

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 Riley H. Tomlinson 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 Ada Y. Tomlinson, as Complainant, against Riley H. Tomlinson, as Respondent.

Witness my hand this the 7 day of November, 1957.


Register

ADA Y. TOMLINSON,	X	
Complainant,	X	IN THE CIRCUIT COURT OF
vs.	X	
	X	BALDWIN COUNTY, ALABAMA
RILEY H. TOMLINSON,	X	
Respondent.	X	IN EQUITY
	X	

Comes your complainant Ada W. Tomlinson and files this her Bill of Complaint for divorce against Riley H. Tomlinson, and shows unto Your Honor and unto this Honorable Court as follows:

FIRST:

That your Complainant and the Respondent are over the age of twenty-one years, and are both resident citizens of Baldwin County, Alabama, residing near Spanish Fort, and that they have been such residents for ten years last past.

SECOND:

That your Complainant and the Respondent were married on heretofore, to-wit, December 24, 1936, and lived together as man and wife until, on account of the matters hereinafter complained of, your Complainant was compelled to leave the Respondent and live separate and apart from him; that on, to-wit, November 3, 1957, the said Respondent threatened to kill your Complainant and also threatened to kill their son, Franklin and your Complainant had reason to believe that he would commit such violence on her person attended with danger to her life or health if she should continue to live with him, and on said date your Complainant was compelled to leave the said Respondent.

THIRD:

That there was born to your Complainant and the Respondent two children who are still minors, Franklin Tomlinson and Dorothy Mae Tomlinson, ages sixteen and twelve, respectively. 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 such care, custody and control of such minor children.

FOURTH:

The Complainant further alleges that the Respondent has the title to their home in his name but that the Complainant has invested more money in such home than the Respondent has. The Respondent is an able bodied man and is able to properly support his minor children.

PRAYER FOR PROCESS AND RELIEF

The premises considered, your Complainant prays that the above named Riley H. Tomlinson be made a party Defendant to this cause by the usual writ or process of this Honorable Court requiring him to appear and plead, answer or demur within the time and under the penalties prescribed by the rules of this court and the statutes in such cases made and provided; that upon a final hearing of this cause that Your Honor will grant unto your Complainant an absolute divorce from said Respondent; that Your Honor will award your Complainant the full custody and control of the minor children; that Your Honor will enter an order in this cause that the home be turned over to the Complainant in lieu of alimony and that the Respondent shall pay a reasonable amount for the support and maintenance of his minor children. The Complainant further prays that this court will decree that the Complainant be allowed to remarry if she sees fit. Should your Complainant be mistaken in the relief prayed for, that there be granted to her such other, further and different relief to which she may be entitled and as in duty bound she will ever pray.

Ada Y. Tomlinson
Complainant

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Blanche White, a Notary Public, in and for said County and State, personally appeared Ada Y.

Tomlinson, who, after being by me first duly and legally sworn, says:

That her name is Ada Y. Tomlinson and that the allegations contained in the foregoing Bill of Complaint are true.

Ada Y. Tomlinson

Sworn to and subscribed before me
on this the 6th day of November,
1957.

Blanche White
Notary Public, Baldwin County, Alabama

\$15.⁰⁰

ADA Y. TOMLINSON,
Complainant,
VS.
RILEY H. TOMLINSON,
Respondent.

IN THE CIRCUIT
COURT OF BALDWIN COUNTY, ALABAMA
IN EQUITY .
February 19, 1958

ADA Y. TOMLINSON, THE COMPLAINANT, BEING FIRST DULY SWORN, TESTIFIED
AS FOLLOWS:

Examination by Mr. Chason.

Q. What is your name, please?

A. Ada Y. Tomlinson.

Q. Are you the wife of Riley H. Tomlinson?

A. Yes sir.

Q. You are his wife?

A. Yes sir.

MR. CHASON: I might state for the benefit of the record that the Respondent admits that the Complainant and Respondent are each over the age of 21 years and are resident citizens of Baldwin County, Alabama, and have been for the past 10 years.

Q. When were you and Mr. Tomlinson married?

A. December 24, 1936.

Q. Did you all live together as man and wife for a number of years?

A. Yes sir, 22 years.

Q. When did you separate from Mr. Tomlinson?

A. November 3.

Q. Of 1957?

A. Yes sir.

Q. You have lived separate and apart from him since that time?

A. Yes sir.

Q. Just state to the Court what happened on November 3, 1957?

A. --

Q - Down at Spanish Fort, which is the basis of your charge of cruelty?

A. Well he had been drinking steadily for about three weeks.

Q. Go ahead?

A. Every time he came in he would try to start some trouble and wanted to fight us and he got his knife after the boy---

Q. Is that your son?

A. Yes sir. We had to take the knife away from him and he would keep going off drinking more and come back and start it up again and he would follow us from room to room trying to fight us and I had paid all of the bills myself for about two years and he wouldn't pay any of the bills---

Q. -- Just tell us about the cruelty?

A. I told him if he didn't help me pay the bills I would quit cooking for him and he said I would cook for him or he would break my neck and added some curse words there and he told me if I didn't cook for him I would never cook for anybody else.

Q. Was that on Sunday, November 3rd that this happened?

A. He started Friday evening.

Q. On November 3rd. you have alleged that he committed acts of cruelty on you that day. What did he do?

A. Well he came in and he tried to get me to cook again for him and I wouldn't do it; I told him that I was going to cook my groceries after I had paid for them---

Q. --Go on down to what happened--What did he do to you on that day?

A. Well he kept following me around the house and wanted to hit me.

Q. Did he hit you?

A. No, I kept dodging out of his way; he was so drunk that he would always miss.

Q. You stated in your complaint that he threatened to kill you?

A. Yes

Q. Did he threaten your son, Franklin?

A. Yes sir.

Q. What did he say to your son Franklin?

A. He was across the street at the neighbor's house, Franklin

was, and my husband was sitting on the porch in the swing after he had left me in there and he started talking real loud and some of the people from Sunday School was in the neighbor's yard and they could hear what he said--

Q. Tell us what he did to the boy?

A. The boy told him that he shouldn't be talking that way and he called him a lot of names and said, "Why don't you try to stop me and he had a big club laying beside the swing and the boy went over there and started to pick the club up to throw it out in the yard and he grabbed it first and he hit the boy on the arm and Franklin he jumped off the porch and ran out in the yard--

Q. Did he threaten to kill the boy at that time?

A. Yes sir.

Q. Mrs. Tomlinson, are you afraid of your husband?

A. Yes, naturally I am.

Q. Has he made more threats against you since that day?

A. Yes sir, e went to the neighbors and tried to borrow a gun and told me that he was going to kill me and Franklin.

Q. Even since this suit was filed has he made threats that he was going to kill you?

A. Yes sir.

Q. Did you have reasonable apprehension or reasons to believe that your life was in danger if you continued to live with him?

A. Yes, he said, "This isn't going to end like you think it is --- It's going to end in murder."

Q. What property does your husband own?

A. He bought the land himself and paid \$250.00 for it.

Q. How many acres?

A. Three and three-quarters.

Q. Is that the only property that stands in his name in this County?

A. As far as I know.

Q. Do you know of your own knowledge the accurate description of the home -- the metes and bounds description?

A. No sir.

Q. Is the home in which you are living on this three and three quarters of an acre?

A. Yes sir.

Q. Did you put any money into that home?

A. Yes sir.

Q. How much money did you put in it?

A. Much more than he did; when my father died we sold the farm and I got \$1,000.00 out of it and I put all of that in it.

Q. Did you later put any more money in it?

- A. Yes sir, when we bought the gas system it was \$660.00 and I made the down payment and most of the monthly payments and I had the house wired and the fixtures and I paid the man to put the lights and fixtures in; that was \$78.00.
- Q. Where do you work?
- A. I worked one year at the Daphne School Cafeteria and I have been working for seven years at Brookley Field.
- Q. How much do you earn at this time?
- A. I draw \$119.00 every two weeks.
- Q. Out of this you stated a while ago that you had been having to buy the groceries?
- A. Yes sir.
- Q. Prior to your separation did you buy the groceries?
- A. Yes sir.
- Q. Did you have to buy clothes for yourself and the children?
- A. Yes sir, all of them.
- Q. Do you know what the reasonable market value of the home would be and the land on which it is located?
- A. I am not sure -- maybe \$3,000.00.
- Q. Is that home under a mortgage at this time?
- A. Yes sir.
- Q. Who holds the mortgage on the home?
- A. The Baldwin County Bank.
- Q. Here in Bay Minette, Alabama?
- A. Yes sir.

- Q. Did you sign that note and mortgage with your husband?
- A. The original one I did.
- Q. How much did you and your husband borrow on that home?
- A. \$600.00 or \$700.00, I'm not sure.
- Q. Since then have you been informed by the bank that he had gotten additional money on the mortgage?
- A. Yes sir, the day after they served the divorce papers he borrowed \$100.00 and he had already borrowed another time when he got caught driving drunk.
- Q. Do you know how much the mortgage is at this time?
- A. \$635.00 I believe.
- Q. Do you know what your husband does at this time by way of earning money?
- A. No sir.
- Q. You don't know what his earnings are?
- A. No sir.
- Q. Do you have a boy named Franklin Tomlinson?
- A. Yes sir.
- Q. How old is he?
- A. 17. He was 16 at the time this suit was filed.
- Q. Do you have a daughter, Dorothy Mae Tomilson?
- A. Yes sir.
- Q. How old is she?
- A. 12.
- Q. Does Franklin and Dorothy Mae live with you in this home?

A. Yes sir.

Q. Have they been living with you all of their life?

A. Yes sir.

Q. Are you a fit and proper person to have the care and custody of these children?

A. Yes sir.

Q. In your judgment is Riley H. Tomlinson a fit and proper person to have their custody?

A. No sir.

Q. Other than the home that you are living in, in which you have invested money, do you have any other place to care for these children?

A. No sir.

Q. Do you own any other real property?

A. No sir.

Q. This is ⁱⁿ your husband's name?

A. Yes sir.

Q. I believe you have asked the court to convey the home to you in lieu of alimony?

A. Yes sir.

Q. If the court didn't see fit to convey this home to you, would you be able to or would you assume the mortgage on it?

A. Well I feel that he owes every penny that is still owed on it.

Q. You feel that he owes that money?

A. Yes sir.

Q. How much money would you need to receive from him, in addition to your earnings, to properly take care of this 17 year old boy and the 12 year old girl.

A. I don't know; there are so many Doctor bills and dental bill all of the time.

Q. Are you able, out of your earnings, to properly care for these two children?

A. No sir.

Q. Are you able to give them the food and clothes and opportunities that they need?

A. Not the opportunities for an education..

Q. What about the boy--Is he able to earn any money?

A. He works at a filling station.

Q. He is still in school, isn't he?

A. Yes sir.

Q. That is after school and on Saturdays?

A. Yes sir.

Q. Is your daughter 12 able to earn any money?

A. No sir.

ON CROSS EXAMINATION, COMPLAINANT TESTIFIED:

Examination by Mr. Brantley.

Q. Mrs. Tomlinson, on the date that you say that your husband threatened to kill you, did he put his hands on you?

A. Yes sir.

Q. Did he hit you?

A. Yes sir.

Q. Where did he hit you?

A. I don't know - he was shoving me around.

Q. Shoving you around?

A. Yes sir.

Q. Did he strike you in any manner?

A. He was striking at me and would have hit me if I had not dodged and run.

Q. Did he hit you?

A. He may have. In all of the excitement, who can recall all of these things.

Q. Answer me yes or no, whether he hit you?

A. I can't remember.

Q. You can't remember whether he hit you or not?

A. Yes sir.

Q. He threatened to kill you, did you say?

A. Yes sir.

Q. Did he have anything to kill you with?

A. He had his knife.

Q. Was it open?

A. He had already opened it after Frankie.

Q. Did he have it open when he said, "I'm going to kill you"?

A. No sir, he didn't have it out of his pocket.

Q. What did he say to you?

A. That he was going to break my neck.

Q. He didn't say he was going to cut your head off?

A. He said it before plenty of times.

Q. Didn't you say a minute ago that he was so drunk that he couldn't catch you?

A. He was drunk.

Q. He couldn't hurt you?

A. Certainly he could.

Q. He didn't?

A. Well he didn't kill me any way.

Q. He didn't hurt you at all, did he, Mrs. Tomlinson?

MR. CHASON: Just answer whether he did or didn't hurt you that particular morning?

A. No.

Q. Let me ask you this: Hadn't he threatened to kill you before this?

A. Plenty of times.

Q. For several years?

A. Yes sir, I had him in court a year before this time and if you remember, Mr. Hall, I wrote a note to you and had the case withdrawn and he promised to do better.

Q. Let me ask you this: You continued to live with him after

he threatened to kill you?

A. He kept getting more and more violent; he told me it would lead to murder.

Q. Up to this time you were not afraid of him?

A. I was, but I was more afraid to try to get a divorce.

Q. You were more afraid to get a divorce than to live with him?

A. Yes sir.

Q. This piece of land that your house is built on, didn't your husband buy that with his own money?

A. Yes sir.

Q. The land?

A. Yes sir.

Q. Didn't he build the house himself?

A. He did the labor -- no, not all of the labor; I had to hire the doors and windows put in and I had to hire the wiring done.

Q. A good part he put his own labor in?

A. He did.

Q. And some of his own money?

A. Very little.

Q. Would you say you put \$1,000.00 in it?

A. Yes sir.

Q. Was that for the lumber in the house?

A. Well shingles for the whole house and the lumber for the porch and lumber to ceil it with and a pump; all together we

had to have two separate pumps put down and it amounted to about \$800.00 by the time we got both.

Q. Framing the house up itself, Mr. Tomlinson did that and paid for the initial framing?

A. No, we mortgaged it to my brother for \$300.00 and bought the material to start the house with and the only material that he paid for was the framing for the kitchen.

Q. Is that mortgage paid?

A. I paid it when I got the \$1,000.00 from my daddy's place.

Q. You paid that yourself?

A. Yes sir.

Q. You say you have been working at Brookley Field for seven years?

A. Yes sir and I worked a year before that at the Daphne School Cafeteria.

Q. You make \$119. every two weeks?

A. Yes sir.

Q. Let me ask you this: If you didn't say you bought all of the groceries?

A. Yes sir.

Q. And all of the clothes for the children?

A. Yes sir.

Q. You are not going in debt, are you, Mrs. Tomlinson?

A. No.

Q. This boy that is 16- he is almost 17?

A. He is 17.

Q. He will be 18 his next birthday?

A. That is right.

Q. He finishes highschool this year?

A. Yes sir.

Q. Works on week-ends and in the summer time?

A. Yes sir.

Q. Now have you ever bought or sold land, Mrs. Tomlinson?

A. No I have never had any dealings except on this place.

Q. You are just guessing at what this place is worth when you said it was worth \$3,000.00?

A. Yes sir.

Q. You have been offered that much for it?

A. Yes sir, for it and a cow, deep freeze and refrigerator that

I paid for myself.

Q. There is a mortgage on it now for about \$600.00?

A. Yes sir.

Q. The youngest child is 12 years old?

A. Yes sir.

Q. Is this \$119.00 that you make every two weeks, is that the amount you get after your taxes come out?

A. Yes sir.

Q. You don't know how much your husband is making?

A. No sir.

Q. You don't know how much he has made over the years?

A. I know how much he was making before November 3rd. He was making \$2.10 an hour.

Q. Do you know how many hours he worked per week?

A. During the summer he was working over-time.

Q. He didn't bring you any of the money?

A. No sir. He let a neighbor woman keep his bill fold so I wouldn't get any of it.

Q. He spent it all?

A. Yes sir.

JESSIE FRANKLIN TOMLINSON, BEING FIRST DULY SWORN, TESTIFIED:

Direct examination by Mr. Chason.

Q. what is your name, son?

A. Jessie Franklin Tomlinson.

Q. Are you the son of Ada Y. Tomlinson?

A. Yes sir.

Q. How old are you, son?

A 17.

Q. Were you living at home with your father and mother on November 3, 1957?

A. Yes sir.

Q. Did you see your father that morning?

A. Yes sir.

Q. About what time of the day was it?

A. Well I went to Church that day and I saw him before I went to

Church and after I came back.

Q. Did any disturbance occur on the place when you came back from Church?

A. Yes sir.

Q. Tell the Court what you saw and heard?

A. I went to Church with the next door neighbor and when I got back I could hear him across the road fussing at Mamma; Mamma was in the kitchen and when I got on the porch he started fussing at me.

Q. Did you hear him make any threats against your mother?

A. Not then.

Q. Tell us what happened?

A. I asked him why he didn't behave himself and he got made and got a cedar stick about this long, indicating about two feet, and about three inches in diameter that he had been whittling with all week, just for me I think and when I went over there I was going to throw the stick away and he picked it up and hit me on the elbow and I jumped off the porch and ran and Mamma walked out the door and got the stick away from him and I went back and hit him.

Q. Did he make any threats against your mother?

A. Yes sir.

Q. What?

A. After I hit him he went in the car and got a tire-tool and

said he would kill both of us.

Q. Was he drinking?

A. He had been drunk for the last two weeks.

Q. Has that been his state of condition during that period of time?

A. Yes sir.

Q. Now you say he then went out and got a tire tool and threatened to kill you and your mother?

A. Yes sir.

Q. Son, do you work any on the week ends or after school?

A. Yes sir, I work after school.

Q. You are in school?

A. Yes sir.

Q. Do you graduate this year?

A. Yes sir.

Q. About how much do your earnings amount to a week or month?

A. In a week's time about--I would say about \$15.00.

Q. You make about \$15.00 a week?

A. Yes sir.

Q. Now is your mother able to do --first, do you know where your mother works?

A. Brookley Air-force base.

Q. Do you know the amount of your mother's earnings?

A. \$119.00 every two weeks.

Q. That \$119.00 every two weeks and the money that you make, is that sufficient money to support you and your sister and your mother as you should be supported?

A. No it is not.

Q. You don't know what your father's earnings are?

A. No sir.

Q. Son, is your mother a fit person to have your custody and the custody of your sister?

A. Yes sir.

Q. Do you think your father is a proper person to have your custody and the custody of your little 12 year old sister?

A. No sir.

ON CROSS EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Brantley.

Q. How old are you?

A. 17.

Q. When will you be 18?

A. November 17th of this year.

Q. You say your daddy got this cedar stick and tried to hit you with it?

A. He did hit me.

Q. Did you hit him at that time?

A. Not before he hit me.

Q. Where did he hit you?

A. On the right elbow.

Q. With the stick?

A. Yes sir.

Q. Did you have anything in your hand at that time?

A. No sir.

Q. You didn't have a butcher knife?

A. No sir.

Q. What did you hit him with?

A. After my mother taken the stick from him I hit him with my fist.

Q. He didn't have anything in his hand?

A. No sir.

Q. Your mother didn't have to struggle with him to get the stick?

A. She waked up behind him and took it.

Q. You and your father haven't been able to get along very well over a period of three of four years, have you?

A. It's been longer than that; 5 or 6 years.

Q. Since you were a small boy?

A. Yes sir.

Q. You say after your mother took the cedar stick away from your daddy you knocked him down?

A. He was so drunk it stunned him and he fell back against the wall.

Q. Didn't you hit him with a ring on your finger and cut his cheek?

A. I don't think the ring was what caused that.

Q. You did cut his cheek?

A. Yes sir.

Q. And he went to the car and got a tire-tool?

A. Yes sir.

Q. Did he come back?

A. He came back towards the porch and I ran.

Q. What did he threaten to do with the tire tool?

A. Kill me and mamma.

Q. He didn't hit her with it, did he?

A. No sir.

Q. She didn't run, did she?

A. I don't remember.

Q. You say you earn \$15.00 a week?

A. Approximately.

Q. Is that while you are going to school?

A. Yes sir.

Q. You work in the summer time?

A. Up to now I have.

Q. How much do you make per week during the time you work in the summer?

A. I make about \$30.00 a week--I made about \$30.00 a week last summer when I worked.

Q.

Q. Your young sister, does she work?

A. No--

Q. The one that is 12 years old?

A. No sir.

Q. Have you ever heard your father threaten to kill your mother before this tire-tool incident?

A. Sure.

Q. Several times?

A. Yes sir.

Q. Over a long period of time?

A. Yes sir.

Q. Over several years?

A. Yes sir.

Q. He never has hurt her in any way, has he?

A. Yes sir, he has.

Q. But she has continued to live with him until this time?

A. Yes sir.

Q. Did he threaten her in any other way on that day other than with the tire-tool?

A. I don't remember unless it was while I was gone -- he may have then.

Q. Let me ask you if you heard your mother refuse to cook for your daddy on that day?

A. Yes I did.

Q. She flatly refused to cook for him?

A. Yes sir.

Q. Did he threaten to ~~xxx~~ kill her at that time?

A. I wasn't at home then; I had gone to Church.

Q. But you did hear your mother say she wasn't going to cook for him?

A. When I came back home I heard them fussing.

Q. Was that about the cooking?

A. I think so.

Q. At that time did your father tell your mother "I'm going to kill you", or "You're not going to cook for anybody else"-- Did you hear him say that?

A. I didn't hear that.

Q. You were there and heard them talking about the cooking?

A. I heard a little about it.

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

Examination by Mr. Chason.

Q. You were across the street when you first heard the argument?

A. I could hear it when I first got out of the car.

Q. You don't know how long they had been arguing or what had been said before that?

A. No sir.

Q. Son, do you know who had been buying the groceries there?

A. My mother had.

Q. Do you know who had been buying your clothes and other necessities for your sister?

A. My mother bought most of them for my sister and part of mine.

Q. Your mother did that?

A. Yes sir.

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

Examination by Mr. Brantley.

Q. Did your mother ever threaten to kill your father?

A. Not that I know of.

PEGGY DAVIS, A WITNESS FOR THE COMPLAINANT, BEING FIRST DULY SWORN, TESTIFIED:

Examination by Mr. Chason.

Q, What is your name, please?

A. Peggy Davis.

Q. Are you the daughter of Mrs. Ada Y. Tomlinson?

A. Yes sir.

Q. How old are you?

A. 19.

Q. Where do you live?

A. With my mother.

Q. Is that at Spanish Fort, in Baldwin County, Alabama?

A. Yes sir.

Q. Back on November 3, 1957, were you working?

A. No sir, I was sleeping.

Q. Did you have a job along about that time?

A. Yes sir.

Q. Did you work at night or day?

A. Night.

Q. Now on November 3, you say you were sleeping that morning?

A. Yes sir.

Q. Did you hear an argument which came up at your home along about noon of that day?

A. Yes sir.

Q. Tell the Court what you first heard?

A. I heard some pretty bad language that my daddy was using on the front porch; he was using some very bad language on our front porch.

Q. Who was he addressing that to?

A. the neighbors.

Q. Did you hear him talking to your mother or brother?

A. To my mother when he was talking to the neighbors.

Q. All right, go ahead?

A. He was calling both mother and brother names.

Q. What kind of names?

A. Pretty bad ones.

Q. You mean cursing them?

A. Yes sir, and he was hollering and shouting and my brother came

across the street - he was at the next door neighbor's house then, and when I woke up and all of this was happening and my brother came and told him that he ought to behave himself and he said: "Why don't you make me" and he grabbed this big old cedar stick that was right behind him on the porch where he was sitting on the swing and he hit my brother on his elbow with this big old cedar stick and Mamma ran out there; she was in the kitchen while he was hollering and she took this big old stick away from him and my brother hit him with his fist then and by then I was up out of bed and out there on the porch too and my daddy went out to the car; he had a '51 Ford and got some sort of tire tool and he threatened both of them.

Q. Did he threaten to kill your mother?

A. Yes sir and my brother too.

Q. What was his condition? Was he drinking at the time?

A. Yes sir.

Q. Had he been doing considerable drinking over a period of time?

A. Since I have been home.

Q. Has your mother been working for a number of years?

A. Yes sir.

Q. You have a young sister 12 years old at home?

A. Yes sir.

Q. Is she in school?

A. Yes sir.

Q. Your brother is also in school?

A. Yes sir.

Q. Who has been buying the groceries at home?

A. My mother.

Q. Who has been buying the clothes for these children?

A. My mother.

Q. What was your father doing?--Did he work up to about this time?

A. He was working at the Shipyard out at Chickasaw.

Q. Do you have any idea about how much money he was earning at that time?

A. I don't know, but I think it was about \$54.00 a week.

Q. Do you know whether he is working now, or what his earnings are now?

A. No sir.

Q. Has your mother been separated from him since this date in November?

A. Yes sir.

Q. They have not lived together as man and wife since then?

A. No sir.

Q. Are the two younger children living with your mother?

A. Yes sir.

Q. In your opinion, is your mother a fit and proper person to have

their custody and control?

A. Yes sir.

Q. In your opinion is your father a fit and proper person to have their custody and control?

A. No sir.

ON CROSS EXAMINATION OF THIS WITNESS, SHE TESTIFIED:

Examination by Mr. Brantley.

Q. What is your name again, please?

A. Peggy Davis ---P E G G Y D A V I S.

Q. Mrs. Davis, how long have you been living with your mother and father the last time?

A. Since the 28th day of September.

Q. Of '57?

A. Yes sir.

Q. Then how long were you away from the family prior to that date?

S. Since the 25th day of June of '54.

Q. You have not lived with them from '54 to 57?

A. That is right.

Q. You were married during that time and lived away from home?

A. Yes sir.

Q. What went on between your mother and father between 1954 and 1957 you don't know?

A. No sir --I came one on a vacation in '56, I believe it was and I got there on Sunday night and I think it was Monday

night that there was a big fight there and he threatened to kill--

In fact, he threatened to kill all of us then, and he had a rifle of my husband's and was pointing it right at us.

Q. You're not answering my question.

MR. CHASON: She did; he asked if she knew what went on in that period-

Q. Between '54 and September 27, 1957?

A. Only when I was there.

Q. How often did you visit home?

A. Until I moved to New Orleans I visited about once or twice a week.

Q. How do you know whether your father or mother bought the clothes and groceries, Mrs. Davis, during that period of time?

MR. CHASON: I don't think she said she bought them during that four or five years. I asked who was buying them at the time of the separation--

THE COURT: Answer him if you can.

Q. When I was there all of the clothes that were bought for them, she bought them. I have never seen him buy any.

Q. You said a minute ago that you were afraid of your father. you were not very afraid of him if you came back to see him twice a week?

A. I didn't say that.

Q. I'm sorry, I thought you did.

Q. Were you awake or asleep when this fuss started between your mother and father on November 3rd?

A. I was asleep.

Q. Were you up and out when the scrap started between your brother and your father on November 3rd?

A. I was up.

Q. You saw the whole thing?

A. I saw when my brother got to the front porch from across the street.

Q. Your daddy hit him on the elbow with a cedar stick?

A. Yes sir.

Q. You saw him knock your daddy down?

A. Yes sir.

Q. Cut his face up pretty good- a long gash on it?

A. Not long.

Q. He cut it and bloodied his face?

A. Yes sir. It wouldn't be hard to do that.

Q. Did you see your mother take the stick away from your daddy?

A. Yes sir.

Q. Did he hit her with it?

A. No sir.

Q. At that time did he threaten to kill your brother or mother?

A. Yes sir.

Q. What did he say?

- A. He said there was going to be murder there; it wasn't going to be the way they thought it would be.
- Q. Did he have anything to commit murder with?
- A. He said he did.
- Q. Your mother didn't run from him, did she?
- A. When he was after her.
- Q. Isn't it a fact that she just went and took the club out of his hand?
- A. She didn't walk right up there.
- Q. Now after your brother hit your daddy, he knocked him down, didn't he?
- A. He knocked him against the porch.
- Q. He went to the car, you say, and got a tire tool?
- A. Yes sir.
- Q. How big was the tire tool?
- A. About this long, I suppos. Indicating about 18 inches.
- Q. Did he threaten to kill your brother and mother?
- A. Yes sir.
- Q. Did your mother run?
- A. Yes sir.
- Q. She ran away?
- A. Yes sir.
- Q. Your brother ran away?
- A. Yes sir.
- Q. Are you sure that your mother ran?

A. She was on the porch and she got closer to the door.

Q. Did she run out of his sight?

A. No.

Q. Stayed nearby to see what he would do?

A. Sure, I would too.

Q. Let me ask you this, Mrs. Davis - You and your father haven't gotten along too well since you have been married, have you?

A. Before then.

Q. Since you were a small girl?

A. That is right.

Q. Let me ask you this: How close did your daddy ever get to your brother or mother with this tire tool that he had?

A. I suppose about as far as from where I am sitting to the corner of that desk there, this side of her.

Q. Where the lady is sitting?

A. Yes sir.

Q. Did he raise it up?

A. Yes sir.

Q. Did they run?

A. Backed off.

Q. Did your brother run?

A. Yes sir.

Q. Did your mother run?

A. She backed off.

Q. How far?

A. The porch isn't very big - about 10 feet wide and she backed up.

Q. He didn't hit her at all that day, did he, that you saw?

A. I don't remember.

Q. Did you see him hit her that day?

A. I don't remember.

Q. You would remember it if he did?

A. I have seen him hit her a lot of times.

Q. On this day did you see him hit your mother?

A. I'm sorry, I don't remember.

MRS. TOMLINSON, THE COMPLAINANT, BEING RE-CALLED, TESTIFIED:

Examination by Mr. Chason.

Q. Mrs. Tomlinson, will you furnish the Court with a description of the property - the legal description of the property where the home is located on which you say stands in the name of your husband, and which you say he bought with his money and on which the house is located where you are now living, and where you put your money into the house--Will you furnish the Court with a description of that property so that it may be admitted in evidence as a part of your testimony?

A. Yes sir.

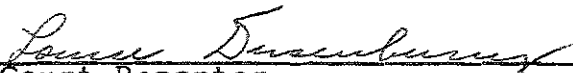
REPORTER'S NOTE: The following is the description of the property furnished the reporter for the record of the property on which the home is located:

Begin at the Southeast corner of Northwest Quarter of Southwest Quarter of Section 22, Township 4 South, Range 2 East, run thence North 636 feet to a point on the south margin of road, thence north 51 degrees west along the south margin of road 44 feet to a point, the place of beginning, thence west 1282 feet to a point, thence north 130 feet to a point, thence east 1132 feet to a point on south margin of road, thence south 51 degrees east 198.5 feet to the point of beginning. Being Lot 4 of a subdivision of the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 22, Township 4 South, Range 2 East, made by Harold Graham, containing 3.75 acres.

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

I hereby certify that the foregoing, consisting of pages 1 to 33, both inclusive, correctly sets forth a true and correct transcript of the testimony as taken by me in the above styled cause, in open Court on February 19, 1958.

This 20th day of February, 1958.



Court Reporter

4162

ADA W. TOMLINSON

COMPLAINANT

VS

RILEY H. TOMLINSON

RESPONDENT

ANSWER

FILED

DEC 20 1957

ALICE L. BOCK, Register

ADA Y. TOMLINSON,	X	
Complainant,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
	X	IN EQUITY
RILEY H. TOMLINSON,	X	
Respondent.	X	

This cause coming on to be heard was submitted upon the Bill of Complaint, Answer of the Respondent and Testimony of Ada Y. Tomlinson, Jessie Franklin Tomlinson and Peggy Davis taken orally before the Court and upon consideration thereof, the Court is of the opinion that the Complainant is entitled to the relief prayed for in her Bill of Complaint.

It is therefore ORDERED, ADJUDGED and DECREED by the Court that the bonds of matrimony heretofore existing between the Complainant and Respondent be, and the same are hereby dissolved and the said Ada Y. Tomlinson is forever divorced from the said Riley H. Tomlinson for and on account of cruelty.

It is further ORDERED, ADJUDGED and DECREED by the Court that the full custody and control of Franklin Tomlinson and Dorothy Mae Tomlinson, the minor children of parties to this suit, is hereby granted to Ada Y. Tomlinson, the Complainant but the Respondent shall have the right to visit such children at reasonable and proper times provided that he does so in a proper manner.

It is further ORDERED, ADJUDGED and DECREED by the Court that Riley H. Tomlinson, the Respondent in said cause, shall pay the said Ada Y. Tomlinson, the Complainant in said cause, the sum of Forty Dollars (\$40.00) a month beginning April 19, 1958, and the same amount on the same day of each successive month thereafter for the maintenance and support of Dorothy Mae Tomlinson. Such Respondent shall not be required to make any payment for the support of Franklin Tomlinson as it appears from the evidence in said cause that he is now 17 years of age and is earning a fairly reasonable amount of money each month which he may use for his own support.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Respondent, Riley H. Tomlinson, shall within thirty days from the date of this decree convey unto the Complainant, Ada Y. Tomlinson, the following described real property situated in Baldwin County, Alabama, viz:

Begin at the Southeast corner of Northwest Quarter of Southwest Quarter of Section 22, Township 4 South, Range 2 East, run thence North 636 feet to a point on the South margin of road, thence North 51 degrees West along the South margin of road 44 feet to a point, the place of beginning, thence West 1282 feet to a point, thence North 130 feet to a point, thence East 1132 feet to a point on South margin of road, thence South 51 degrees East 198.5 feet to the point of beginning. Being Lot 4 of a subdivision of the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 22, Township 4 South, Range 2 East, made by Harold Graham, containing 3.75 acres, together with the improvements located thereon, subject to the mortgage herein referred to. The above described property was purchased by the Respondent from A. Buzbee and wife by Warranty Deed dated March 23, 1949, and recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 143, pages 113-14 in which deed his name appears as Raliegh H. Tomlinson. On March 19, 1954, the said Riley H. Tomlinson (whose name appears in the body of the mortgage as Raliegh H. Tomlinson) and Ada Tomlinson, his wife, executed a mortgage on the above described property to the Baldwin County Bank which mortgage is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Mortgage Book 236, pages 279-81. The deed to be executed by the Respondent to the Complainant conveying the above described property shall recite that it is subject to the above mentioned mortgage and the Complainant shall be required to assume and pay the amount secured by the mortgage. Should the Respondent fail or refuse to convey said property to the Complainant for a period of thirty days from the date of this decree, in that event it is ordered, adjudged and decreed by the Court that Alice J. Duck as the Register of said Court shall execute a deed conveying said property to such complainant, subject to the mortgage to the Baldwin County Bank hereinabove referred to.

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, ADJUDGED and DECREED that the Complainant and Respondent be, and they are hereby permitted to again contract carriage upon the payment of the cost of this suit. It is further ORDERED, ADJUDGED and DECREED that the Respondent, Riley H. Tomlinson shall pay the cost herein to be taxed, for which execution may issue.

Done this the 14 day of April, 1958.



Judge of Circuit Court, In Equity

DECREE

ADA Y. TOMLINSON,
Complainant,

vs.

RILEY H. TOMLINSON,
Respondent.

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

FILED

APR 12 1958

ALICE L. RICK, Register