

EX PARTE THOMAS M. MARSHALL,	I	IN THE CIRCUIT COURT OF
MARY FRANCES MARSHALL AND	I	BALDWIN COUNTY, ALABAMA
ROBERT J. MARSHALL,	I	IN EQUITY.

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

Your Petitioner, Mary E. Pitt, respectfully shows unto the Court and your Honor as follows:

1. That she is over the age of twenty-one years and a resident of Jefferson County, Alabama; that Elmer Marshall is over the age of twenty-one years and is a resident of Washington County, Alabama.

2. That heretofore, on to-wit, January 23, 1954, this Court made and entered a divorce decree divorcing Elmer Marshall from Mary E. Marshall for and on account of voluntarily abandonment and in the said decree ordered, adjudged and decreed that the said Elmer Marshall should have the custody and control of the children of Mary E. Pitt, then Mary E. Marshall, and Elmer Marshall, to-wit, Thomas M. Marshall, Mary Frances Marshall and Robert J. Marshall. Your Petitioner, Mary E. Pitt, was given the right of reasonable visitation of said minor children. The ages of the said children are as follows: Thomas M. Marshall, 14; Mary Frances Marshall, 12; and Robert J. Marshall, 8.

3. Your Petitioner avers that the said Elmer Marshall obtained custody of said minor children through a fraud on this court in that he alleged in his original Bill of Complaint in the said divorce action referred to above that Mary E. Marshall, now Mary E. Pitt, was a non-resident of the State of Alabama and that he did not know her place of address, whereas, in fact, the said Elmer Marshall well knew that the said Mary E. Marshall, now Mary E. Pitt, was a resident of Jefferson County, Alabama, at the time the Bill of Complaint in said cause was filed and that he knew at that time her place of residence and Post Office address.

Petitioner, Mary E. Pitt, avers that the said Elmer Marshall is not a fit and proper person to have the care, custody and control of

said minor children. Petitioner further avers that the said Elmer Marshall is an able bodied man and is able to pay to Petitioner a monthly sum of the maintenance and support of said minor children.

4. Petitioner further respectfully avers that the decree dated January 23, 1954, of this court is void insofar as the custody of said children is concerned; that Petitioner is and will be deprived of her constitutional and legal right in the visitation and custody of her minor children; that the legal custody of the minor children without the consent and over the protest of Petitioner deprived her of her day in court and is in violation of her constitutional right and is without due process of law; that it is to the best interest and welfare of said minor children that their custody be given and awarded to your petitioner, Mary E. Pitt.

WHEREFORE, your Petitioner prays that a writ of habeas corpus be issued immediately directed to the said Elmer Marshall demanding him to bring the bodies of the said Thomas M. Marshall, Mary Frances Marshall and Robert J. Marshall before your Honor at such time and place to be by you appointed, together with the cause of the detention of the above named minor children and after a determination thereof that this court award the care, custody and control of the said minor children to your Petitioner and that the said Elmer Marshall be ordered to pay to your Petitioner such sums of money as may be just and proper for the maintenance and support of said minor children. Petitioner prays for such other orders as may be just and proper, the premises considered.

  
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Mary E. Pitt, Petitioner.

STATE OF ALABAMA     )  
                              \*  
JEFFERSON COUNTY    )

Before me, the undersigned authority within and for said County in said State, personally appeared Mary E. Pitt, who first being duly sworn, deposes and says as follows: That she has read

over the foregoing petition and that the facts stated therein are true.

*Mary E. Pitt*  
Mary E. Pitt.

Sworn to and subscribed before me on this the 17 day of May, 1959.

*Mary A. Pardi*  
Notary Public, Jefferson County, Alabama.

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ORDER:

TO: ELMER MARSHALL,  
SUNFLOWER, WASHINGTON COUNTY, ALABAMA.

You are hereby commanded to have the bodies of Thomas M. Marshall, Mary Frances Marshall and Robert J. Marshall alleged to be detained by you by whatsoever names the said Thomas M. Marshall, Mary Frances Marshall and Robert J. Marshall are called or charged, with the case of said detention before me, Hubert M. Hall, Judge of the Circuit Court of Baldwin County, Alabama, in Equity, on the 4 day of June, 1959, at the Baldwin County Courthouse at Bay Minette, Alabama, at ten o'clock A. M. to do and receive what shall then be considered concerning the said Thomas M. Marshall, Mary Frances Marshall and Robert J. Marshall.

ORDERED on this the 20 day of May, 1959.

*Hubert M. Hall*

Judge.

STATE OF ALABAMA )  
BALDWIN COUNTY )

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to serve a copy of the above and foregoing writ on Elmer Marshall by delivering a copy of the said writ to him and by showing the original, if demanded.

IN WITNESS WHEREOF, I have hereunto set my hand and seal  
on this the 20 day of May, 1959.

*Alice J. Duck*

Register of the Circuit Court of  
Baldwin County, Alabama, in Equity.

The address of Elmer Marshall is  
Sunflower, Washington County, Alabama.

FILED

MAY 20 1959

ALICE J. DUCK, CLERK  
REGISTER

*Executed*  
*May 23, 1959*

#583

*edparte*

*Thomas M. Marshall  
et al -*

RECEIVED IN OFFICE

This *22* day of *May* 19*49*  
HENRY CLAY LOCKE, Sheriff  
Washington County, Ala.

D. S.

EXECUTED

*22* day of *May* 19*49*  
By *Henry Clay Locke* a copy of the within  
*Thomas M. Marshall*  
HENRY CLAY LOCKE, Sheriff  
Washington County, Ala.

EXECUTED

By Serving a Copy of the Within

*Robert Mink* \$ *1.00*  
*1.00* Miles @ *4.00*  
*4.00*

Signed: HENRY CLAY LOCKE, Sheriff

By \_\_\_\_\_  
Washington County, Ala.

FILED

MAY 20 1959

ALICE J. DUCK, CLERK  
REGISTER