alabama

LAW OFFICES

ELLIOTT G. RICKARBY
(DECEASED)

RICKARBY & RICKARBY

FAIRHOPE, ALABAMA

E. G. RICKARBY, JR.

15 September 1954

Mrs. Alice J. Duck
Clerk Circuit Court
Bay Minette, Ala.

Dear Mrs. Duck:

Re: William Killius
Vs: Marjorie K. Maddack

With this we are handing you appeal bond and general
power of attorney duly executed.

Yours very truly,


E. G. Rickarby, Jr.

R/i
Encl.

WILLIAM KILLIUS,

Complainant,

vs.

MAJORIE KILLIUS, also known
as MAJORIE MADDOCK,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

This day came William Killius and filed his petition in this Court seeking the custody of his minor child, Sandi Killius, who is presently residing with her mother in Baldwin County, Alabama, and praying that this Court enter an order requiring the said Majorie Killius, also known as Majorie Maddock, to present said child to this Court for a proper determination of the question of custody presented by said petition. And it appearing to the Court that its jurisdiction has been evoked by the filing of said petition and that said minor child is in the custody of the Respondent, Majorie Killius, in Baldwin County, Alabama, it is, therefore

ORDERED AND DECREED by the Court that a copy of the above noted petition be served on the said Majorie Killius, also known as Majorie Maddock, together with a copy of this order and a summons requiring her to be present with said child on the 17th day of May, 1954, for the purpose of the determination of the issues herein involved.

It is further ORDERED, ADJUDGED AND DECREED that the said Majorie Killius, also known as Majorie Maddock, shall have the custody of said child pending a final determination of this cause but that she is hereby required to have said child in Court on the said 17th day of May, 1954, and she is hereby forbidden and restrained from removing said child from the jurisdiction of this Court until further orders in this proceeding.

Done this 13th day of May, 1954.


Circuit Judge.

WILLIAM KILLIUS,

Complainant,

VS.

MARJORIE KILLIUS MADDOCK,

Respondent.

IN THE

CIRCUIT COURT OF BALDWIN COUNTY,

ALABAMA. INEQUITY.

NO. 3254

This cause is submitted for a final decree upon the petition of the Complainant seeking the permanent custody of Sandi Killius, a girl child now six years of age, the transcript of evidence taken in the above styled cause on May 17, 1954, the testimony of the Complainant and the other documentary evidence offered on behalf of the Complainant. The Complainant and the Respondent entered into an agreement and stipulation that the Court had jurisdiction and was authorized to enter a final decree in the premises.

It was the tendency of the evidence that there had, for many years, been marital disagreement between the Complainant and the Respondent, and that some time ago the Respondent secured a divorce from the Complainant and the parties entered into an agreement relative to the custody of the said minor child; it was the tendency of the evidence that since the granting of the divorce the Respondent has married one, Ernest Maddock, at Fairhope, Alabama, who is now engaged in the operation of a school for handicapped children.

That the said minor, while in the home with the Respondent and her husband, was highly nervous and that the conditions were not suitable or to the best interest of said minor child;

That the Complainant has a home in Pennsylvania with his mother where the said minor child has children of her own age to play with, and the Court having had the opportunity to observe the said child some twelve weeks ago can now easily detect and determine that her physical condition is much improved.

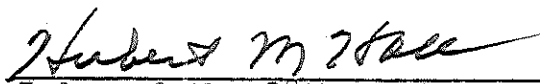
The Court, after considering all of the pleadings, the evidence of the several witnesses, and having had an opportunity to observe all of the witnesses for the Complainant and for the Respondent, bearing in mind that under normal conditions it is to the best interest of a small child to be placed in the custody of her mother, is of the opinion and finds that it is to the best interest of said minor child, Sandi Killius, that she be placed, permanently, in the custody of her father, William Killius.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the permanent custody of Sandi Killius, a minor child six years of age be, and the same is hereby awarded to William Killius, subject to visitation on the part of the Respondent at reasonable times.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the said William Killius be, and he is hereby given and granted the right to take the said minor child, Sandi Killius, to his home in California, Pennsylvania.

IT IS FURTHER ORDERED that the Complainant pay the cost herein taxed, for which execution may issue.

Dated this 10th day of August, 1954.


Judge of the 28th Judicial Circuit
of Alabama.

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Handwritten signature

FILED
AUG 10 1954
MADE L. 1246

WILLIAM KILLIUS,

Complainant,

vs.

MARJORIE KILLIUS MADDOCK,

Respondent.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AND
TO THE HONORABLE HUBERT M. HALL, JUDGE THEREOF:

Comes your Complainant, the undersigned William Killius, and respectfully represents and shows unto this Honorable Court and unto your Honor as follows:

FIRST:

That he is a resident citizen of the State of Pennsylvania, his more particular address being, California, Pennsylvania. That the Respondent, Marjorie Killius Maddock, is presently residing in Fairhope, Baldwin County, Alabama.

SECOND:

That your Complainant is the father and the Respondent is the mother of Sandi Killius, who is now six (6) years of age and who is presently in the custody of your Complainant under the terms of that certain decree heretofore entered by this Honorable Court on the 17th day of May, 1954, in that certain cause in this Court wherein your Complainant was granted the relief prayed for in a Petition filed by him for the purpose of securing the custody of the said Sandi Killius.

THIRD:

That after the rendition of the aforesaid decree your Complainant returned to the State of Pennsylvania with the said Sandi Killius and thereupon proceeded to secure proper medical and psychological treatment for the said Sandi Killius and the said Sandi Killius is now receiving such treatment by a competent specialist in those fields in the State of Pennsylvania. That your Complainant

has been informed that his said daughter is in urgent need of corrective treatment to her eyes and that such treatment would be highly beneficial to said minor child both at the present time and in the future and that it would be detrimental to the said Sandi Killius if such treatment is not received as early as possible. That since the said Sandi Killius has been in the custody of your Complainant she has gained weight and is perfectly happy in her present environment.

FOURTH:

That after your Complainant returned to Pennsylvania with the said Sandi Killius the Respondent herein came to the State of Pennsylvania and instituted a habeas corpus proceeding in that State to secure the custody of the said child and it was necessary that your Complainant defend said proceeding in Pennsylvania. That the Court of Common Pleas of Washington County, Pennsylvania, the Honorable Roy I. Carson, presiding, entered an order on, to-wit, June 30, 1954, denying to the Respondent herein the relief prayed for in said proceeding, an exemplified copy of which order is attached hereto and marked "Exhibit A", and by reference made a part hereof. That the said Pennsylvania proceeding was filed by the Respondent herein notwithstanding the fact that your Complainant had been awarded the custody of the said Sandi Killius by this Honorable Court for the twelve-week period beginning May 17, 1954.

FIFTH:

Your Complainant further alleges that it would be to the best interest of the said Sandi Killius if she were allowed to remain with your Complainant in California, Pennsylvania, in order that she might continue to receive the treatment which has been contracted for by your Complainant and that it would be to her interest if she remained. That it would not be to the best interest of Sandi Killius, but would in fact be highly detrimental to her and to her future well-being, to return to the Respondent herein and your Complainant were required to surrender the custody of the said Sandi Killius to the Respondent. That the Respondent is a highly nervous and extremely unstable person and not^{fit} in the present condition to have the custody of the said Sandi Killius, and in the present condition of the said Sandi Killius it would not be to her best interest to be in the custody of her said

mother. That your Complainant is a person of sufficient means to provide the said Sandi Killius with all of the necessary physical and psychological treatment which is necessary that she receive and which your Complainant alleges she must receive in the interest of her future well-being.

SIXTH:

Your Complainant further alleges that it would be to the best interest of all parties concerned, and especially to the said Sandi Killius, if your Complainant were allowed to maintain the custody of the said Sandi Killius pending the final determination of the hearing of this Petition.

PRAYER FOR PROCESS

The premises considered your Complainant respectfully prays that your Honor will enter an order fixing a date for the hearing of this Petition and will cause the usual writ to be issued notifying the Respondent of the filing of this Petition and of the date set for the hearing hereof.

PRAYER FOR RELIEF

The premises considered your Complainant respectfully prays that your Honor will enter an order on the filing of this Petition allowing your Complainant to retain the custody of the said Sandi Killius pending a determination of the matters presented herein and will cause a copy of said order, if entered, to be served upon the Respondent herein along with a copy of this Petition and the order fixing the date of the hearing hereof. That upon a final determination of this cause that your Honor will enter an order awarding to your Complainant the permanent care, custody and control of the said Sandi Killius with the right of her said mother, the Respondent herein, to visit with said Sandi Killius at reasonable hours and at reasonable intervals and will enter such other, further and different orders and decrees as in the premises will be meet and proper and which will be for the best interest of the said Sandi Killius.

Respectfully submitted,

William Killius
William Killius

STATE OF PENNSYLVANIA

WASHINGTON COUNTY

Before me, Robert Crawford, the undersigned authority,
in and for the County of Washington, in the State of Pennsylvania,
personally appeared William Killius, who is known to me and who, after
being by me first duly and legally sworn, did depose and say under
oath as follows:

That his name is William Killius and that he is one and the
same person as the William Killius in the foregoing Petition for
custody and that his name is signed to the said Petition as the
Complainant therein. That the facts alleged in said Petition are
true.

Dated this 2nd day of August, 1954.

William Killius
William Killius

Sworn to and subscribed before
me this 2nd day of August, 1954.

Robert Crawford
Prothonotary

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

ORDERED AND DECREED by the Court that the Petition of William Killius seeking the permanent custody and control of the said Sandi Killius be, and the same hereby is, set down for hearing on August 9, 1954.

It is further ORDERED AND DECREED by the Court that the said William Killius be, and he hereby is, awarded the custody of the said Sandi Killius pending the final determination of this Petition but that he have said Sandi Killius in this Court on the day on which this Petition has been set, to-wit; August 9, 1954, at 10:00 o'clock a.m. and on any day to which this proceeding might be continued.

Hubert M. Lee
Circuit Judge.

MAR 24 1955

THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM 1954-55

1 Div. 610

Marjorie Killius Maddock

v.

William Killius

Appeal from Baldwin Circuit Court
In Equity.

SIMPSON, JUSTICE.

This appeal involves a contest between the parents for custody of their six-year-old daughter.

In 1953, a few days prior to a decree of divorce-
ment granted by a Pennsylvania court, they entered into
an agreement providing that the mother should have custody
of the child during the school term and the father during
the twelve-weeks summer vacation.

The mother thereafter moved to Alabama and in May, 1954, the father filed a petition in the circuit court of Baldwin County, Alabama, seeking the permanent custody of the child and the mother countered with a cross-petition also seeking permanent custody. The Alabama court entered a decree that the above referred to agreement "is still in full force and effect." The court then proceeded to decree in accordance with the provisions of the agreement. Thus custody for a twelve-weeks period was given to the father, pursuant to which he took the child to Pennsylvania. In August, 1954, the father returned the child to Baldwin County, Alabama, and filed a petition for permanent custody. At a hearing on this petition the father and another witness testified in support of the petition. The petitioner also introduced in evidence parts of the testimony taken during the hearing on the May petition. The respondent objected to this testimony on the ground that it was "irrelevant, incompetent and immaterial and the proper predicate had not been laid." When the petitioner rested, the respondent introduced the remainder of the testimony taken at the May hearing, reserving her objection thereto. The respondent mother offered no other evidence at this hearing. Upon completion of the evidence, the court entered a decree giving permanent custody of the child to the father and the mother has brought this appeal.

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One argument for reversal is rested on the ruling of the court allowing the introduction of the evidence taken at the May hearing, it being manifest from the record that the court considered such testimony in arriving at its decision. This testimony was relevant under any theory of the case. If it be conceded that the August hearing was not merely a continuation of the proceedings begun in May, the court was faced with the problem of determining whether or not there had been a change in conditions which would affect the child's welfare since the rendition of the May decree. - Armstrong v. Green, 260 Ala. 39, 68 So. 2d 834; Padgett v. Padgett, 248 Ala. 234, 27 So. 2d 205; Sparkman v. Sparkman, 217 Ala. 41, 114 So. 580. Furthermore, if we should follow appellant's insistence and remove from our consideration all the evidence of the May proceeding, then the record only shows testimony making out a case for the petitioner, appellant having failed to introduce any other evidence.

Appellant also argues that the case should be reversed because the trial court permitted the petitioner to introduce in evidence various documents purporting to be statements by and records of certain Pennsylvania doctors. This evidence, of course, was illegal but the court did not rule on the objection and was not required to do so. - Code, Title 7, § 372(1), 1953 Pocket Part. Our study of the record reveals that the trial court ruled on only one objection raised by the defendant and though

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this ruling was probably erroneous, we do not regard it as sufficient ground for a reversal.

Our consideration of the case leads us to the conclusion that the August petition and hearing was treated by the court as merely a continuation of the proceeding begun in May, notwithstanding they were given different docket numbers in the trial court. The May decree seemingly just put into effect the agreement of the parties relative to the custody of the child, but at the August hearing the entire matter was recanvassed and the court entered its final decree, insofar as such decrees can be made final. See Decker v. Decker, 176 Ala. 299, 48 So. 195; Hall v. Kirkland, 225 Ala. 158, 142 So. 161. Such course of action was peculiarly expedient in the case at bar. The testimony given at the May hearing was involved and contradictory. The child in question has since birth been afflicted with some physical disabilities. The testimony is without dispute that when the father got the child in May it weighed only thirty-six pounds. After she had been in the custody of her father for twelve weeks and, according to his testimony, having been treated and attended by several doctors and specialists, the child had gained considerable weight and her physical condition was generally improved. The court in its August decree observed: "The complainant has a home in Pennsylvania with his mother where the said minor child has children of her own age to play with and the court having had the opportunity to observe the said child some twelve weeks

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ago can now easily detect and determine that her physical condition is much improved." Under the circumstances of the case and the conditions of the May decree, the court was entitled to consider the whole case anew in the light of the mute testimony given by the child's appearance and of the other circumstances surrounding the respective statuses of the contending parties and on that basis to render the stated decree. No service would be performed by detailing all the evidence, but after a thorough consideration thereof we are not convinced that the trial court erred in its August decree.

Affirmed.

Livingston, C. J., Goodwyn and Mayfield, JJ.,
concur.

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA.

Commonwealth Ex Rel.
Marjorie Killius Maddock

vs.

William J. Killius

No. 238 August Term, 1954, A.D.

DECREE

AND NOW, this 30th day of June, 1954, the petition of Marjorie Killius Maddock for a Writ of Habeas Corpus, having come on for hearing, with both parties being represented by counsel and testimony taken.

A similar proceeding was had before the Circuit Court of Baldwin County, Alabama, the domicile of Marjorie Killius Maddock. Both parties acknowledged that they had submitted to the jurisdiction of that Court which entered a "Consent Decree," giving custody of the minor, Sandi Killius, to Marjorie Killius Maddock, the relator, subject to the right of custody to the father, William J. Killius, 12 weeks out of each year. That he has custody of the child at the present time for the period beginning May 17, 1954, and expiring August 9, 1954.

The Court of the domicile of the child always has jurisdiction in a habeas corpus proceeding. However, this matter having been so recently heard and adjudicated by a consent decree, and this Court being satisfied from the evidence presented, that the subject child is at this time being well provided for and receiving expert medical attention. There is no reason to grant the prayer of the petitioner nor to change the custody plan of the Circuit Court of Alabama.

The Court is not impressed with the claim of the petitioning mother that the child is a nervous and mental problem. The Court having observed

the mother, is concerned about her nervous condition, as revealed in the court by her jumping, jerking, continuous talking to the Court, to her counsel, and to herself. She may be in need of psychiatric or medical treatment.

The Court finds that there were no facts presented that would warrant the granting of the prayer.

By the Court.

Roy I. Carson, P.J.

Before Carson, P. J.

(An opinion will be filed if and when exceptions are filed or an appeal is taken.)
From the Record,

Attest:

Robert Crawford
Prothonotary

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

Commonwealth Ex Rel.
Marjorie Killius Maddock

vs

William J. Killius

No. 238 August Term, 1954, A.D.

AMENDMENT TO DECREE

AND NOW, this 13th day of July, 1954, it appearing that the following paragraph was inadvertently omitted, the decree entered in the above entitled matter on the 30th day of June, 1954 is amended by adding the following closing paragraph:

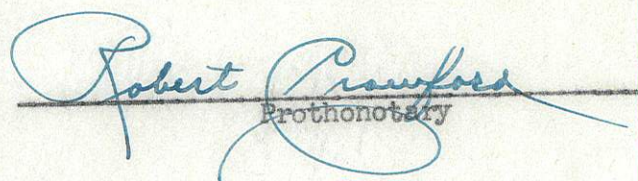
WHEREFORE, the petition of Marjorie Killius Maddock for a Writ of Habeas Corpus is dismissed at the cost of the petitioner.

By the Court

Carson, P. J.

From the record:

Attest:


Prothonotary

WILLIAM KILLIUS,

Complainant,

vs.

MARJORIE KILLIUS MADDOCK,

Respondent.

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AND
TO THE HONORABLE HUBERT M. HALL, JUDGE THEREOF:

Comes your Complainant, the undersigned William Killius, and respectfully represents and shows unto this Honorable Court and unto your Honor as follows:

FIRST:

That he is a resident citizen of the State of Pennsylvania, his more particular address being, California, Pennsylvania. That the Respondent, Marjorie Killius Maddock, is presently residing in Fairhope, Baldwin County, Alabama.

SEC OND:

That your Complainant is the father and the Respondent is the mother of Sandi Killius, who is now six (6) years of age and who is presently in the custody of your Complainant under the terms of that certain decree heretofore entered by this Honorable Court on the 17th day of May, 1954, in that certain cause in this Court wherein your Complainant was granted the relief prayed for in a Petition filed by him for the purpose of securing the custody of the said Sandi Killius.

THIRD:

That after the rendition of the aforesaid decree your Complainant returned to the State of Pennsylvania with the said Sandi Killius and thereupon proceeded to secure proper medical and psychological treatment for the said Sandi Killius and the said Sandi Killius is now receiving such treatment by a competent specialist in those fields in the State of Pennsylvania. That your Complainant

has been informed that his said daughter is in urgent need of corrective treatment to her eyes and that such treatment would be highly beneficial to said minor child both at the present time and in the future and that it would be detrimental to the said Sandi Killius if such treatment is not received as early as possible. That since the said Sandi Killius has been in the custody of your Complainant she has gained weight and is perfectly happy in her present environment.

FOURTH:

That after your Complainant returned to Pennsylvania with the said Sandi Killius the Respondent herein came to the State of Pennsylvania and instituted a habeas corpus proceeding in that State to secure the custody of the said child and it was necessary that your Complainant defend said proceeding in Pennsylvania. That the Court of Common Pleas of Washington County, Pennsylvania, the Honorable Roy I. Carson, presiding, entered an order on, to-wit, June 30, 1954, denying to the Respondent herein the relief prayed for in said proceeding, an exemplified copy of which order is attached hereto and marked "Exhibit A", and by reference made a part hereof. That the said Pennsylvania proceeding was filed by the Respondent herein notwithstanding the fact that your Complainant had been awarded the custody of the said Sandi Killius by this Honorable Court for the twelve-week period beginning May 17, 1954.

FIFTH:

Your Complainant further alleges that it would be to the best interest of the said Sandi Killius if she were allowed to remain with your Complainant in California, Pennsylvania, in order that she might continue to receive the treatment which has been contracted for by your Complainant and that it would be to her interest if she remained. That it would not be to the best interest of Sandi Killius, but would in fact be highly detrimental to her and to her future well-being, to return to the Respondent herein and your Complainant were required to surrender the custody of the said Sandi Killius to the Respondent. That the Respondent is a highly nervous and extremely unstable person and not ^{fit} in the present condition to have the custody of the said Sandi Killius, and in the present condition of the said Sandi Killius it would not be to her best interest to be in the custody of her said

mother. That your Complainant is a person of sufficient means to provide the said Sandi Killius with all of the necessary physical and psychological treatment which is necessary that she receive and which your Complainant alleges she must receive in the interest of her future well-being.

SIXTH:

Your Complainant further alleges that it would be to the best interest of all parties concerned, and especially to the said Sandi Killius, if your Complainant were allowed to maintain the custody of the said Sandi Killius pending the final determination of the hearing of this Petition.

PRAYER FOR PROCESS

The premises considered your Complainant respectfully prays that your Honor will enter an order fixing a date for the hearing of this Petition and will cause the usual writ to be issued notifying the Respondent of the filing of this Petition and of the date set for the hearing hereof.

PRAYER FOR RELIEF

The premises considered your Complainant respectfully prays that your Honor will enter an order on the filing of this Petition allowing your Complainant to retain the custody of the said Sandi Killius pending a determination of the matters presented herein and will cause a copy of said order, if entered, to be served upon the Respondent herein along with a copy of this Petition and the order fixing the date of the hearing hereof. That upon a final determination of this cause that your Honor will enter an order awarding to your Complainant the permanent care, custody and control of the said Sandi Killius with the right of her said mother, the Respondent herein, to visit with said Sandi Killius at reasonable hours and at reasonable intervals and will enter such other, further and different orders and decrees as in the premises will be meet and proper and which will be for the best interest of the said Sandi Killius.

Respectfully submitted,

William Killius
William Killius

STATE OF PENNSYLVANIA

WASHINGTON COUNTY

Before me, Robert Crawford, the undersigned authority in and for the County of Washington, in the State of Pennsylvania, personally appeared William Killius, who is known to me and who, after being by me first duly and legally sworn, did depose and say under oath as follows:

That his name is William Killius and that he is one and the same person as the William Killius in the foregoing Petition for custody and that his name is signed to the said Petition as the Complainant therein. That the facts alleged in said Petition are true.

Dated this 2nd day of August, 1954.

William Killius
William Killius

Sworn to and subscribed before
me this 2nd day of August, 1954.

Robert Crawford
Prothonotary

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNA.

Commonwealth Ex Rel.
Marjorie Killius Maddock

vs

William J. Killius

No. 238 August Term, 1954, A.D.

D E C R E E

AND NOW, this 30th day of June, 1954, the petition of Marjorie Killius Maddock for a Writ of Habeas Corpus, having come on for hearing, with both parties being represented by counsel and testimony taken.

A similar proceeding was had before the Circuit Court of Baldwin County, Alabama, the domicile of Marjorie Killius Maddock. Both parties acknowledged that they had submitted to the jurisdiction of that Court which entered a "Consent Decree," giving custody of the minor, Sandi Killius, to Marjorie Killius Maddock, the relator, subject to the right of custody to the father, William J. Killius, 12 weeks out of each year. That he has custody of the child at the present time for the period beginning May 17, 1954, and expiring August 9, 1954.

The Court of the domicile of the child always has jurisdiction in a habeas corpus proceeding. However, this matter having been so recently heard and adjudicated by a consent decree, and this Court being satisfied from the evidence presented, that the subject child is at this time being well provided for and receiving expert medical attention. There is no reason to grant the prayer of the petitioner nor to change the custody plan of the Circuit Court of Alabama.

The Court is not impressed with the claim of the petitioning mother that the child is a nervous and mental problem. The Court having observed the mother, is concerned about her nervous condition, as revealed in the court room by her jumping, jerking, continuous talking to the Court, to her counsel, and to herself. She may be in need of psychiatric or medical treatment.

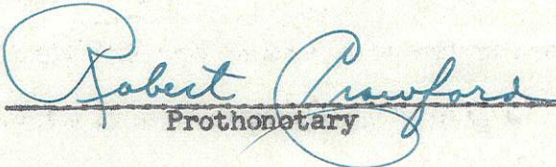
The Court finds that there were no facts presented that would warrant the granting of the prayer.

By the Court

Roy I. Carson
P. J.

From the record:

Attest:


Prothonotary

Before Carson, P. J.

(An opinion will be filed if and when exceptions are filed or an appeal is taken.)

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

Commonwealth Ex Rel.
Marjorie Killius Maddock

vs

William J. Killius

No. 238 August Term, 1954, A.D.

AMENDMENT TO DECREE

William J.

AND NOW, this 13th day of July, 1954, it appearing that the following paragraph was inadvertently omitted, the decree entered in the above entitled matter on the 30th day of June, 1954 is amended by adding the following closing paragraph:


WHEREFORE, the petition of Marjorie Killius Maddock for a Writ of Habeas Corpus is dismissed at the cost of the petitioner.

By the Court

Carson, P. J.

From the record:

Attest:


Prothonotary

—

Index

—

—

OF

9

†

WS

RS

C

Killius is not a fit and proper person to have such care, custody and control. That your Complainant is informed and believes and upon such information and belief alleges, that the said Majorie Killius is living as man and wife with one Ernest Maddock and that the said minor child is living in the home with the said Respondent and the said Ernest Maddock or is enrolled in and boarding at an Institution located at Point Clear known as "Maddock Foundation" which said Foundation or Institution is not a fit and proper place for said child to be and not a proper environment for the best interest of said child.

FOURTH:

That your Complainant and the Respondent are now separated and that it would be to the best interest of said minor child, Sandi Killius, if your Complainant were awarded the complete care, custody and control of said child with the right of her said mother to visit said child at reasonable hours and at reasonable intervals.

FIFTH:

That on, to-wit; the 28th day of August, 1953, your Complainant and the Respondent entered into an agreement relative to the custody of said Sandi Killius, a copy of which agreement is attached hereto and by reference made a part hereof, and which agreement has been complied with in all respects both by your Complainant and by the Respondent.

SIXTH:

Your Complainant is informed and believes and upon such information and belief alleges that upon the service of a copy of this petition by the lawful authorities of Baldwin County, Alabama, that the said Majorie Killius also known as Majorie Maddock, will remove herself and said child from the jurisdiction of this Court in order to prevent your Complainant from securing the custody of said child or enforce the terms of the said agreement attached hereto.

PRAYER FOR PROCESS:

Your Complainant respectfully prays that your Honor will cause the proper Writ of process to issue to the said Respondent requiring her, within a reasonable time of the service thereof,

to answer this said petition and to bring said child into this Court in order that this proceeding might be concluded and the proper orders issued in order to protect the interest of said Sandi Killius.

PRAYER FOR RELIEF:

The premises considered, your Complainant respectfully prays that upon a hearing of this petition that your Honor will enter an order awarding to your Complainant the complete care, custody and control of his said minor daughter with the right of the Respondent to visit said minor at reasonable hours and at reasonable intervals and that in this regard that he be allowed to remove said child from the State of Alabama and return with her to the State of Pennsylvania to the home of his mother and father and to permit said child to remain in said home or in such other places as the interest of said child shall require. In the event that this Honorable Court feels that your Complainant is not entitled to the complete care, custody and control of said minor child, your Complainant respectfully prays that your Honor will enter a decree in accordance with the terms of the agreement attached hereto and by reference made a part hereof awarding to your Complainant the care and custody of said child for the term therein specifically agreed upon between the parties hereto. In the event that your Complainant is mistaken in the relief herein prayed for your Complainant prays for such other, further and different orders and decrees as in the premises will be meet and proper and which will be for the best interest of his minor child.

Respectfully submitted,

William Killius
Complainant.

STATE OF ALABAMA

BALDWIN COUNTY

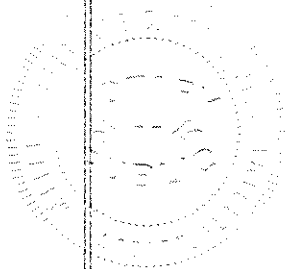
Before me, Norborne C. Stone, Jr., a Notary Public, in and for said County in said State personally appeared William Killius who is known to me and who, after being by me first duly and legally sworn, did depose and say under oath as follows:

That his name is William Killius and that he is one and the same person as the Complainant in the foregoing petition and that his name is signed thereto as such. That the allegations of fact therein are true and that those allegations made upon the information and belief of your Affiant are believed by him to be true.

William Killius
William Killius

Sworn to and subscribed
before me this 13th day
of May, 1954.

Norborne C. Stone, Jr.
Notary Public, Baldwin County, Ala.



MEMORANDUM OF AGREEMENT

MADE THIS 28th day of August, 1953, between WILLIAM KILLIUS, hereinafter referred to as the father and MARJORIE KILLIUS, hereinafter referred to as the mother.

WHEREAS, the parties hereto have for divers reasons been living separate and apart and;

WHEREAS, the said parties desire to make some provision for the care, custody and maintenance of their minor child Sandie.

NOW IN CONSIDERATION OF THE PREMISES AND MUTUAL COVENANTS herein contained, the parties hereto do hereby agree as follows:

-1-

The said mother shall have the general custody of the said child subject to the right of the father to have her custody during twelve (12) weeks of the usual summer school vacation period.

-2-

The said father agrees to pay toward the support, education and medical care of the said child the sum of Ten (\$10.00) Dollars per week, except during the summer period when he shall have her custody, provided that should the child be taken out of the State of Pennsylvania, said payments shall be suspended during said period.

-3-

So long as the father makes the payments aforesaid, the said mother agrees not to institute any proceeding to compel him to support the said child and agrees not to incur any debts or obligations whereby the said father could be charged therewith.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals the day and year aforesaid.

Signed, sealed and delivered
in the presence of:

Milton D. Rosenberg

William J. Killius /s/ (SEAL)

Majorie Killius /s/ (SEAL)

LAW OFFICES

RICKARBY & RICKARBY

FAIRHOPE, ALABAMA

ELLIOTT G. RICKARBY
(DECEASED)

E. G. RICKARBY, JR.

19 May 1954

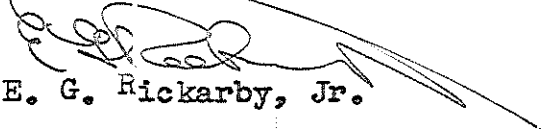
Mrs. Alice J. Duck
Clerk Circuit Court
Bay Minette, Ala.

Dear Mrs. Duck:

Re: Killius
Vs: Maddock

Request you give me certified copy of the decree
in the Maddock case and have this certified under
the Acts of Congress. Please also send me a bill
with it so I can collect it for you.

Yours very truly,


E. G. Rickarby, Jr.

R/i

Encl.

cc: Mrs. Ernest Maddock

NATIONAL SURETY CORPORATION

New York

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that NATIONAL SURETY CORPORATION, a Corporation duly organized and existing under the laws of the State of New York, and having its principal office in the City of New York, N. Y., hath made, constituted and appointed, and does by these presents make, constitute and appoint B. F. ADAMS, JR., & E. S. JENKINS
Jointly or Severally

of MOBILE and State of ALABAMA
its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings; provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed ONE MILLION (\$1,000,000.00) DOLLARS - - - - -

and to bind the Corporation thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the Corporation and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following provisions of the By-laws of NATIONAL SURETY CORPORATION:

"ARTICLE XII. RESIDENT OFFICERS AND ATTORNEYS-IN-FACT.

"Section 1.—The Chairman, President or any Vice-President may from time to time appoint Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-Fact to represent and act for and on behalf of the Corporation and the Chairman, President, or any Vice-President, the Board of Directors or the Executive Committee may at any time suspend or revoke the powers and authority given to any such Resident Vice-President, Resident Assistant Secretary and Attorney-in-Fact, and also remove them from office. (Adopted April 29, 1933. Applies to all powers of attorney executed prior to May 25, 1933).

"Section 1.—The President, Executive Vice-President or any Vice-President may, from time to time, appoint Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-Fact to represent and act for and on behalf of the Corporation and the President, Executive Vice-President or any Vice-President, the Board of Directors or the Executive and Finance Committee may at any time suspend or revoke the powers and authority given to any such Resident Vice-President, Resident Assistant Secretary or Attorney-in-Fact, and also remove any of them from office. (As amended May 25, 1933. Applies to all powers of attorney executed prior to April 27, 1943).

"Section 1.—Appointment.—The President, Executive Vice President or any Vice President may, from time to time, appoint Resident Vice Presidents, Resident Assistant Secretaries and Attorneys-in-Fact to represent and act for and on behalf of the Corporation. (As amended April 27, 1943. Applies to all powers of attorney executed on or after that date).

"Section 4.—Attorneys-in-Fact.—Attorneys-in-Fact may be given full power and authority to execute, acknowledge and deliver for and in the name and on behalf of the Corporation any and all bonds, recognizances, contracts of indemnity and other conditional or obligatory undertakings, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Corporation as if signed by the Chairman or the President and sealed and attested by the Secretary. (Adopted April 29, 1933. Applies to all powers of attorney executed prior to May 25, 1933).

"Section 4.—Attorneys-in-Fact.—Attorneys-in-Fact may be given full power and authority to execute, acknowledge and deliver for and in the name and on behalf of the Corporation any and all bonds, recognizances, contracts of indemnity and other conditional or obligatory undertakings, and any such instrument so executed by any such Attorney-in-Fact shall be as binding upon the Corporation as if signed by the President and sealed and attested by the Secretary. (As amended May 25, 1933. Applies to all powers of attorney executed prior to July 30, 1935).

"Section 4.—Attorneys-in-Fact.—Attorneys-in-Fact may be given full power and authority, for and in the name and on behalf of the corporation, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts of indemnity and other conditional or obligatory undertakings, and any and all notices and documents cancelling or terminating the corporation's liability thereunder, and any such instrument so executed by any such Attorney-in-Fact shall be as binding upon the Corporation as if signed by the President and sealed and attested by the Secretary. (As amended July 30, 1935. Applies to all powers of attorney executed prior to April 27, 1943).

"Section 4.—Attorneys-in-Fact.—Attorneys-in-Fact may be given full power and authority, for and in the name and on behalf of the Corporation, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings, and any and all notices and documents cancelling or terminating the Corporation's liability thereunder, and any such instrument so executed by any such Attorney-in-Fact shall be as binding upon the Corporation as if signed by the President and sealed and attested by the Secretary. (As amended April 27, 1943. Applies to all powers of attorney executed prior to April 28, 1953.)

"Section 4.—Attorneys-in-Fact.—Attorneys-in-Fact may be given full power and authority, for and in the name and on behalf of the Corporation, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings, and any and all notices and documents cancelling or terminating the Corporation's liability thereunder, and any such instrument so executed by such Attorney-in-Fact shall be as binding upon the Corporation as if signed by the President and sealed and attested by the Secretary. (As amended April 28, 1953. Applies to all powers of attorney executed on or after that date).

"Section 7.—Attorneys-in-Fact.—Attorneys-in-Fact are hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, or other conditional or obligatory undertakings, and they are also authorized and empowered to certify to a copy of the By-laws of the Corporation or any Article or Section thereof. (Adopted April 29, 1933. Applies to all powers of attorney executed prior to May 25, 1933).

"Section 7.—Attorneys-in-Fact.—Attorneys-in-Fact are hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, or other conditional or obligatory undertakings, and they are also authorized and empowered to certify to copies of the By-laws of the Corporation or any Article or Section thereof. (As amended May 25, 1933. Applies to all powers of attorney executed prior to April 27, 1943).

"Section 7.—Attorneys-in-Fact.—Verifications.—Attorneys-in-Fact are hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts, agreements of indemnity, or other conditional or obligatory undertakings, and they are also authorized and empowered to certify to copies of the By-laws of the Corporation or any Article or Section thereof. (As amended April 27, 1943. Applies to all powers of attorney executed prior to June 27, 1944).

"Section 7.—Attorneys-in-Fact.—Verifications.—Certifications.—Attorneys-in-Fact are hereby authorized to verify, by affidavit or otherwise, the authority to execute bonds, recognizances, contracts, agreements of indemnity, and other conditional or obligatory undertakings; and to certify, by affidavit or otherwise, as to the inspection or examination of assets of the estates, where the fiduciary responsible for such assets is bonded by the Corporation; and they are also authorized and empowered to certify to copies of the By-laws of the Corporation or any Article or Section thereof. (As amended June 27, 1944. Applies to all powers of attorney executed on or after that date).

IN WITNESS WHEREOF, NATIONAL SURETY CORPORATION has caused these presents to be signed by its Vice President, attested by its Assistant Secretary, and its corporate seal to be hereto affixed this 14th day of MAY A.D., 1953.

NATIONAL SURETY CORPORATION

(Seal)

By S. G. DRAKE

Vice President

ATTEST: A. N. MacDOUGALL

Assistant Secretary

STATE OF NEW YORK,
COUNTY OF NEW YORK,

ss. :

On this 14th day of MAY A.D., 19 53.

before me personally came S. G. DRAKE, to me known,
who, being by me duly sworn, did depose and say, that he resides in the City of New York; that he is Vice
President of NATIONAL SURETY CORPORATION, the Corporation described in and which executed the
above instrument; that he knows the seal of said Corporation; that the seal affixed to the said instrument is
such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation and that he signed

his name thereto by like order. And said S. G. DRAKE

further said that he is acquainted with A. N. MacDOUGALL and knows him
to be an Assistant Secretary of said Corporation; and that he executed the above instrument.

ELIZABETH C. KING

(Notarial seal affixed)

Notary Public

STATE OF GEORGIA
COUNTY OF FULTON

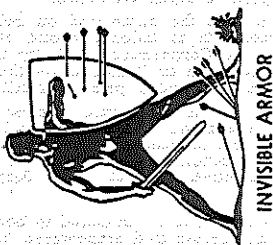
ss. :

I, Ruth C. Knighton, Resident Assistant Secretary and Attorney-in-Fact of NATIONAL SURETY
CORPORATION, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney
(including applicable By-law sections), executed by said NATIONAL SURETY CORPORATION, which is still in
force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Corporation, at the

City of Atlanta, Ga., this 31st day of August A.D., 19 54

Resident Assistant Secretary and Attorney-in-Fact



NATIONAL SURETY
CORPORATION
New York

GENERAL
POWER OF ATTORNEY

—TO—

ON

DATE

19

F. 201½

LAW OFFICES

RICKARBY & RICKARBY

FAIRHOPE, ALABAMA

ELLIOTT G. RICKARBY
(DECEASED)

E. G. RICKARBY, JR.

21 September 1954

Mrs. Alice J. Duck
Clerk Circuit Court
Bay Minette, Ala.

Dear Mrs. Duck:

Re: Killius
Vs: Maddock

With this we are handing you bond and notice of appeal
in the case of Killius vs. Maddock.

Please process and oblige.

Will get the transcript up very shortly.

Yours very truly,


E. G. Rickarby, Jr.

R/i
Encls.

Div. No. _____

CERTIFICATE OF APPEAL. (Equity Cases.)

No. _____

WILLIAM KILLIUS

Complainant.

vs.

MARJORIE KILLIUS MADDOCK

Respondent.

I, Alice J. Duck

Register of the Circuit Court In Equity,

Baldwin

County, Alabama, hereby certify that in the cause of

WILLIAM KILLIUS

Complainant,

vs.

MARJORIE KILLIUS MADDOCK

Respondent,

which was tried and determined in this Court on the 10th day of

August

1954,

in which there was a decree in favor of the

Complainant

WILLIAM KILLIUS

On the 24th day of September 1954, the Respondent

took an appeal to the

Supreme Court

of Alabama, to be holden of and for said State.

I further certify that Marjorie Killius Maddock and National Surety Corp.
filed security for cost of appeal, to the Supreme Court,
on the 31st day of August 1954, and that E. S. Jenkins

NATIONAL SURETY CORPORATION,

are sureties on the appeal bond.

I further certify that notice of said appeal was on the 10th
day of August, 1954, served on Chason & Stoney
as attorney of record for said appellee.

Witness my hand and the seal of this Court, this the 24th day
of Sept., 1954

Register of the Circuit Court In Equity of

Baldwin

County, Alabama.

The State of Alabama }
Baldwin County

IN THE CHANCERY COURT OF BALDWIN COUNTY

To WILLIAM KILLIUSOr To CHASON & STONE, Solicitors of record.Whereas, on the 24th day of September, 1954,MARJORIE KILLIUS MADDOCKtook an appeal from the decree rendered on the 10th day of August
1954, by the Circuit Court of said county, in the cause ofWILLIAM KILLIUS

versus

MARJORIE KILLIUS MADDOCK

Now, therefore, you are cited to appear as required by law, before the Supreme Court of
Alabama. to defend on said appeal, if you think proper so to do.

Witness my hand this 24th day of September 1954

Deirdre - Wessie
Register in Chancery.

Received 25 day of Sept 1934
and on 5 day of Oct. 1934
I served a copy of the within Citation
on Chas. Stone

By service on John Chas. Stone

TAYLOR WILKINS, Sheriff
By John Chas. Stone D. S.

12
WILLIAM KILLIUS Complainant

VS.

MARJORIE KILLIUS MADDOCK Respondent

CITATION OF APPEAL

IN EQUITY

Issued 24th day of September 1934

Moore Ptg. Co., Bay Minette

Serve on
Chas. Stone
Attorney

WILLIAM KILLIUS,

Complainant,

vs.

MARJORIE KILLIUS MADDOCK,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

This day came William Killius and filed his Petition, in writing, under oath, in the above styled cause seeking the permanent custody and control of his daughter, Sandi Killius, who is now in the custody and control of her said father by virtue of that certain decree entered by this Court on May 17, 1954, and it appearing to the Court that it would be to the best interest of the said Sandi Killius if she were allowed to remain with the said William Killius, pending the final determination of the proceeding this day filed and that said Petition should be set down for hearing on August 9, 1954, the day on which the said William Killius was to deliver the said Sandi Killius to the Respondent herein, Marjorie Killius Maddock it is, therefore

ORDERED AND DECREED by the Court that the Petition of William Killius seeking the permanent custody and control of the said Sandi Killius be, and the same hereby is, set down for hearing on August 9, 1954.

It is further ORDERED AND DECREED by the Court that the said Marjorie Killius Maddock be given notice of the filing of said Petition by service upon her of a copy of the said Petition together with a copy of this Order and

It is further ORDERED AND DECREED by the Court that the said William Killius be, and he hereby is, awarded the custody of the said Sandi Killius pending the final determination of this Petition but that he have said Sandi Killius in this Court on the day on which this Petition has been set, to-wit; August 9, 1954, at 10:00 o'clock a.m. and on any day to which this proceeding might be continued.

Done this 4th day of August, 1954.

Hubert M. Zee

Circuit Judge.

MEMORANDUM OF AGREEMENT

MADE THIS 28th day of August, 1953, between
WILLIAM KILLIUS, hereinafter referred to as the father and MARJORIE KILLIUS,
hereinafter referred to as the mother.

WHEREAS, the parties hereto have for divers reasons been
living separate and apart and;

WHEREAS, the said parties desire to make some provision
for the care, custody and maintenance of their minor child Sandie.

NOW IN CONSIDERATION OF THE PREMISES AND MUTUAL COVENANTS
herein contained, the parties hereto do hereby agree as follows:

-1-

The said mother shall have the general custody of the
said child subject to the right of the father to have her custody during
twelve (12) weeks of the usual summer school vacation period.

-2-

The said father agrees to pay toward the support, education
and medical care of the said child the sum of Ten (\$10.00) Dollars per week,
except during the summer period when he shall have her custody, provided that
should the child be taken out of the State of Pennsylvania, said payments
shall be suspended during said period.

-3-

So long as the father makes the payments aforesaid, the said
mother agrees not to institute any proceeding to compel him to support the said
child and agrees not to incur any debts or obligations whereby the said father
could be charged therewith.

IN WITNESS WHEREOF, the said parties have hereunto set their
hands and seals the day and year aforesaid.

Signed, sealed and delivered
in the presence of:

Milton Rosenberg


William J Killius (SEAL)

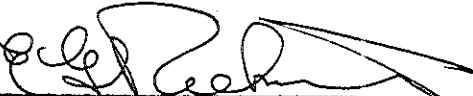
Marjorie Killius (SEAL)

WILLIAM KILLIUS	Ø	IN THE CIRCUIT COURT
Complainant	Ø	OF
vs.	Ø	BALDWIN COUNTY,
MARJORIE KILLIUS MADDOCK,	Ø	ALABAMA
Respondent	Ø	IN EQUITY NO. _____

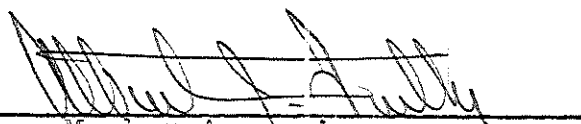
NOTICE OF APPEAL

Comes now the Respondent, MARJORIE KILLIUS MADDOCK, and gives notice of appeal from the judgment heretofore rendered in said cause on, to-wit, the 10th day of August, 1954.


MARJORIE KILLIUS MADDOCK


E. G. RICKARBY, JR.
Solicitor for Respondent

HOLBERG, TULLY & ALDRIDGE
Solicitors for Respondent

By 
Member Appearing

10

FILED

SEP 24 1954

ALICE J. DUCK, Register

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 1954-55

To the Register of the Circuit Court,

Baldwin County—Greeting:

Whereas, the Record and Proceedings of the Circuit Court In Equity
of said county, in a certain cause lately pending in said Court between

Marjorie Killius Maddock, Appellant,

and

William Killius, 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, adjudged, and de-
creed by our Supreme Court, on the 24th day of March, 1955, that said

Decree of said Circuit Court be in all things

affirmed, and that it was further considered, ordered, adjudged, and decreed that the appellant,

and Marjorie Killius Maddock,

and

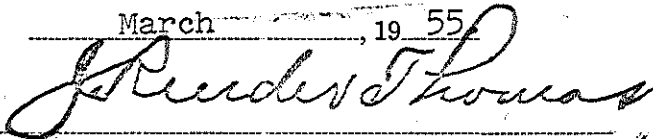
National Surety Corporation,

surety 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.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, at the Judicial Department
Building, this the 24th day of

March, 1955



Clerk of the Supreme Court of Alabama.

No. 3254

THE SUPREME COURT OF ALABAMA

October Term, 1954-55

1st Div., No. 610

Marjorie Killius Maddock

Appellant,

vs.

William Killius

Appellee.

From Baldwin Circuit Court.
In Equity

CERTIFICATE OF
AFFIRMANCE

The State of Alabama,

County.

} Filed

this 29 day of March 1955

W. J. Clark
Clerk

WILLIAM KILLIUS,
Complainant,
VS.
MARJORIE KILLIUS MADDOCK,
Respondent.

IN THE
CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA. INEQUITY.
NO. 3254

This cause is submitted for a final decree upon the petition of the Complainant seeking the permanent custody of Sandi Killius, a girl child now six years of age, the transcript of evidence taken in the above styled cause on May 17, 1954, the testimony of the Complainant and the other documentary evidence offered on behalf of the Complainant. The Complainant and the Respondent entered into an agreement and stipulation that the Court had jurisdiction and was authorized to enter a final decree in the premises.

It was the tendency of the evidence that there had, for many years, been marital disagreement between the Complainant and the Respondent, and that some time ago the Respondent secured a divorce from the Complainant and the parties entered into an agreement relative to the custody of the said minor child; it was the tendency of the evidence that since the granting of the divorce the Respondent has married one, Ernest Maddock, at Fairhope, Alabama, who is now engaged in the operation of a school for handicapped children.

That the said minor, while in the home with the Respondent and her husband, was highly nervous and that the conditions were not suitable or to the best interest of said minor child;

That the Complainant has a home in Pennsylvania with his mother where the said minor child has children of her own age to play with, and the Court having had the opportunity to observe the said child some twelve weeks ago can now easily detect and determine that her physical condition is much improved.

The Court, after considering all of the pleadings, the evidence of the several witnesses, and having had an opportunity to observe all of the witnesses for the Complainant and for the Respondent, bearing in mind that under normal conditions it is to the best interest of a small child to be placed in the custody of her mother, is of the opinion and finds that it is to the best interest of said minor child, Sandi Killius, that she be placed, permanently, in the custody of her father, William Killius.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the permanent custody of Sandi Killius, a minor child six years of age be, and the same is hereby awarded to William Killius, subject to visitation on the part of the Respondent at reasonable times.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the said William Killius be, and he is hereby given and granted the right to take the said minor child, Sandi Killius, to his home in California, Pennsylvania.

IT IS FURTHER ORDERED that the Complainant pay the cost herein taxed, for which execution may issue.

Dated this 10th day of August, 1954.

Judge of the 28th Judicial Circuit
of Alabama.

WILLIAM KILLIUS

Complainant

vs.

MARJORIE KILLIUS MADDOCK,

Respondent

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY,

ALABAMA

IN EQUITY NO. _____

NOTICE OF APPEAL

Comes now the Respondent, MARJORIE KILLIUS MADDOCK, and gives notice of appeal from the judgment heretofore rendered in said cause on, to-wit, the 10th day of August, 1954.

Marjorie Killius Maddock
MARJORIE KILLIUS MADDOCK

E. G. Rickaby, Jr.
E. G. RICKABY, JR.
Solicitor for Respondent

HOLBERG, TULLY & ALDRIDGE
Solicitors for Respondent

By *Wm. J. Tully*
Member Appearing

BA Member, Vbbecking
W. H. L. L. L.

Collected for Respondent
NOTHING, LUTIX & ALDRIDGE

Collected for Respondent
W. H. L. L. L.

Collected for Respondent
W. H. L. L. L.

FILED
SEP 24 1954
ALICE J. DUCK, Register

cause on, to-wit, the 10th day of August, 1954.

Notice of appeal from the judgment heretofore rendered in said

Cause now the Respondent, MARGUERITE KILLIAN WADDOCK, and gives

NOTICE OF APPEAL

Respondent	IN EQUITY NO. _____
MARGUERITE KILLIAN WADDOCK,	PLAINTIFF
vs.	WILLIAM C. LUTIX,
Complainant	OP.
WILLIAM KILLIAN	IN THE CIRCUIT COURT