

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

VERNIE MAE GROSS, *

Complainant, *

vs. * IN EQUITY NO. 3589

WILLIAM WALLACE GROSS, *

Respondent. *

FINAL DECREE

This cause is submitted for decree on the pleadings and testimony as shown by the note of evidence on file, and on consideration of the same, the Court is of the opinion that the complainant is entitled to the relief prayed and her solicitors' fees, there being no minor children of the marriage, that under the circumstances in this case an allowance for alimony should be in gross and not payable periodically,

It is, therefore, ORDERED, ADJUDGED and DECREED that the complainant is entitled to a divorce on the grounds of cruelty as alleged in the last amended bill of complaint and that the bonds of matrimony heretofore existing between the complainant and the respondent be and the same hereby are dissolved.


It is further ORDERED, ADJUDGED and DECREED that as alimony, the respondent execute a statutory warranty deed conveying to complainant all of the property described as part of Lot 4, Block 94 and part of Lot 3 in Block 94 belonging to the respondent and also pay to the complainant the sum of Seven Thousand (\$7,000) Dollars all within twenty (20) days from the date of this decree.

It is further ORDERED, ADJUDGED and DECREED that a reasonable solicitor's fee is One Thousand (\$1,000) Dollars to be taxed as costs by the Register.

It is further ORDERED, ADJUDGED and DECREED that the complainant and the respondent be and they hereby are permitted to again contract marriage subject to such provisions of the law as regulate the marriage of divorced persons, and in no event before the expiration of sixty (60) days after the rendition of this decree.

It is further ORDERED, ADJUDGED and DECREED that WILLIAM WALLACE GROSS, the respondent, pay the costs taxed herein together with the alimony herein awarded for which let execution issue.

DONE this the 28th day of March, 1957.


SPECIAL JUDGE, IN EQUITY SITTING

Filed 3-30-57

Dee J. H. H. H.
Register

THORNTON AND MCGOWIN

ATTORNEYS AT LAW
FIRST FEDERAL BUILDING
POST OFFICE BOX 23
MOBILE, ALABAMA

J. EDWARD THORNTON
NICHOLAS S. MCGOWIN

March 28, 1957

TELEPHONE
HEMLOCK 3-3991

Mrs. Alice Duck
Court House
Bay Minette, Alabama

Dear Mrs. Duck:

VErnie Mae Gross v. William Wallace Gross
In equity No. 3589

I am herewith enclosing a final decree in the above noted case together with a stipulation of the solicitors for the parties together with a transcript of the testimony, a description and appraisal of certain real estate and a copy of the note of submission. Will you please enroll the decree and furnish copies to the solicitors for the parties.

With kind personal regards, I am

Yours very truly,



J. Edward Thornton

JET:mb

VERNIE MAE GROSS,

No. 3589VS

WILLIAM WALLACE GROSS,

Entered on _____

Min. Book No. _____ Entry _____

~~XXXXXXXXXXXXXXXXXXXX~~
~~W. Bismuth Haughton, Register~~
Alice J. Duck,

ORDER OF SUBMISSION

This cause coming on to be heard, is submitted for decree on the pleadings and on the proof as noted.

Dated,

NOTE OF EVIDENCE

At the hearing of this cause the following note of evidence was taken to wit:

FOR COMPLAINANT

1. Bill of Complaint as last amended
2. Admissions in answer
3. Stipulation between parties.
4. Real estate appraisal
5. Testimony of Vernie Mae Gross and J. C. Wright

FILED..... 3-21-57

Mitchell G. Lattorf
..... Register

Mylan R. Engel
.....
Solicitor for Complainant

Mylan R. Engel & Mitchell G. Lattorf

FOR RESPONDENT

1. Answer
2. Stipulation of parties
3. Real Estate Appraisal
4. Testimony of William Vernie Wright, Claude Gross and William Wallace Gross.

Chason & Stone
.....
Solicitor—For Respondent
Chason & Stone

Attached hereto please find appraisal of the real property in the Gross v. Gross case for your consideration. I have filed the note of evidence, a copy of which is enclosed herewith.



THIS SIDE OF CARD IS FOR ADDRESS



MRS. ALICE J. DUCK
REGISTER BALDWIN CIRCUIT COURT
BOX 239
BAY MINETTE, ALABAMA

1st Div. No. 675 Baldwin Circuit Court
In Equity
VERNIE MAE GROSS Appellant.
vs.
WILLIAM WALLACE GROSS Appellee.

Dear Sir:

The CERTIFICATE OF APPEAL in the above case
was today received and filed in this office.

Yours truly,

J. RENDER THOMAS,
Clerk Supreme Court.

MAY 26, 195 6.

No.....

Vs.

ORDER OF SUBMISSION
NOTE OF EVIDENCE

Filed

Register

Ent. Min. No. Entry.....

VERNIE MAE GROSS,	*	IN THE CIRCUIT COURT OF
Complainant,	*	BALDWIN COUNTY, ALABAMA
vs.	*	IN EQUITY
WILLIAM WALLACE GROSS,	*	CASE NO. 3589
Respondent,	*	

Comes the Complainant and the Respondent in the above styled cause, by and through their respective solicitors of record, and for purposes of the trial of this cause, stipulate the following facts as correct into the record:


1. That Hon. J. Edward Thornton, a practicing attorney in the State of Alabama, possesses the qualifications as a Circuit Judge as provided in the law, is a proper person to be appointed as Judge to hear said cause, and it is agreed that he serve as Judge in the trial of this cause.

2. It is agreed to submit this cause on the evidence taken at the previous trial, and both parties waive notice of submission.

3. It is agreed that \$1000.00 (ONE THOUSAND AND NO/100) would be a reasonable attorney's fee for the Complainant's solicitors of record for the services rendered by the Complainant's solicitors to Complainant in this cause.

Respectfully submitted,,




Solicitors for Complainant



Solicitor for Respondent

VERNIE MAE GROSS,

No. 3589 VS

WILLIAM WALLACE GROSS,

Entered on _____

Min. Book No. _____ Entry _____

~~W. C. Twenty-Fourth~~ Register

Alice J. Duck,

ORDER OF SUBMISSION

This cause coming on to be heard, is submitted for decree on the pleadings and on the proof as noted.

Dated,

NOTE OF EVIDENCE

At the hearing of this cause the following note of evidence was taken to wit:

FOR COMPLAINANT

1. Bill of Complaint as last amended
2. Admissions in answer
3. Stipulation between parties.
4. Real estate appraisal
5. Testimony of Vernie Mae Gross and J. C. Wright

FILED _____

Solicitor—for Complainant

Alice J. Duck Register Mylan R. Engel & Mitchell G. Lattof

FOR RESPONDENT

1. Answer
2. Stipulation of parties
3. Real Estate Appraisal
4. Testimony of William Vernie Wright, Claude Gross and William Wallace Gross.

Solicitor—For Respondent

Chason & Stone

J. A. ERTZINGER & SON

BAY MINETTE, ALABAMA

2-20-57.

Mr. Mylan Engel, attorney-at-law,
Van Antwerp Building,
Mobile, Ala.

Dear Mr. Engel-

I have been requested to view certain properties owned by Mr. W. W. Cross of Bay Minette with the view of expressing my ideas as to their values. This I have done and beg leave to make report as follows:

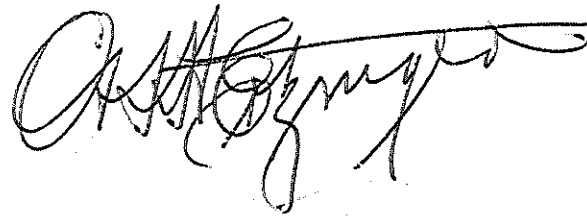
1. Block 103, Hand Land Company's addition to the town of Bay Minette. This property faces directly on the Bay Minette Cemetery and highway 31; has the main line of the L & N Railroad just back of it; it is in the wake of the smell from the local "tar plant" and is bounded on the east by an auto repair shop and is, apparently, a sort of noisy place. I place a value of \$8,600.00 on this property, as of this date.

2. Part of Lot 4, Block 94; Hand Land Company's addition to Bay Minette. This property is semi-modern, faces highway 31 and is west of the cemetery and does not extend back to the railroad, but is, also in the wake of the smell from the local "tar plant". I place a value of \$5400.00 on this property.

3. Lots 14, 15, Block 1; lots 12, 13, 14, 15, Block 2 in Northcote Addition to Bay Minette. These lots are unimproved, overgrown with weeds and shrubbery and have a street between the two blocks. I place a value of \$600.00 on these lots.

Trusting this information is what you wish and with best regards,

Very truly yours,



BIRMINGHAM, ALA.

VERNIE MAE GROSS,	*	IN THE CIRCUIT COURT OF
Complainant,	*	BALDWIN COUNTY, ALABAMA
vs.	*	IN EQUITY
WILLIAM WALLACE GROSS,	*	CASE NO. 3589
Respondent,	*	

Comes the Complainant and the Respondent in the above styled cause, by and through their respective solicitors of record, and for purposes of the trial of this cause, stipulate the following facts as correct into the record:

1. That Hon. J. Edward Thornton, a practicing attorney in the State of Alabama, possesses the qualifications as a Circuit Judge as provided in the law, is a proper person to be appointed as Judge to hear said cause, and it is agreed that he serve as Judge in the trial of this cause.

2. It is agreed to submit this cause on the evidence taken at the previous trial, and both parties waive notice of submission.

3. It is agreed that \$1000.00 (ONE THOUSAND AND NO/100) would be a reasonable attorney's fee for the Complainant's solicitors of record for the services rendered by the Complainant's solicitors to Complainant in this cause.

Respectfully submitted,,

Myron R. Egle

Mitchell Cattof
Solicitors for Complainant

Sharon Stone
Ray H. Harrison
Solicitor for Respondent

CERTIFICATE OF APPEAL. (Equity Cases.)

Div. No. _____

No. 3587

~~VERNIE MAE GROSS~~ Complainant.

vs.

~~WILLIAM WALLACE GROSS~~

Respondent.

I, Alice J. Duck

Baldwin

Register of the Circuit Court In Equity,
County, Alabama, hereby certify that in the cause of
Complainant,

~~VERNIE MAE GROSS~~

vs.

Respondent,

~~WILLIAM WALLACE GROSS~~

which was tried and determined in this Court on the 29th day of
March 19 56, in which there was a decree in favor of the

~~(Respondent)~~ Complainant

On the 21 day of May 19 56, the ~~(Respondent)~~

Complainant

took an appeal to the

I further certify that Mylan R. Engel & Mitchell G. Lattor
of Alabama, to be holden of and for said State.

filed security for cost of appeal, to the Supreme Court,
on the 21st day of May 19 56, and that INDEMNITY INSURANCE COMPANY,

~~H.C. BERTRAM~~

H. HARLAND TSON

are sureties on the appeal bond.

I further certify that notice of said appeal was on the
day of _____, 19____, served on _____

as attorney of record for said appellee.

Witness my hand and the seal of this Court, this the 24th day
of May, 19 56

Register of the Circuit Court In Equity of
County, Alabama.

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon WILLIAM WALLACE GROSS to appear 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 VERNIE MAE GROSS, as Complainant and against WILLIAM WALLACE GROSS, as Respondent.

WITNESS my hand this 9th day of Aug., 1955.

Alvin J. Duck
Register

VERNIE MAE GROSS,
Complainant,

vs

WILLIAM WALLACE GROSS,
Respondent

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:

Your Complainant, Vernie Mae Gross respectfully represents unto your Honor as follows:

I

That your Complainant, Vernie Mae Gross, is over the age of twenty one years and is a bona fide resident of the City of Bay Minette, County of Baldwin, State of Alabama, and that the Respondent, William Wallace Gross is a resident of the County of Baldwin, State of Alabama.

II

That the Complainant and the Respondent were married in McCollough, Alabama on to-wit, September, 1913, and that they have lived together as husband and wife for many years thereafter.

III

That Respondent has committed actual violence on the person of Complainant attended with danger to her life or health, or that from his conduct there is reasonable apprehension of such violence.

IV

That Complainant knows not the extent of the income and estate of Respondent and desires a discovery to ascertain the correct amount and nature of such; and that Complainant has no seperate estate of her own.

V

That it is necessary to employ the services of an attorney for the prosecution of this cause.

VI

That all the children born of this marriage are of age.

VII

Now therefore, the premises considered, Complainant prays that this Honorable Court will cause process to issue to said Respondent, William Wallace Gross, requiring him to plead, answer, or demur with the time allowed by law and the practice of this Court; and that this Honorable Court will cause a reference to be held for the purpose of ascertaining the income and estate of Respondent; and will thereupon determine a reasonable amount to be paid to Complainant as alimony pendente lite and a reasonable attorneys fee.

And Complainant further prays that upon a final hearing of this cause Your Honor will grant to her an absolute divorce dissolving and forever barring the bonds of matrimony existing between Complainant and Respondent, and granting to her permanent alimony and that your honor will grant such other, further, or different relief to which Complainant may in good conscience be entitled.

Wilson Hayes

Solicitor for the Complainant

Received 9 day of Aug 1955
on 9 day of Aug 1955
Received a copy of the within. ACC

Service on William Wallace Gross

TAYLOR WILKINS, Sheriff

By J. W. Hannon D.S.

80
720
720
720

3587

1

Vernie Mae Gross,
Complainant

vs

William Wallace Gross
Respondent

S & C

FILED

AUG 9 1955

ALICE J. DUCK, Register

The State of Alabama ()
Baldwin County

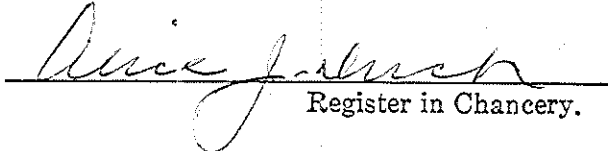
IN THE CHANCERY COURT OF BALDWIN COUNTY

To WILLIAM WALLACE GROSSOr To CHASON & STONE, Solicitors of record.Whereas, on the 21st day of May, 1956,VERNIE MAE GROSStook an appeal from the decree rendered on the 29th day of March1956, by the Circuit Court of said county, in the cause ofVERNIE MAE GROSS

versus

WILLIAM WALLACE GROSS

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 25th. day of May 1956
Register in Chancery.

Received 25 day of May 1956
d on 28 day of May 1956
served a copy of the within Citation
Chesson & Stone
service on Norborne Stone

TAYLOR WILKINS, Sheriff

By W. A. Tolbert D. S.

0 miles

3587

VERNIE MAE GROSS Complainant

vs.

WILLIAM WALLACE GROSS Respondent

CITATION OF APPEAL

IN EQUITY

Issued 24th day of May 1956

Moore Ptg. Co., Bay Minette

VERNIE MAE GROSS,

Complainant,

vs.

WILLIAM WALLACE GROSS,

Respondent.

I

I

IN THE CIRCUIT COURT OF

I

BALDWIN COUNTY, ALABAMA

I

IN EQUITY NO. _____

I

I

DEMURRER

Comes the Respondent in the above styled cause and demurs to the Bill of Complaint filed 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 Bill of Complaint does not state a cause of action.

2. That said Bill of Complaint is vague and indefinite.

As to that aspect of the Bill of Complaint as set out in Paragraph I, the Respondent demurs and assigns the following grounds, viz:

1. That said Paragraph does not allege that the Complainant is a resident citizen of Baldwin County, Alabama.

2. That said Paragraph does not allege that the Respondent is a resident citizen of Baldwin County, Alabama.

3. That said Paragraph does not allege that the Respondent is over the age of twenty-one years.

As to that aspect of the Bill of Complaint as set out in Paragraph II, the Respondent demurs and assigns the following separate and several grounds, viz:

1. That it is not alleged that the Respondent and the Complainant are still husband and wife.

2. For aught that appears from Paragraph II of the Bill of Complaint the Complainant and Respondent are already divorced.

3. That there is no allegation that the Complainant and Respondent are still living together as man and wife or have separated.

As to that aspect of the Bill of Complaint as set out in Paragraph III, the Respondent demurs and assigns the following separate and several grounds, viz:

1. That it is not alleged when the Respondent committed violence on the person of the Complainant.
2. That there is no allegation as to what act of violence the Respondent committed.
3. There is no allegation that the Complainant has separated from the Respondent because of such act of violence.
4. For aught that appears such act of violence could have been committed more than forty years ago.
5. That said Paragraph does not allege that the Complainant has reasonable apprehension that if she continued to live with the Respondent that her life or health would be in danger.
6. That the allegations in said Paragraph are but a conclusion of the Pleader.

The Respondent demurs to the aspect of the Bill of Complaint as set out in Paragraph IV thereof and assigns the following separate and several grounds, viz:

1. That said Paragraph fails to allege that the Respondent has any income or property.
2. That said Paragraph does not state sufficient facts to entitle the Complainant to a discovery of assets.
3. That the Complainant has other means of securing information which she desires.
4. That said Paragraph does not sufficiently state what kind of Bill of Discovery the Complainant desires.
5. For aught that appears from said Paragraph the parties have a joint estate sufficient to support the Complainant.

As to that aspect of the Bill of Complaint as set out in Paragraph V, the Respondent demurs and assigns the following separate and several grounds, viz:

1. That said Paragraph does not allege that the Complainant has employed a solicitor to prosecute this cause.

2. That said Paragraph fails to allege who the Complainant employed as her solicitor, if anyone.

CHASON & STONE

By: W. Chason

Solicitors for Respondent.

VERNIE MAE GROSS,
Complainant,

VS

WILLIAM WALLACE GROSS,
Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NUMBER _____

Comes now Complainant and amends her Bill of complaint to make paragraph III read as follows:

That on, to-wit August 7, 1954 Respondent made threats to strike Complainant with a wrench, hammer, or other heavy tool attended with danger to her life or health, *and* that from his conduct there is reasonable apprehension of violence to her person attended with danger to her life or health.

W. H. Hay

FILED

FEB 29 1956

ALICE J. DUCK, Register

VERNIE MAE GROSS,
Complainant,

vs.

WILLIAM WALLACE GROSS,
Respondent.

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{
{
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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 3587

Comes the Respondent in the above styled cause and for answer to the Bill of Complaint filed in said cause and each and every paragraph thereof says:

1. The Respondent admits the allegations of the first paragraph of the Bill of Complaint.

2. The Respondent admits the allegations of the second paragraph of the Bill of Complaint as to the date of their marriage, but he denies the other allegation of the second paragraph of the Bill of Complaint and demands strict proof thereof.

3. The Respondent denies the allegations of the third paragraph of the Bill of Complaint and demands strict proof thereof

4. The Respondent denies the allegations of the fourth paragraph of the Bill of Complaint and demands strict proof thereof

5. The Respondent denies the allegation of the fifth paragraph of the Bill of Complaint and demands strict proof thereof

6. The Respondent admits the allegation of the sixth paragraph of the Bill of Complaint.

7. For further answer to the Bill of Complaint and as a Cross Bill, the Respondent alleges that the Complainant voluntarily abandoned the bed and board of the Respondent approximately three years ago, the exact date of such abandonment being unknown to the Respondent, without just cause or legal excuse, and she has failed and refused to live with him as his wife since that time. The Respondent further alleges that the Complainant does have a bank deposit the exact amount of which is unknown to the Respondent, but the Respondent alleges that the amount is a substantial sum, and that the Complainant does have sufficient funds with which to pay her own solicitor, and for her maintenance and support.

The Respondent prays that upon a final hearing of this cause, that your Honor will grant unto such Respondent a divorce from said Complainant on the grounds of abandonment, and will enter a decree dissolving the bonds of matrimony existing between the Complainant and the Respondent and that this Court will grant unto said Respondent any other, further and different relief to which he may be entitled.

Pharon Stone
By [Signature]
Solicitors for Respondent.

I, Wilson Hayes, as Solicitor for the Complainant, do hereby accept service of a copy of the foregoing answer and Cross Bill, and hereby waive further notice or service of same.

Dated this February 8th, 1956.

Wilson Hayes
Solicitor for Complainant.

8

ANSWER AND CROSS BILL

VERNIE MAE GROSS,

Complainant,

vs.

WILLIAM WALLACE GROSS,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 3587

FILED
FEB 8 1956
ALICE J. DICK, Clerk

VERNIE MAE GROSS,	I
Complainant,	I IN THE CIRCUIT COURT OF
vs.	I BALDWIN COUNTY, ALABAMA
WILLIAM WALLACE GROSS,	I IN EQUITY NO. 3587
Respondent.	I

Comes the Respondent in the above styled cause and demurs to the amended bill of complaint filed in said cause on October 4, 1955, and assigns the following separate and several grounds, viz:

1. That said amended bill of complaint does not state a cause of action.

As to that aspect of the amended bill of complaint set out in Paragraph II, the Respondent assigns the following separate and several grounds, viz:

1. That said Paragraph does not state the date referred to therein.

2. For aught that appears from said Paragraph the Complainant and the Respondent are still living together as man and wife.

3. For aught that appears from said Paragraph the Complainant and the Respondent have not separated as man and wife.

As to that aspect of the amended bill of complaint as set out in Paragraph III, the Respondent demurs and assigns the following separate and several grounds, viz:

1. That said Paragraph fails to allege when the Respondent hit the Complainant as alleged therein.

2. For aught that appears from said Paragraph the Complainant has condoned the act of the Respondent in striking her.

3. That the allegation in Paragraph III that the Respondent has struck the Complainant on many occasions is vague and indefinite and fails to allege the dates referred to or that the dates are unknown to the Complainant.

4. That the allegations in Paragraph III of the amended bill of complaint are vague and indefinite.

As to that aspect of the amended bill of complaint as set out in Paragraph IV, the Respondent demurs and assigns the following separate and several grounds, viz:

1. That said Paragraph is vague and indefinite.
2. That the Complainant does not state sufficient facts to entitle her to a bill of discovery.

As to that aspect of the amended bill of complaint as set out in Paragraph V, the Respondent demurs and assigns the following separate and several grounds, viz:

1. That said Paragraph does not allege that the Complainant has employed Wilson Hayes to prosecute her cause of action.

CHASON & STONE

By: 

Solicitors for Respondent.

VERNIE MAE GROSS,
Complainant,
VS
WILLIAM WALLACE GROSS,
Respondent.

IN THE CIRCUIT COURT
OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
NUMBER 3587

Comes now your Complainant in the above styled cause and amends the Bill of Complaint to read as follows:

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

Your Complainant, Vernie Mae Gross respectfully represents unto your Honor as follows:

I

That your Complainant, Vernie Mae Gross, is over the age of twenty-one years, and is a bona fide resident citizen of Bay Minette, Alabama, County of Baldwin, State of Alabama, and that the Respondent, William Wallace Gross is a resident citizen of the County of Baldwin, State of Alabama, and is over the age of twenty-one years.

II

That the Complainant and the Respondent were married in McCollough, Alabama on to-wit, September, 1913, and that they have lived together as husband and wife until this date.

III

That heretofore Respondent has hit Complainant with such force as to break her nose and has upon many occasions, struck her and threatened to strike her, all attended with danger to her life or health, and that one to-wit, May 9, 1956 Respondent made threats to do further violence to her person, by striking her with a hammer, heavy wrench or other heavy tool, at the same time brandishing the tool at Complainant in a threatening manner, and Respondent has committed actual violence on the person of Complainant, attended with danger to her or health, or that from his conduct there is reasonable apprehension of such violence attended with danger to her life or health.

That Complainant has no seperate estate, employment, or income; That Complainant knows not the extent of the income or estate of Respondent, and has no way of learning it; That Respondent is believed to have extensive holdings of real estate and personal property; and Complainant desires a discovery to ascertain the amount and nature of Respondent's estate.

V

That it has been necessary to employ Wilson Hayes, an attorney, for the prosecution of this, your Complainant's, cause.

VI

That all the children born of this marriage are of age.

VII

Now therefore, the premises considered, Complainant prays, that this Honorable Court will cause process to issue to said Respondent, William Wallace Gross, requiring him to plead, answer, or demur with the time allowed by law and the practice of this court; and that this Honorable Court will cause a reference to be held for the purpose of ascertaining the income and estate of Respondent; and will thereupon determine a reasonable amount to be paid to Complainant as alimony pendente lite and a reasonable attorney's fee.

And Complainant further prays that upon a final hearing of this cause your Honor will grant to her an absolute divorce dissolving and forever barring the bonds of matrimony existing between Complainant and Respondent, and granting to her permanent alimony and that your Honor will grant such other, further, or differencet relief to which Complainant may in good conscience be entitled.

Wilson Hayes
SOLICITOR FOR COMPLAINANT

Sept 14, 1905

4
NUMBER 3587

VERNIE MAE GROSS,

Complainant,

VS

WILLIAM WALLACE GROSS,

Respondent.

AMENDED BILL OF COMPLAINT

FILED

OCT 4 1955

ALICE J. DECK, Register

VERNIE MAE GROSS,
Complainant,

vs.

WILLIAM WALLACE GROSS,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 3587

The cause coming on to be heard on the demurrer filed by the Respondent in said cause to the original Bill of Complaint filed by the Complainant in said cause and the Court having considered the same is of the opinion that the demurrer to the original Bill of Complaint should be sustained.

It is therefore ORDERED, ADJUDGED and DECREED by the Court that the demurrer to the original Bill of Complaint be and the same hereby is sustained.

Done this 20 day of September, 1955.

Hubert M. Hall
Judge.

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DECREE SUSTAINING DEMURRER
TO BILL OF COMPLAINT

VERNIE MAE GROSS,
Complainant,

vs.

WILLIAM WALLACE GROSS,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 3587

Filed this 20 day of September,
1955.

Archie J. Smith
Register.

VERNIE MAE GROSS,

Complainant,

vs.

WILLIAM WALLACE GROSS,

Respondent.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.

This matter coming on to be heard is submitted upon the demurrer filed by the Respondent in said cause on October 16, 1955, to the amended Bill of Complaint filed in said cause on October 1955, and the Court having considered the same is of the opinion that the demurrer should be sustained.

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that the demurrer filed in said cause on October 16, 1955, the amended Bill of Complaint filed in said cause on October 4, be and the same hereby is sustained.

Done this January 17, 1956.

Hubert M. Hall
Judge.

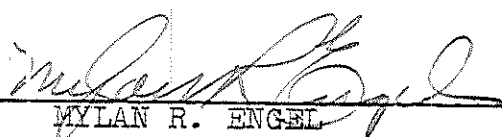
VERNIE MAE GROSS,	*	IN THE CIRCUIT COURT OF
Complainant,	*	BALDWIN COUNTY, ALABAMA.
vs	*	IN EQUITY.
WILLIAM WALLACE GROSS,	*	NO. 3587
Respondent.	*	

NOTICE OF APPEAL

Comes the Complainant, VERNIE MAE GROSS, in the above styled cause and gives notice of appeal from the decree of the Circuit Court heretofore rendered on, to-wit, March 29, 1956.

Dated this 21st day of May, 1956.

VERNIE MAE GROSS

By 
MYLAN R. ENGEL


MITCHELL G. LATTOR

Solicitors for Vernie Mae Gross

VERNIE MAE GROSS,
Complainant,

vs

WILLIAM WALLACE GROSS,
Respondent

IN THE CIRCUIT COURT OF

BALDWIN COUNTY

ALABAMA

IN EQUITY

NO. 3587

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

Comes now your Complainant and amends her Bill of Complaint to
read as follows:

I

That Complainant, Vernie Mae Gross, is over the age of twenty-
one years and is a resident of Baldwin County, Alabama, and that Respondent
William Wallace Gross, is over the age of twenty-one and is a resident of
Baldwin County, Alabama.

II

That the Complainant and Respondent were married in McCollough,
Alabama on, to-wit, September 1913, and that they lived together as
husband and wife until the 9th day of May, 1955.

III

That on, to-wit, May 9, 1955 the Respondent threatened to strike
Complainant with a wrench, hammer, or other heavy tool, and that from his
conduct there is reasonable apprehension of violence to her person attended
with danger to her life or health.

IV

That Complainant has no separate estate or income; that Complain-
ant is unable by reason of her age, sex, or ill health to find gainful
employment.

That Complainant knows not the extent of the estate of Respondent
and has no means of determining such.

V

That it has been necessary to employ a solicitor to prosecute
this, your Complainant's cause, and that Wilson Hayes, a solicitor, has
been employed to do so; and that Complainant has no means wherewith to
pay him for his services.

VI

That all the children born of this marriage are of age.

VII

The premises considered, your Complainant prays that this Honorable Court will cause process to issue to the Respondent, William Wallace Gross, requiring him to plead, answer or demur to this, your Complainant's complaint within the time allowed by law and the practice of this Honorable Court; and that upon a final hearing of this cause your Honor will make and enter a decree granting her an absolute divorce dissolving and forever barring the bonds of matrimony existing between Complainant and Respondent, and granting to her alimony in gross, and permanent alimony, and a reasonable solicitor's fee, and that your Honor will grant such other, further, or different relief to which Complainant may be in equity and good conscience entitled.

W. L. Hays

3587

VERNIE MAE GROSS,
Complainant,

VS.

WILLIAM WALLACE GROSS,
Respondent.

IN THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA. IN
EQUITY. NO. 3587

TESTIMONY TAKEN IN OPEN COURT, BEFORE HON. HUBERT M. HALL,
JUDGE OF THE 28TH JUDICIAL CIRCUIT OF ALABAMA. IN EQUITY:

HON. WILSON HAYES, REPRESENTING THE COMPLAINANT

HON. JOHN CHASON, REPRESENTING THE RESPONDENT.

MRS. VERNIE MAE GROSS, THE COMPLAINANT, BEING FIRST DULY
SWORN, TESTIFIED AS FOLLOWS:

Direct Examination by Mr. Hayes.

Q. You are Vernie Mae Gross?

A. Right.

Q. You are the complainant?

A. That's right.

Q. Are you a resident of Baldwin County, Alabama, Mrs. Gross?

A. Yes sir.

Q. Are you over 21 years of age? (page 1)

A. Yes.

Q. What is your relation to William Wallace Gross?

A. Wife.

Q. He is a resident of Baldwin County, Alabama?

A. Yes sir.

Q. Is he over the age of 21 years?

A. Yes sir.

Q. When were you married to Mr. Gross?

A. September 28, 1913.

Q. Are you living with him as his wife now?

A. No.

Q. Did you live with him as his wife until the year 1954?

A. Yes.

Q. On August 7, 1954, did anything unusual happen concerning Mr. Gross take place?

A. Yes sir.

Q. Has he ever struck you, Mrs. Gross?

A. Yes.

Q. When was that that he struck you?

A. When did he strike me?

Q. Yes?

A. He has struck me several times.

THE COURT: Do you mean to ask about August 7th?

MR. CHASON: We are not making objections because you don't have to object in equity, but I would like to call to Mr. Hayes' attention that he has not charged any actual cruelty and that is not admissible; he is relying on threats made on that August date, and I think any testimony as to striking is unnecessary.

MR. HAYES: May it please the Court. We are attempting to bring in testimony of actual blows and will bring in a good deal more showing the reasonable apprehension of violence.

Q. (THE COURT:) How long a period are you going to back up?

There is no reason to back up over a period of 10 years; it is cumulative; they have lived together and there is no use involving the record.

MR. HAYES: Conditional return after a blow is conditional and that should be taken into consideration.

THE COURT: In other words, you are taking the position that she can not condone cruelty?

MR. HAYES: No. Cruelty condoned at one time is admissible and good evidence to show reasonable apprehension.

Q. When did he strike you?

A. He struck me last year for one time and he broke the glasses on my face one time.

Q. Did he ever do injury to your body?

A. He broke my nose one time.

Q. Now on August 7, 1954, did Mr. Gross make any threats?

A. Yes he did.

Q. Would you relate the nature and circumstances of those threats?

A. Yes. Willie Verne and myself and J. C.--

Q. Who is that?

A. My daughter and son-in-law - We was going to Mobile to my Doctor there and when I came out of the house I asked Gross for Money and he said he wasn't going to give me any and I walked towards the car and when we started out there he bucked by us and abused everybody and said that we were not going in his car.

Q. What did he do?

A. Willie Verne ran on and I stopped when I got as close as I am to Hubert; I didn't go on to the car; he had a wrestle with Willie Verne and he wouldn't let her get in the car and then whenever she turned him loose and he quit he grabbed up a sledge hammer like this, indicating.

Q. Where did he get that hammer from?

A. I don't know whether he got it out of the pick-up on the way to the car or from the house.

Q. When did he do?

A. He drew it back and said he was going to tear the son-of-a-bitch up.

Q. Referring to what?

A. The buick car; he was going to tear it up and he said when he tore it up he was going to tear me up, and when he said that he looked at me and had the hammer over his shoulder, like this, indicating, and I walked towards the house, and said, "Come on, Willie Verne and let's go in your car" and we did.

Q. He made threats to strike you with the hammer?

A. Yes sir.

Q. Did he have the hammer drawn back?

A. Yes sir.

Q. Looking at you?

A. Yes as violent as he knew how and that's every word that I said; I just walked away.

Q. Who else was present?

A. J. C. Wright and Willie Verne, his wife.

Q. J. C. Wright is your son-in-law?

A. Yes sir.

Q. And the baby you were taking to the Doctor is their child?

A. Yes sir and I was going to the Doctor too.

Q. Has he made other threats to do violence to yhou?

A. Yes he has.

Q. Since that time?

A. Yes sir, several times.

Q. Since that time has he struck you?

A. Yes he has.

Q/ When was that?

A. Well I don't recall if I can recall the date--

Q. What month?

A. It was sometime in last year. I was crocheting in my room in 1954 and he got on a stampede and I had been shut up back in my room for five years and he got up some disturbance on the outside--

Q. Relate how he struck you?

A. He shook me on the head, like this, indicating.

Q. Did he pull your hair?

A. Not exactly; he was on one of his mad fits and shook me and told me he wanted to kill me, and I told him that he didn't have to kill me to get rid of me.

Q. Did he strike you during the month of October, 1955?

A. Yes.

Q. Would you relate that instance?

A. He done that early one morning; my son came by there --

Q. Who is your son?

A. Ernest William Cross. I hadn't got out of bed and about 8 o'clock I heard a callamity going on and my daughter said, "Mother, are you ready for your oatmeal" - Do you want me to bring it to you" and I said, "No, I'll get up and come and get it" and I heard him talking awful loud and abusing somebody in the front and I said, "Sister, step to the door and see who it is" and she said that it was brother" and I said: "Lord have

Mercy, he despises the child and has since childhood" and I jumped up and said: "Brother, go on back and get in the car until I get dressed and I'll come out there. I want to talk to you" and the boy had not said a word to anybody, and he turned and started to the car and when he did his daddy said: "He's not going to stop in this yard, he's getting out" and he drove him out, and I told ^{Ada Mae to run tell} him to drive to Mrs. Moore's house.

Q. Who is that?

A. My foster daughter. She ran out to tell him to drive out to Mrs. Moore's yard; he didn't know her from anybody else and whenever she went out he cursed her and told her to get in the house and if she didn't he would have been leaving, and she came back running in the house.

Q. Let's get up to the blow; when did he strike you?

A. While I was dressing he took the car and pulled it in the side yard--

Q. Where did he go?

A. In front of the house and he was guarding the car and when I came out the front steps to go outside he was in one of his mad tantrums.

Q. Where was he?

A. He had driven the car from the left side of the house-backed it up and pointed it towards town in front of the door steps

Q. Immediately in front of the steps?

A. Yes.

Q. How far was the car from the front steps - 10 or 12 feet?

A. No -

Q. Just a little ways?

A. The back end was at the end of the steps.

Q. Where was he?

A. He was at the steps and as I came out I had the keys in my hand like this, indicating. They have the license carrier on there - you know what I'm talking about - my driver's license and I don't know whether he meant to hit me intentionally or not - he was in a mad rage and he struck me side of my face.

Q. What with?

A. With his hand, and he said, "I'll see that you don't stick your blank -- blank -- (dirty talk) in the car."

Q. He used abusive language?

A. Yes; I didn't even stop with him.

Q. Has he ever made any other threats on you -- to injure or strike you or shaken his fist at you, or anything of that sort?

A. Well no special time that I know of - every time he gets in a tantrum he is going to beat somebody.

Q. Does he frequently lose his temper?

A. Yes sir.

Q. Lose it at you?

A. Yes sir.

Q. Are you afraid that he will some day strike you and hurt you?

A. He has done it.

Q. Now do you have any separate estate, Mrs Gross?

A. Well I have a couple of bonds - Government bonds.

Q. Series E. Bonds?

A. Yes sir.

Q. What denomination are they?

A. One \$750.00 bond and the other is a \$475.00 bond.

Q. Do you have any other property?

A. I have cows - at least I was supposed to; I have a cow, and a young heifer and a young heifer calf.

Q. Do you have any real estate?

A. Nothing else but a little dog.

Q. Do you have any real estate?

A. Nothing but what is connected with Mr. Gross.

Q. Do you have a burial lot?

A. Yes sir.

Q. Do you have any income of your own?

A. Not a bit.

Q. What is the state of your health generally?

A. My health is very poor.
Q. Is there any specific health problem you have?
A. Yes, sir, a heart condition.

Q. You do have a heart condition?
A. Yes sir.

Q. Does this heart condition prevent you from engaging in active work?

A. Yes it does.

Q. How long have you been married, Mrs. Gross?
A. 42 years.

Q. How old were you when you married Mr. Gross?
A. Lacked from September to December being 16 years old.

Q. Have you lived with Mr. Gross since that time - All of that time until all of this happenings?
A. Yes sir.

Q. Have you ever had any training in any gainful occupation?
A. No I have not.

Q. Did you ever, or have yhou ever contributed to the family well being or income by working or contributing to the family food?

A. Certainly.

Q. Did you ever have a garden?
A. Certainly; that's my hobby - Work;.

Q. How often did you have a garden?
A. Every year.

Q. What did you do with the produce from that garden?

A. Canned it.

Q. Did ~~you~~ you use it on the family table?

A. Yes sir.

Q. How often did you have things from the garden on the table?

A. Practically the year around.

Q. You say you have canned produce from your garden?

A. Yes sir.

Q. How often?

A. Every summer or any time I had anything to preserve.

Q. How much did you can in an average year?

A. Any where from 100 to 200 quarts, or better a year.

Q. Vegetables and preserves?

A. Yes and jellies.

Q. Did you contribute in any other way?

A. Yes, I bought little baby calves and raised them by hand - I

tended to as many as two or three at the time.

Q. What happened to the cows?

A. Well I would put one in the deep-freeze and I sold a couple or three.

Q. What went with the money?

A. That's where I got the money from to buy the bonds; I held it until I accumulated enough to buy the bonds.

Q. You have kept house and raised a family with Mrs. Gross for 42 years?

A. That's right.

Q. Do you know how much money Mr. Gross has?

A. No.

Q. Do you know how much property he has?

A. Well I know he is worth quite a bit, but he don't tell me about that.

Q. Has he ever told you how much or what he had?

A. No sir.

Q. Have you ever asked him?

A. Yes sir.

Q. And he refused to tell you?

A. That's right.

Q. Now those bonds that you have, are they your's entirely or do they belong to somebody else?

A. No, they are not mine all together; I am in possession of them?

Q. Who else owns them with you?

A. Well if you want to know the facts, we have two adopted sons and they are not eligible for property whatever.

Q. Are their names on the bonds?

A. Yes.

Q. Did you ever voluntarily and of your own accord leave Mr. Gross' bed and board before the happening of this?

A. No sir.

Q. Did he ever leave your bed and society?

A. Yes sir.

Q. When was that occasion?

Q.

A. When he left?

Q. Yes?

A. Well he has left and took his clothes away a couple of times.

Q. The time he left off living with you as husband and wife - approximately how long ago was that?

A. It was eight years ago when he was working in Mississippi.

Q. Did he ever walk out of your room and say he wasn't going to live with you any more?

A. He did.

Q. When was that?

A. Let's see if I can recall that to memory -- It was in '51. when he walked out.

Q. Would you tell what he said on that occasion?

A. Yes. He got his clothes and walked out of my room one Sunday night; I remember it very well. Willie Verne had been occupying the middle bed room and he told her: "You can go and sleep with that old Bitch, I'm not sleeping with her any more" and I said: "Stop and think - you have done that before and this is the last time.

Q. Did he ever come back to live with you as husband and wife?

A. No sir.

Q. Did he ever make any motions -

A. No sir.

Q. Did he have any cause to leave your bed?

A. No he didn't; he did it on his own cold good will and he didn't seem to be mad; I didn't know there was anything wrong; he is still remembering it.

ON CROSS EXAMINATION OF THIS COMPLAINANT, SHE TESTIFIED:

Examination by Mr. Chason.

Q. Mrs. Gross, to sorter enumerate the acts of cruelty, I believe the first one you testified about where you said there was physical cruelty or threats was on August 7, 1954 - You said that you had had difficulty before then, but that is the first act of violence you told the court about?

A. No it wasn't.

Q. What was the date of the first one that you told the Court about?

A. When he broke my nose.

Q. When did he break your nose?

A. In 1942.

Q. Now bringing it on down to more recent date, when was the next act of cruelty that you have told the Court about; I am not trying to go into any more acts than you have testified to already.

A. When he threatened me with the hammer.

Q. And that was on August 7, 1954?

A. That's right.

Q. You say you and Wright and your daughter - all three of you were together at that time?

A. That's right; we were dressed to go to Mobile.

Q. What did you say he did on August 7th? -- He came out to where you all had started to the car and what threats did he make against you?

A. Well he picked up the hammer - a sledge hammer and slung it over his shoulder and talking his ugly talk.

Q. Who was he talking to?

A. To all of us -- to me.

Q. Did he address it to you?

A. He was talking to me because I was nearest to him.

Q. How do you know?

A. He was looking at me with violence in his eyes.

Q. Tell the Court how he looked at you?

A. He was just in a mad rage - he is in a mad rage outside of words when he has those tantrums.

Q. You all three were in a group?

A. Mr. Wright was behind me and Willie Verne first.

Q. And you were in the middle?

A. Gross was in the middle.

Q. How near was he to you?

A. As near to me as he is now.

Q. What did he say he was going to do?

A. Tear that son of a bitch car up and he dared us to say anything.

Q. Did he tear the car up?

A. No sir.

Q. What was he going to do to you?

A. He was going to tear it up and then he was going to tear me up.

Q. Did he attempt to tear you up?

A. I turned around and said: "Come on Willie Verne, and we'll go in your car and we left him there to tear it up.

Q. He told you that he was going to tear the car up and was then going to tear you up?

A. Yes sir.

Q. He didn't tear the car or you up?

A. No.

Q. You went in the house?

A. No, sir, I got in Willie Verne's car and we went to Mobile.

Q. Have you been around the house constantly during the year and a half since?

A. Sure.

Q. And he has not struck or attempted to strike you?

A. No, but he has put on plenty of parties.

Q. Did he put on any with any weapons? - Has he attempted to strike you with a weapon?

A. He has chased me around in the house.

Q. Now what is the next act of violence made against you since

August of 1954?

A. On December 26th. he tore the telephone out of the house.

Q. What year?

A. 1955.

Q. 1955?

A. Yes.

Q. That was after the suit was filed?

A. Yes. This suit has been filed since June.

Q. That was since the suit was filed that he tore the telephone out of the house?

A. Yes sir.

Q. What did he do to you?

A. He preached all our funeral and told them what he was going to do.

Q. Whose funeral did he preach?

A. The whole house-hold.

Q. Your daughter?

A. Willie Verne and him both done some of that.

Q. What is your young son's name?

A. Claude.

Q. Was he present, and did he preach his funeral?

A. It was the whole house-hold.

Q. Was Claude present?

A. Willie Verne, Ada Mae and Claude.

Q. Did he threaten to kill any one?

A. To be frank with you, I paid so little attention to it, I don't know.

Q. You don't pay much attention to idle threats and remarks?

A. I'm not pleased with them.

Q. They provoke you, but they don't scare you?

A. Yes, I'm nervous and up-set.

Q. You don't think he is going to carry them out?

A. He puts on a mighty big performance.

Q. You say he has been making those threats for 10 years and--

A. Yes and he has put some of them into action.

Q. What acts or threats of violence since 1954 occurred that you are basing your right to a divorce on, except what you have told us? - - You are basing your suit for a divorce on threats made on August 6, 1954, and him tearing out the telephone and preaching the funeral of the house-hold on December 26, 1956. Are there any other threats intervening?

A. Yes.

Q. What were they and wher?

A. Since before Christmas he had a big party and chased me around

Q. Did he harm you?

A. No he didn't.

Q. When was it you say he put his hands on your head?

A. In the spring of last year?

Q. In the spring of 1955?

A. Yes sir.

Q. Was anybody else present that saw it?

A. The house is never vacant; there is always some one there.

Q. Can you tell us any one that saw him?

A. Not too many people there; they know that he puts the parties on and nobody comes, to be frank with you.

Q. You say that you own two bonds - E. Bonds?

A. Yes sir.

Q. One \$750.00 bond?

A. Yes sir.

Q. You paid \$750.00 for it and it is worth \$1,000. on maturity?

Z. Yes sir.

Q. And the other is a \$450.00 bond?

A. Yes sir.

Q. You paid that for that bond?

A. Yes sir.

Q. And you made them in your name and in the name of some other individuals?

A. Yes sir.

Q. But you have the right to cash the bonds?

A. Yes sir.

Q. They were bought with your money?

A. Right.

Q. Do you have any bank account?

A. No sir.

Q. Any savings account?

A. No sir.

Q. Any money in a Safety Deposit Box?

A. No sir.

Q. Do you own anything of any nature, either personal or real estate other than these bonds?

A. The cemetery lot.

Q. Do you own an interest in an automobile?

A. I have an old Fraizer that Gross gave me the day he bought the Buick.

Q. That is an old automobile?

A. '47 Fraizer that is supposed to be mine.

Q. You don't own any interest in any automobile?

A. The Buick.

Q. Do you claim that?

A. Certainly I do.

Q. What is the value of that car?

A. We gave \$3400. or \$3500. for it.

Q. What is your half interest worth at this time?

A. I don't know; I didn't have the privilege of driving it.

Q. Give us the value of your half interest at this time as a used car?

A. Now Mr. Chason, you know I wouldn't be supposed to make that kind of an offer.

Q. You don't know what it is worth?

A. No, I wouldn't have any idea what the depreciation would be.

Q. Are you and Mr. Gross still living together as man and wife up to this time?

A. Well we still lived in the same house until about the 10th of last month when I came to my sisters.

Q. How long since you all occupied the same bed and had relations with each other as man and wife?

A. In '51.

Q. How long since you have prepared the meals and cooked the meals there?

A. I have not had the privilege of buying my groceries in two years; I did know the exact date, but I can't recall it.

Q. How long since you prepared the meals, or supervised them?

A. A long time - As long as I am there I supervise each day--

Q. Isn't it true that you have not prepared the meals for Mr. Gross or had them prepared for three or four years?

A. No, that's not right; I have prepared the meals or helped season the food; I have not cooked; when I can't buy groceries and be the mother of the home - I have supervised and don't have the

privilege of buying and supervising the buying of the groceries and had to quit checking, I don't feel like fixing him a Christmas dinner.

Q. Other than when company came in you have not fixed his meals in several years?

A. I have not when company came in.

Q. Didn't you prepare meals for company?

A. No.

Q. How long since you have prepared meals for others than your own?

A. Well I have prepared a -- I have not prepared a whole meal by myself in a long time, because Ada Mae has been there since she was three months old.

Q. Isn't it true that you have not lived with Mr. Gross as man and wife, according to the usual manner of occupying the same bed and things of that kind, and going on with the usual relations of husband and wife -- Isn't it true that that relationship has not existed for three years?

A. It has not existed for more than three years; I told you not since '51.

J. C. WRIGHT, A WITNESS FOR THE COMPLAINANT, BEING FIRST DULY
sworn, TESTIFIED AS FOLLOWS:

Direct examination by Mr. Hayes.

Q. Are you Mr. J. C. Wright?

A. Yes sir.

Q. Do you know the lady on this side of the table there?

A. Yes sir.

Q. Who is she?

A. Mrs. Gross.

Q. What is your relationship to her?

A. Son-in-law.

Q. Do you know this gentleman here?

A. Yes sir.

Q. Who is he?

A. Mr. Gross.

Q. He is your father in law?

A. Yes sir.

Q. You are married to their daughter?

A. Yes sir.

Q. Have you lived near, or on the premises with Mr. and
Mrs. Gross in the past few years?

A. Yes, I have lived in the house next door.

Q. Lived immediately next door to them?

A. Yes sir.

Q. Did you have occasion to observe the family during that time?

A. Yes he was in and out.

Q. Were you present on August 7, 1954, at their house?

A. I don't know whether it was August 7th -- I was in and out there.

Q. Were you present when Mr. Gross made threats to do violence to Mrs. Gross when he had a weapon or a tool of some sort?

A. Well how do you mean that?

Q. Were you present on the premises when Mr. Gross banished a tool or hammer of some sort at Mrs. Gross?

THE COURT: Call it a sledge hammer, so he will know what you're talking about.

A. I remember one day they had a round - row and up-stir.

Q. Involving those general facts -- Tell us generally what happened

A. I believe Mrs. Gross wanted to go to Mobile and her and Mr. Gross had a misunderstanding about money; she said she wanted some money and when we were going in my wife and my car, she said she was going in the other car and he kept after her and some how I think her and Mr. Gross had some kind of argument and Mr. Gross got mad or something and got a hammer and said he wasn't going to let her go in that car; that he was going

to beat the car up; they had a spat of some kind--

Q. Did you hear him make any threats or motions towards her with the hammer? Did he say when he got through tearing up the car---

MR. CHASON: (Interrupting) Don't lead the witness quite so much; let him testify as to what happened.

A. Well Mr. Gross drew back, but I wouldn't say that he drew back to hit the car or Mrs. Gross; I wouldn't say which one.

Q. But he did draw back the hammer?

A. Yes he did draw back the hammer.

Q. Was Mrs. Gross present at the time?

A. Yes, she was there.

Q. Was she in the yard at the time?

A. She was in the yard about eight or ten feet from him, I reckon.

Q. Have you ever heard him make any threats - other threats - to do her violence?

A. When they have their differences, - ups and downs - They had them all of the time while we were there and I never did pay too much attention to them; they were fussing and having ups and downs about everything.

Q. He was always in some kind of rage?

MR. CHASON: Don't lead the witness so much.

A. Well both of them was in a rage.

Q. During these rages did he ever threaten to strike her or do violence to her person?

A. I don't guess any more than other men and women that are married.

ON CROSS EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Chason.

Q. You say the episode with the hammer, the only threat that you heard, was that if they tried to use the car he would beat it up?

A. Before they could take it to Mobile he would beat it up.

Q. You say she was a good distance away?

A. Ye sir, they were fussing and Jaw-Jawing at each other.

Q. They are both high tempered, aren't they?

A. I believe Mr. Gross is a little higher tempered.

Q. You say that they fussed - you say that she fussed at him and did about the same thing he did and--

A. She was fussing back, but she didn't draw nothing.

Q. Now he didn't hit her with the hammer?

A. No.

Q. You say you have been around the household quite a bit?

A. Yes sir.

Q. How long since she occupied a room with him and lived with him as a normal wife should -- How many years?

A. That is their personal life, and I don't know anything about that.

Q. Have you seen them occupying the same room in the last

three or four years?

A. Occupying the same room ?

Q. The same bed room?

A. Mrs. Gross had the back bed room and Mr. Gross was some where else.

Q. Who prepared the meals there when you were there?

A. Mrs. Gross prepared some and the other girl some.

Q. She prepared her own?

A. No, she would help prepare Sunday dinner.

Q. You have not been around there much yourself lately, have you?

A. No sir, not in six or seven months.

THE COMPLAINANT REST.

WILLIE VERNE WRIGHT, BEING FIRST DULY SWORN, TESTIFIED:

Q. What is your name, please?

A. Willie Verne Wright.

Q. Mrs. Wright, are you the wife of J. C. Wright?

A. Yes I am.

Q. You are the daughter of Mr. and Mrs. Gross, the parties to this suit?

A. Yes sir.

Q. On August 7, 1954, approximately a year and a half ago, do you have any recollection of starting to Mobile with your husband and with your mother when some disturbance came up about you going in your father's automobile?

A. Let's see- on August 7th--

Q. Approximately a year and a half ago?

A. Nothing could have happened that would be outstanding in my memory.

Q. I will ask you on some date, approximately a year and a half ago whether you and your husband and your mother started to Mobile when she was going to see a Doctor, and whether or not your father, Mr. Gross, came to the automobile and in the presence of the three of you drew back a sledge hammer and threatened to tear up the car or strike Mrs. Gross with the Sledge hammer - did that happen?

A. No.

Q. Do you remember any disturbance about a year and a half ago when he did threaten to tear up an automobile?

A. Not in my presence.

A. As you lived around the household, did you ever hear your father make any threats to do physical violence to your mother?

A. I never heard any threats; mother and daddy argued to the same extent.

Q. You say they both argued, one about as much as the other?

A. That is right.

Q. How long since your mother has lived with your father, occupying the same bed room, to your knowledge?

A. Well let's see - for a long time I shared the same bed room with mother, because she didn't like to sleep in the

bed room by herself, but to give you a definite time I would say about four years ago, because during my pregnancy I slept in the bed room with her, and after that Claude slept with her.

Q. Did your father ever come out of his bed room and tell you you could go sleep with that slut, that he was not going to sleep with her any more?

A. No.

Q. How long since your mother has prepared or supervised the preparation of the meals regularly?

A. Sister has done our cooking as far back as I can remember; Mother would help her when we had company or anything like that.

Q. How many years would you say it has been since your mother has lived with your father normally as man and wife?

A. I said at different times I remember them sharing the same bed room, but it has been of such short duration and such a short time --

Q. Has it been more than two years ago?

A. Yes it has.

ON CROSS EXAMINATION OF THIS WITNESS, SHE TESTIFIED:

Examination by Mr. Hayes.

Q. Mrs. Wright, you say that your father and mother have the usual squabbles?

A. Yes, like most people I guess.

Q. On what occasion did your father rip the telephone out?

A. Let's see, that was a family affair; that was when my husband had been down and brought about a family disturbance and that was the occasion.

Q. Your husband caused it, not Mr. Gross?

A. No, my husband caused that.

Q. Your father became enraged and tore the telephone out?

A. Yes sir, because J. C. had been down there and I don't know what the disturbance was; it involved me to a great extent, and daddy said he was ^{not} going to have the gossip going on over the telephone and daddy ripped the telephone out.

CLAUDE GROSS, BEING FIRST DULY SWORN, TESTIFIED FOR THE
RESPONDENT, AS FOLLOWS:

Examination by Mr. Chason.

Q. What is your name, please?

A. Claude Gross.

Q. Do you live out at the home with Mr. and Mrs. Gross here in Bay Minette?

A. Yes sir.

Q. How many years have you been there?

A. 15.

Q. How -- Now son, were you staying out there - living out there - during 1951 - say since 1950, have you been there?

A. Yes sir.

Q. I will ask you whether during the period of time that you have lived there, in that home, since 1950, if you have ever

Mr. Gross strike Mrs. Gross?

A. No sir.

Q. Have you ever heard him make any threats to do her bodily harm?

A. No sir.

Q. Have they had their family arguments?

A. Yes sir.

Q. Was one any more at fault than the other in the arguments that they had?

A. They were both at fault.

Q. Was it about equal - one about as much at fault as the other?

A. Yes sir.

Q. You say you have never seen him strike her or make threats to do her bodily harm,?

A. No sir.

Q. How long has it been since she lived with him and occupied the same bed room normally as man and wife?

A. Two or three years.

Q. How long since she has prepared or supervised his meals?

A. She has not.

Q. How long since she has washed his clothes or taken care of his laundry or anything of that kind?

A. She has not.

Q. Has it been more than two or three years?

A. As long as I have lived, I have never seen her do it.

Q. You have never seen her take care of the clothes and supervise his meals?

A. No sir.

Q. You say that she has not lived with him normally as his wife for the last three years?

A. No sir.

ON CROSS EXAMINATION OF THIS WITNESS HE TESTIFIED:

Examination by Mr. Hayes:

Q. How old are you, Claude?

A. 15.

Q. You're not married?

A. No sir.

Q. You don't have too much knowledge about how a man and wife live, do you?

Yes sir,

A. /I hope so any way.

Q. During the family arguments that you told us about they got pretty hot?

A. You can call it that if you want to, but not hot enough for any fighting.

Q. Who have you talked to about this case?

A. No body.

Q. You have not talked to anybody?

A. No sir.

Q. You have not even talked to Mr. Chason?

A. No s r.

Q. Nor Mr. Gross?

A. No sir, he didn't ask me a thing; he told me he wanted me to

come up here.

Q. Were you present when Mr. Gross pulled the telephone wire out?

A. No sir, I was at a neighbor's house, I believe - I don't know

Q. Did you see where the telephone was when you got back?

A. On the table; it had been pulled loose, I guess, I never examined it closely; somebody said it was out.

MR. GROSS, THE RESPONDENT, BEING FIRST DULY SWORN, TESTIFIED:

Direct examination by Mr. Chason.

Q. Mr. Gross, you have heard Mrs. Gross' testimony as to the fact that you are married and your residence and ages and the approximate time you all married?

A. Yes sir.

Q. Is that much of her testimony approximately correct?

A. Right.

Q. Now come on down to the question of cruelty - she charges that on August 7, 1954 you attempted to strike her with the hammer or made threats. Did any occurrence like that happen?

A. Absolutely not; I made no threats to strike her at all.

Q. You heard her testify that you went in and put your hands on her head and pulled her hair. Did you do that?

A. No, that is not true.

Q. Have you ever committed any acts of violence on her person?

A. No sir.

Q. Did you, on August 7, 1954, or any period subsequent to that time, threaten to do her bodily harm?

A. Since or before?

a. Since August 7, 1954, have you made any threats to do her bodily harm?

A. No; indeed no - just one little statement if it is in order - at the time she _____ the boy was there; can I go back and explain that?

Q. When was that date?

A. That was in the fall; she didn't give any date; I don't try to keep up with the dates, but I remember the time she was talking about - about the boy she calls her son, and about me driving him or ordering him away.

Q. There is no need going into that?

A. But she made a statement that I did strike; I absolutely did not strike her.

Q. Now how long has it been since you have occupied a bed room with her and lived as man and wife?

A. Oh it has been three, four or five years; I don't remember.

Qa. How long has it been since she has prepared your meals normally, or supervised them?

A. Many, many years.

Q. How long since she prepared your clothing?

A. Many years.

Q. Did she voluntarily break off the relationship of man and wife or did you?

A. She just absolutely and completely abandoned me.

Q. You say that has been at least three or four years ago?

A. Yes sir.

Q. She testified about owning two bonds and had no bank account. Do you know^{anything}/about her financial condition?

A. I know she has a bank account some where, I know that.

Q. She mentioned this buick automobile. What is the reasonable market value of that automobile at this time? The one that she says she has an interest?

A. I say on used car lots or sold at the present time, \$1,500.

Q. Was that car bought by you in your joint names?

A. Yes, sir, in our joint names.

Q. You paid for it, but bought it in your joint name?

A. That is exactly right.

Q. You heard her testify that she had two or three head of cattle. Does she have any live-stock?

A. Not personally; they were raised on the place with the feed bought and the calves were bought from the dairy at a big price and I paid for them and I made pastures and they have been raised there; I don't think they are her's individually.

Q. So I understand that you tell the Court that you have not committed any acts of violence on her person, attended with

danger to her life or health and you have not threatened to do so?

A. Absolutely not.

Q. You say she did voluntarily abandon you three or four years ago and has failed and refused to live with you since that time?

A. Yes sir.

ON CROSS EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Hayes.

Q. You say, Mrs. Gross has a bank account?

A. Yes sir.

Q. Where is that bank account?

A. If she has not changed it, it is in the First National Bank of Mobile.

Q. How do you know?

A. I've seen the bank book and she would talk about having the interest and other things - it was on savings and I have seen the bank book myself; it has been started there for more than 30 years - I know that.

Q. Does she have more money than you?

A. Ought to have the way she checked on my account - there are no if's and and's about that; I have the cancelled checks to show; she toated the check book.

Q. How big is your bank account, Mr. Gross?

A. Well my bank account wouldn't make anybody a ~~mikikioning~~
~~mikikioning~~ millionair. (page 36)

Q. How big is your bank account?

A. All of the cash and bonds I have together may be \$7,000.00 or \$8,000.

Q. Where is this bank account with \$7,000 00 or \$8,00000 in it?

A. What bank account I have is in the First Federal Savings and Loan in Mobile.

Q. Do you have a bank account at the Baldwin County Bank?

A. Yes, a little small one.

Q. How much is in that?

A. Maybe \$100.00 there today; I doubt it very much.

Q. Do you have a bank account in the First National Bank of Bay Minette?

A. No sir.

Q. Do you have a bank account at the Baldwin County Savings & Loan Association at Robertsedale?

A. I have a few dollars there.

Q. About how much?

A. May be \$1,000.00.

Q. Closer to \$10,000.00, isn't it?

A. I don't know; may be you know more about my business tahn I do.

Q. Will you swear that you don't have more than \$1,000.00 in the Baldwin County Savings & Loan in Robertsedale?

A. I don't know exactly what is in the Baldwin County Savings & Loan.

Q. Is it more than \$1,000.00?

A. It might be.

Q. Is it or not?

MR. CHASON: He says that he does not know what he has.

MR. HAYES: He knows whether it is more or less.

MR. CHASON: Give him your best judgment, mr. Gross.

A. In my best judgment, there is over \$1,000.00.

Q. Is there more than \$2,000.00 there, Mr. Gross?

A. I gave you my judgment on that.

Q. Is there more than \$2,000.00 there?

MR. CHASON: Tell him approximately what is there in your ~~best~~
best judgment?

A. Approximately \$5,000.

Q. There is not more than \$5,000.00 there?

A. Look, there he comes again;

THE COURT: He said \$5,000.00 and he is under oath, he knows
that.

Q. There is in fact about \$10,000 there, isn't there, Mr. Gross?

A. That's my business.

MR. CHASON: If you know how much - how much there is, you are
supposed to tell him, to the best of your judgment.
If you don't know, then don't attempt to tie it
into any amount, but give him within a reasonable
amount - approximately what you think - tell him
fairly within your best judgment.

A. I am going to come clean with them - I have \$10,000. in the
(page 38)

*\$10,000 in
Baldwin Savings
+ Loan*
First Federal Savings in Mobile and the bonds that

I have had some of them cashed to put them--

Q. (By Mr. Chason) You have \$20,000. in personal assets?

A. That is right.

Q. Do you have any other bank accounts?

A. If I did, I would say so.

Q. Just answer yes or no?

A. I told you I had one at the Bank - Baldwin County Bank.

THE COURT: I think he has been pretty fair - do you have something to the contrary? It looks like the man has been fairly liberal. You have not attempted to prove it.

MR. CHASON: That's right; If we didn't have a divorce in mind I wouldn't have proved it for him.

Q. What real property do you have, Mr. Gross?

A. Don't you have a list of it?

Q. No I'm afraid I don't.

A. I have the home place and six lots out here.

Q. In Bay Minette?

A. Yes, in a sub-division.

Q. What sub-division?

A. The Northcutt Sub-division and I own the Conway place and that's all the real estate I own; the home place and the other place next to it and this stuff out here.

Q. You say you have \$10,000. in the First Federal in Mobile?

A. Yes.

Q. And \$10,000 in the Baldwin County Savings and Loan? -- I didn't recall whether you said--

THE COURT: He said \$10,000 in each bank.

Q. And you have about \$100.00 in the Baldwin County Bank?

A. That would be a guess there - but there is not over \$100. in the Baldwin County Bank.

Q. How big is your home place--How many acres?

A. Approximately five.

Q. Are there any buildings on the five acres?

A. Sure.

Q. What kind of buildings are there on this place?

A. Common ordinary building.

Q. Barnes or chicken house or home?

A. Nothing of that kind to speak of; there is two dwellings on it; one was built for the daughter; it has always been known as her's; it was never deeded to her--

Q. You say the Conway place, that is a house and lot ?

A. That is right.

Q. What about the number of rooms in the Conway place--

What is the value of the Conway place?

A. Well I don't know what the value is now; I knew what the value was one time; I gave \$3,500.00 for it.

Q. When did you give \$3,500.00 for it?

A. I don't remember the year - some where about '50 I guess.

Q. In your best judgment, how much are the houses on your

home place - the five acres - worth?

A. I would'nt know; I know what I paid for the five acres; I paid \$1,800, and built another house on there.

Q. There was a house on it when you bought it?

A. Yes sir.

Q. And you built another house?

A. Yes sir.

Q. Did you repair or work on the house that was on the place?

A. Yes, there has been several thousand dollars spent on it and it's not as good today as it was when I bought it.

Q. Do you have any automobiles other than the buick?

A. I have a '50 pick-up.

Q. 1950 pick-up truck?

A. Ford Pick-up .

Q. Do you have any other property of any other kind or nature that we have not spoken of?

A. Nothing else.

ON RE-DIRECT EXAMINATION OF THIS WITNESS, HE TESTIFIED:

direct by Mr. Chason.

Q. How old are you, Mr. Gross?

A. I am 66 years old.

Q. Mrs. Gross spoke of her health. What is the condition of your health?

A. I guess my health is very good for my age, Mr. Chason, except

being worn down; I'm wore out.

Q. Do you have any income other than from your investments ?

A. I get a social security check.

Q. Do you have any work that you do?

A. Not a thing.

Q. All you have is the social security check and interest on your investments?

A. That is right.

Q. Have you been maintaining your home and supporting your wife -- have you bought the groceries, etc for the home and the children?

A. Absolutely.

ON RE-CROSS EXAMINATION:

Examination by Mr. Hayes.

Q. How much is your social Security check, Mr. Gross?

A. \$92.10 a month.

Q. Do you have any other income except the social security?

A. No sir; she got the rent until a year ago.

Q. That is \$40.00 a month?

A. Yes sir.

Q. Do you own any stocks and bonds?

A. No sir.

Q. You don't have any income from stocks and bonds?

A. No..

THE RESPONDENT REST.

ON REBUTTAL, MRS. GROSS WAS RE-CALLED:

Q. Mrs. Gross, there has been testimony that you have not prepared the meals in your home in the past few years.

Why have you not prepared the meals?

A. Not altogether - not alone.

Q. Did you have assistance?

A. Yes sir, a little foster daughter that I raised.

Q. What is her name?

A. Ada Mae Gross.

Q. Did you over-see the kitchen?

A. Yes sir.

Q. Were you allowed to purchase groceries?

A. No sir, I have not been allowed to purchase groceries.

Q. Who - How were you prevented?

A. Mr. Gross went all over town and I wasn't permitted to buy anything; he said that he was not responsible for my debts

Q. He told you that?

A. Yes sir, and he stopped the checks.

Q. He would - You would write a check and it would come back?

A. Yes sir, and even his own would come back, because I taught him to read and write.

THE COMPLAINANT REST
THE RESPONDENT REST.

I hereby certify that the foregoing, consisting of pages 1 to 43, both inclusive, is a true and correct transcript of the testimony taken by me in the case of Gross vs. Gross. Before Hon. Hubert M. Hall, Judge of the 28th Judicial Circuit of Alabama.

Louise Dunning
Court Reporter

VERNIE MAE GROSS

Complainant,

vs.

WILLIAM WALLACE GROSS

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 3587

This cause coming on to be heard was submitted upon the Bill of Complaint as last amended, on answer and cross-bill of the respondent and the testimony taken orally before the court and upon consideration thereof, the Court is of the opinion that the complainant is not entitled to the relief prayed for in her Bill of Complaint, except as to the money and property awarded her herein in lieu of alimony.

It is therefore Ordered, Adjudged and Decreed by the Court that the complainant is not entitled to the relief prayed for in her complaint and the same is hereby denied, except for the provisions hereinafter made for her.

It is further considered by the Court that the Respondent and Cross-Complainant, William Wallace Gross is entitled to the relief prayed for in his Cross-Bill and it is further Ordered, Adjudged and Decreed by the Court that the bonds of matrimony heretofore existing between the Complainant and the Respondent be, and the same is hereby dissolved and that the said William Wallace Gross is forever divorced from the said Vernie Mae Gross for and on account of abandonment.

It is further Ordered, Adjudged, and Decreed by the Court that the deed conveying the following described property viz:

Starting at the Northwest corner of Lot 4 in Block 94 and run South 210 feet, thence East 105 feet, thence North 210 feet, thence West 105 feet to the place of beginning, being in Lot 4, Block 94, of the Hand Land Company's addition to the town of Bay Minette, Baldwin County, Alabama; said lands being in the West half of Section 10, Township 2 South Range 3 East, Baldwin County, Alabama; also

That portion of lot 3 in Block 94 which lies North of the said last above described lands, and South of U. S. Highway #31; more particularly described as beginning at the Southwest corner of Lot 3, Block 94, run thence Northeasterly along South boundary line of Lot 3, Block 94, a distance of 105 feet to point, thence Northwesterly and parallel to East line of said Lot 3 to a point in the South boundary line of U. S. Highway #31, thence Southwesterly along said boundary line of Highway #31 to the point

of intersection with the west line of said lot 3, thence Southeasterly along said West line of Lot 3, to the point of beginning;

All said lands being in Hand Land Company's addition to the Town of Bay Minette, as per plat thereof recorded in Deed Book 4 NS, page 158 et seq.

which has this day been executed by William Wallace Gross to Vern Mae Gross be delivered by him to her and that the said William Wallace Gross shall, within 5 days from the date of this decree, pay the said Vernie Mae Gross the sum of \$7,000.00 and he shall deliver to her one Herford cow which is now in his possession.

It is further Ordered, Adjudged and Decreed by the Court that the said William Wallace Gross is owner in fee simple of the 1954 model Buick automobile, motor #6A6014644, 1956 tag #5-6197, which was purchased by him and that he is the owner of a Jersey cow and heifer calf, that have been in the possession of the parties.

It is further Ordered, Adjudged and Decreed that neither party to this suit shall again marry except to each other until sixty days after the rendition of this Decree, and that if appeal is taken within sixty days, neither party shall again marry except to each other during the pendency of said appeal.

It is further ordered that the Complainant and Respondent be, and they are hereby permitted to again contract marriage upon payment of the cost of this suit.

It is further ordered that William Wallace Gross, the Respondent, pay the cost herein to be taxed, for which execution may issue.

This 29th day of March 1956.

Hubert M. Hall
Judge Circuit Court, In Equity

FILED

MAR 29 1956

ALICE I. DICK, Register

RECORDED

10

DECREE

VERNIE MAE GROSS

Complainant,

vs.

WILLIAM WALLACE GROSS

Respondent

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 3587

FILED

MAY 29 1956

MADE A DEED

CIVIL SUBPOENA — ORIGINAL — In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he shall be barred.

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

Case No. 3587 Feb. TERM, 1956

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETINGS:

You Are Hereby Commanded to Summon

J. C. Wright

if to be found in your County, at the instance of the

Ptly.

to be and appear before the Honorable, the Judge of the Circuit Court of Baldwin County, at the Court House

thereof, by 10:00 o'clock of the forenoon, on the 29 day of Feb., 1956, and from

day to day and term to term of said Court until discharged by law, then and there to testify, and the truth

to say, in a certain cause pending, wherein Thornie Mae Gross, Plaintiff and William

Wallace Gross, Defendant.

Herein Fail Not, and have you then and there this Writ.

Given under my hand and seal, this 24 day of Feb., 1956.

Alice J. Drake

Clerk.

Alice J. Duck
Clerk

MYLAN R. ENGEL
ATTORNEY AT LAW
VAN ANTWERP BUILDING
MOBILE, ALABAMA
HEMLOCK 8-3566

May 22, 1956

Mrs. Alice Duck
Clerk of the Circuit Court
Baldwin County, Alabama
Bay Minette, Alabama

In Re: Gross vs. Gross

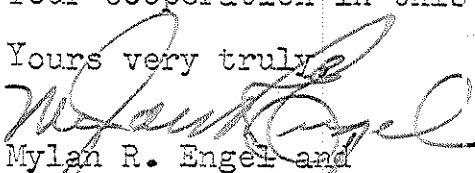
Dear Mrs. Duck:

Enclosed herewith please find notice of appeal in the above styled cause along with a bond for costs of said appeal properly approved by our Register, Mr. W. Elsworth Haughton. Please file this notice of appeal at once as our time for appeal will run out on Monday May 29th.

The transcript has been prepared by Mrs. Dusenbury and I am returning it to her today for her to sign and give the proper notices, etc.

Your cooperation in this matter will be appreciated.

Yours very truly


Mylan R. Engel and
Mitchell G. Lattof
Attorneys for Complainant
and crossRespondent (Appellant)

1. Citation of
Appeal

2. Certificate

RECEIVED
JAN 10 1907
U. S. DEPT. OF JUSTICE
DIVISION OF REVENUE
WASHINGTON, D. C.

SEP 13 1956

THE STATE OF ALABAMA - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

SPECIAL TERM 1956.

1 Div. 675.

Vernie Mae Gross

v.

William Wallace Gross

Appeal from Baldwin Circuit Court
(in Equity).

PER CURIAM.

This is an appeal by complainant (the wife) in a divorce suit by her against her husband (appellee) from a final decree granting a divorce to the husband on his cross bill alleging voluntary abandonment from bed and board for one year next preceding the filing of the bill of complaint, but awarding alimony to appellant.

Appellant complains that the decree granting a divorce to appellee on the ground of voluntary abandonment for one year next preceding the filing of the bill was not sustained by any aspect of the evidence. If so, there was error in so rendering it, although the evidence was taken orally before the trial judge.

The burden is upon appellee to prove such allegation in his cross bill. He did so testify in terms, as did some of their children. But all the evidence is consistent with the theory that the only abandonment consisted in removing to a different room in the same house and failure to discharge marital duties as a wife and housekeeper. In fact, it is noticeable that there is an entire absence of evidence that the abandonment did not consist wholly in such failure without a removal by either from the home which they occupied. Since the burden is on appellee, the presumptions arising from an absence of evidence are against him. He must prove those facts which constitute a voluntary abandonment as it is interpreted by this Court. It has been held by this Court that voluntary abandonment by the wife of the husband is not shown to exist when the "conduct on her part which he contends was an abandonment of him by her was her moving into another bedroom in the home * * *, which she continued to occupy and the refusal of sexual relations from that time until the present". - Caine v. Caine, 262 Ala. 454, 79 So. 2d 546. The fact that she did not attend to other duties of a housewife would not serve to create a different result in that respect.

The same principle has been applied to that feature of section 22, Title 34, Code, which provides for a right to a divorce "when the wife has lived, or shall have lived separate and apart from the bed and board of the husband for two years and without support from him for two years next preceding the filing of the bill". - Rogers v. Rogers, 258 Ala. 477, 63 So. 2d 807. We have said that to constitute voluntary abandonment, "there must be a final departure, without the consent of the other party, without sufficient reason therefor, and without the intention to return". - Perry v. Perry, 230 Ala. 502, 162 So. 101; Nelson v. Nelson, 244 Ala. 421, 14 So. 2d 155; Webb v. Webb, 250 Ala. 425, 70 So. 2d 639; Nathins v. Kidd, 261 Ala. 463, 75 So. 2d 87.

The evidence shows that the parties had "ups and downs," as expressed by the witnesses, and did much fussing and had many contentions of various kinds. But all the indications are that they have lived in the same house, though in different rooms, until the 18th of April 1956. There is no voluntary abandonment while husband and wife occupy the same dwelling.

The decree denied a divorce to the wife (appellant) on the ground of cruelty. That is also assigned as error. We think the decree was erroneous in granting a divorce to appellee on the ground of voluntary abandonment. We prefer not to express an opinion as to the claim of appellant for a divorce on the ground of cruelty since the decree should be reversed. We think it should be reversed in all its parts and remanded for a new trial on both the original and cross bill. That also includes the award of alimony.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 675,

VERNIE MAE GROSS

, Appellant

vs.

WILLIAM WALLACE GROSS

, Appellee,

From BALDWIN
IN EQUITY

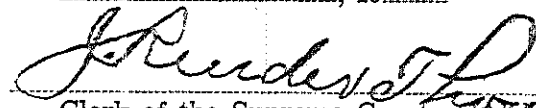
Circuit Court.

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 FOUR 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 13th day of

SEPTEMBER, 19 56


Clerk of the Supreme Court of Alabama

THE SUPREME COURT OF ALABAMA

SPECIAL

~~October~~ Term, 19 55-56

1st Div., No. 675

VERNIE MAE GROSS

Appellant,

vs.

WILLIAM WALLACE GROSS

Appellee.

From BALDWIN CIRCUIT
IN EQUITY NO. 3587 Court.

COPY OF OPINION

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

SPECIAL TERM 1955-56

~~October Term, 1955~~

To the REGISTER of the CIRCUIT Court of

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

VERNIE MAE GROSS, Appellant,

and

WILLIAM WALLACE GROSS, 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 decreed by our Supreme Court on the 13 day of SEPTEMBER, 1956, that said DECREE of said CIRCUIT Court be reversed and annulled, and the cause remanded to said court

for further proceedings therein; and that it was further considered, ordered, adjudged, and decreed

that the appellee ~~pay~~: William Wallace Gross, 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 13 day of
SEPTEMBER, 1956
J. Render Thomas
Clerk of the Supreme Court of Alabama.

VERNIE MAE GROSS,	*	IN THE CIRCUIT COURT OF
Complainant,	*	BALDWIN COUNTY, ALABAMA.
vs	*	IN EQUITY.
WILLIAM WALLACE GROSS,	*	NO. 3587
Respondent.	*	

We hereby acknowledge ourselves as sureties for the costs of the appeal to the Supreme Court of Alabama taken by Vernie Mae Gross from the decree rendered by the Circuit Court of Baldwin County, Alabama, sitting in Equity, in the above entitled cause on, to-wit, March 29, 1956.

Witness our hands this the 21st day of May, 1956.

Vernie Mae Gross

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA

BY: M. Harland Ison
M. Harland Ison, Attorney-in-fact

Taken, approved and filed
this 22nd day of May, 1956.

W. Elsworth Houghton
Register
Circuit Court of Mobile County, Alabama.

Approved this
23 day of May 1956
Alice Duck
Register

*Indemnity Insurance Company
of North America
Philadelphia 1*

I hereby certify that the Power of Attorney to which this
is attached, issued to M. HARLAND ISON

of MOBILE, ALABAMA, is in full force and
effect as of the 21st day of May, 19 56

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA

BY

H. C. BERTRAM

Assistant Secretary

POWER OF ATTORNEY

INDEMNITY INSURANCE COMPANY

OF NORTH AMERICA

PHILADELPHIA

Know all men by these presents: That the INDEMNITY INSURANCE COMPANY OF NORTH AMERICA, a corporation of the Commonwealth of Pennsylvania, having its principal office in the City of Philadelphia, Pennsylvania, pursuant to the following By-Law, which was adopted by the Board of Directors of the said Company on July 12, 1920, to wit:

"Article XII, Section 1.—The President, or any Vice-President, shall have power and authority to appoint resident Vice-Presidents, resident Assistant Secretaries and Attorneys-in-fact and to authorize them to execute on behalf of the Company and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

does hereby nominate, constitute and appoint M. HARLAND ISON, of the City of Mobile, State of Alabama

its true and lawful agent and attorney -in-fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed bonds and undertakings of suretyship in penalties not exceeding FIFTY THOUSAND DOLLARS (\$50,000.00) each required to be given pursuant to any Statute, Order or Decree of any Court in the State of Alabama or in the United States District Court for said State, or in Bankruptcy Proceedings under the Bankrupt Act of the United States, on behalf of Administrators, Executors, Guardians, Conservators, Committees of Incompetents, Trustees, Receivers, and Commissioners for the Sale of Property, in qualifying as such either by appointment or election.

Also, bonds in penalties not exceeding FIVE THOUSAND DOLLARS (\$5000.00) each such as may be required by the State of Alabama, or by any City, Town, County, Village or other Municipality in the State of Alabama pursuant to Statute or Ordinance regulating the granting of Permits, Licenses, meaning to include herein all such instruments known as "Permit Bonds" and "License Bonds".

Also, bonds and undertakings in penalties not exceeding TEN THOUSAND DOLLARS (\$10,000.00) on behalf of Plaintiffs in Attachment, Garnishment, Replevin and for Costs required to be given by any Statute, Order or Decree of any Court in the State of Alabama.

All such bonds and undertakings as aforesaid to be signed for the Company and the Seal of the Company attached thereto by the said M. Harland Ison, individually.

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Philadelphia, Commonwealth of Pennsylvania, in their own proper persons.

IN WITNESS WHEREOF, the said R. S. ROBINS, Vice-President, has hereunto subscribed his name and affixed the corporate seal of the said INDEMNITY INSURANCE

COMPANY OF NORTH AMERICA this 27th day of March 19 56.

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA

by R. S. Robins Vice-President.

COMMONWEALTH OF PENNSYLVANIA } ss.
COUNTY OF PHILADELPHIA

On this 27th day of March, A. D. 19 56, before the subscriber, a Notary Public of the Commonwealth of Pennsylvania, in and for the County of Philadelphia, duly commissioned and qualified, came

R. S. ROBINS, Vice-President of the INDEMNITY INSURANCE COMPANY OF NORTH AMERICA to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and, being by me duly sworn, deposeth and saith, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that By-Law, Article XII, Section 1, adopted by the Board of Directors of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Philadelphia, the day and year first above written.

Mary Margaret Jones
Notary Public.