

2516

LILLY CARLSON,  
Complainant,  
VS.  
CARLTON CARLSON,  
Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY  
NO. 2516

DEMURRER.

Now comes the Respondent and demurs to the Bill of Complaint filed herein and to each part, paragraph and aspect thereof, separately and severally, and for grounds of demurrer assigns the following, separately and severally:

1. There is no equity in the Bill of Complaint.
2. The allegations of the Bill of Complaint are vague, indefinite and uncertain.
3. No facts are alleged to entitle the Complainant to a divorce on the ground of cruelty.
4. The facts alleged, if true, are not sufficient to entitle the Complainant to a divorce on the ground of cruelty.
5. The Respondent demurs to the allegations of Paragraph Numbered Second of the Bill of Complaint and assigns as grounds therefor each of the above grounds of demurrer from One (1) through Five (5), separately and severally, just as if each of the said grounds of demurrer were specifically rewritten here, together with the following additional grounds of demurrer, separately and severally:
  - (a) No facts are alleged to show that the physical violence set out in Paragraph Second of the Bill of Complaint endangered the life or health of the Complainant, or gave her grounds for reasonably apprehending danger to her life or health.
  - (b) The allegations thereof are conclusions of the pleader.
  - (c) No facts are alleged to show that the actual violence complained of was reasonably attended with danger to the life or health of the Complainant, and no facts are alleged to show

that the Complainant had reasonable apprehension that serious violence would attend her continuance of the marital relation existing with the Respondent.

6. The Respondent demurs to the allegations of Paragraph Numbered Third of the Bill of Complaint and assigns as grounds therefor each of the above grounds of demurrer from One (1) through Five (5), separately and severally, just as if each of the said grounds of demurrer were specifically rewritten here, together with the following additional grounds of demurrer, separately and severally:

(a) The allegations thereof are conclusions of the pleader.

(b) No facts are alleged to show that the Complainant is a fit and proper person to have the care, custody, and control of the minor children of the parties to this suit.

(c) No facts are alleged to show that the Respondent is not a fit and proper person to have the care, custody, and control of the minor children of the parties to this suit.

(d) No facts are alleged to show that it is to the best interest of the minor children of the parties to this suit that the Complainant be granted the custody thereof.

J. B. Blakeman  
Solicitor for Respondent.

STATE OF ALABAMA

BALDWIN COUNTY

IN THE CIRCUIT COURT - IN EQUITY.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Carlton Carlson to appear and plead, answer or demur, within thirty days from the service hereof, to the Bill of Complaint filed in the Circuit Court of Baldwin County, Alabama, in Equity, by Lilly Carlson, as Complainant, against Carlton Carlson, as Respondent.

Witness my hand this 2nd day of August, 1950.

*Devin J. Carlson*  
Register.

LILLY CARLSON,

Complainant,

vs.

CARLTON CARLSON,

Respondent.

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

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY,  
AND TO THE HONORABLE TELFAIR J. MASHBURN, JR., JUDGE THEREOF:

Comes your Complainant, Lilly Carlson and shows unto this  
Court and unto your Honor as follows:

FIRST:

That both the said Lilly Carlson and Carlton Carlson are  
over the age of twenty-one years and resident citizens of Baldwin  
County, Alabama, residing at Robertsdale, Alabama; that Lilly  
Carlson has been a resident citizen of Baldwin County, Alabama, for  
more than ten years last past.

SECOND:

Your Complainant married the Respondent on to-wit, January  
10, 1940, and they lived together as man and wife until the last  
week in November, 1949, when on account of the conduct of the  
Respondent, your Complainant was compelled to sleep in a separate  
room from such Respondent and they have not lived together as man  
and wife since that time. That on or about June 3, 1950, the  
Respondent committed actual cruelty on the Complainant attended with  
danger to her life or health and from his conduct your Complainant  
had reasonable apprehension that if she continued to live with him  
her life or health would be in danger. That on or about June 3,  
1950, your Complainant was compelled to leave the Respondent and  
carry her children with her and she went and lived in the home of  
her parents for about three weeks, after which time she returned to  
her home in Robertsdale and she and her minor children are now  
living in such home. That about the first week in July, 1950, the  
Respondent struck your Complainant with his hand and he threw her  
on the garage floor. That your Complainant and the Respondent have  
not lived together as man and wife since in November, 1949.

THIRD:

That there was born of their marriage, three children: Ronelle Carlson, a girl, 7 years of age, Anders Carlson, a boy, 6 years of age and Alver Carlson, a boy, 4 years of age; that all of such minor children are now in the custody and control of your Complainant. That your Complainant has no money or property or income out of which to properly support herself and her three minor children or with which to employ an attorney to prosecute this suit. That since their separation the Respondent has allowed your Complainant to open certain charge accounts with which to purchase food and clothing for herself and said minor children but these stores, at which accounts have been opened, do not have many of the things that is required for proper living conditions for your Complainant and her minor children and it is necessary that she have money with which to buy some necessary articles. That the Respondent has given your Complainant only \$20.00 since their separation and about a week ago, when it was very necessary that she have money for the minor children, she, with the knowledge of the Respondent, got an additional \$10.00 for their support. That the Respondent is an able bodied man, fully capable of supporting your Complainant and said minor children and the home in which your Complainant is now living stands in the joint names of your Complainant and Respondent, but your Complainant does not know in whose name the business, which is operated by the Respondent, now stands. That your Complainant has employed the firm of Chason & Stone, Attorney at Law of Bay Minette, Alabama, as her Solicitors to prosecute this proceeding. That your Complainant is a fit and proper person to have the care, custody and control of said minor children and the Respondent is not a fit and proper person to have their care, custody and control of said minor children.

PRAYER FOR PROCESS AND RELIEF

The premises considered, the Complainant prays that the above named Respondent be made a party defendant to this cause of action by the usual Writ or process of this Honorable Court, requiring him to plead, answer or demur within the time allowed by

law and under the penalties prescribed by the rules of this Court and the Statutes in such cases made and provided. That a reference be held to ascertain a reasonable amount of money to be paid your Complainant as alimony pendente lite and as support for said minor children and as a solicitors fee pending this suit and upon a final hearing of this cause that your Honor will grant unto your Complainant an absolute divorce from said Respondent and that she will be allowed to remarry if she sees fit. That your Honor will also award your Complainant the care, custody and control of the three minor children and will ascertain and fix an amount of alimony and support for said minor children to be paid by such Respondent to your Complainant and will also fix a reasonable Solicitors fee to be paid by the Respondent to her Solicitors, Chason & Stone, for their services in prosecuting this suit. Your Complainant prays for such other, further, different and general relief to which she may be entitled and as in duty bound she will ever pray.

Lilly Carlson  
Complainant.

Chason & Stone,  
Solicitors for Complainant.

LILLY CARLSON, )  
Complainant, ) IN THE CIRCUIT COURT OF  
VS. ) BALDWIN COUNTY, ALABAMA  
CARLTON CARLSON, ) IN EQUITY. NO. 2516  
Respondent. )

ANSWER

Now comes the Respondent and for answer to the Bill of Complaint filed against him in this cause, says:

1. Respondent admits the allegations of Paragraph First of the Bill of Complaint.

2. Respondent admits that he was married to the Complainant on, to-wit, January 10, 1940, but denies each and all of the other allegations of Paragraph Second of the Bill of Complaint.

3. Respondent admits that there were born of his marriage to the Complainant the three children described in Paragraph Third of the Bill of Complaint and admits he has allowed the Complainant to open charge accounts with which to purchase food and clothing for herself and the minor children, but denies each and all of the other allegations of Paragraph Third of said Bill of Complaint.

Respondent denies each and all of the other allegations of the Bill of Complaint which have not been specifically answered herein and demands strict proof of same.

  
Solicitor for Respondent.

LILLY CARLSON,

Complainant,

VS.

CARLTON CARLSON,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 2516.

DECREE OVERRULING DEMURRER

This cause coming on to be heard is submitted on Respondent's Demurrer to Complainant's Bill of Complaint, and the same being considered and understood by the Court, the Court is of the opinion that said Demurrer is not well taken and should be overruled. It is, Therefore,

ORDERED, ADJUDGED AND DECREED that Respondent's Demurrer to Complainant's Bill of Complaint be, and the same is hereby overruled.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Respondent have twenty days in which to file further pleadings.

Done this 26th day of September, 1950.

Jeffair W. Madbury, Jr.  
Judge