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4884

FILED

OCT 27 1950

ALISE E. DUCK, CLERK REGISTER

BERTHA FAYE PHILLIPS,)	
)	
Complainant,)	IN THE
)	
VS.	)	CIRCUIT COURT OF BALDWIN
)	
LOUIS R. PHILLIPS,	)	COUNTY, ALABAMA.
)	
Respondent.	)	IN EQUITY.
)	
)	
)	

BERTHA FAYE PHILLIPS, THE COMPLAINANT, BEING FIRST DULY SWORN,
TESTIFIED AS FOLLOWS:

Examination by Mr. Brantley.

- Q. What is your name?
- A. Bertha Faye Phillips.
- Q. Are you and Louis R. Phillips over the age of 21 years?
- A. Yes sir.
- Q. And you both live in Baldwin County, Alabama?
- A. Yes sir.
- Q. Where were you married?
- A. Pascagoula, Mississippi.
- Q. When?
- A. 5th day of September, 1948.
- Q. And lived together as man and wife until what date?
- A. March 11, 1959.
- Q. Have you lived together as man and wife since that time?
- A. No.
- Q. Now on that date did the Resppndent strike you?
- A. Yes sir.
- Q. Whatelse did he do to you?
- A. He choked me.
- Q. Did he threaten to kill you?
- A. Yes sir - he tried to break myback.
- Q. Were you afraid, if you continued to live with him, that he

would kill you or do you great bodily harm?

A. Yes sir.

Q. Do you all have a child?

A. Yes sir.

Q. Kay Marshall Phillips?

A. Yes sir.

Q. How old is he?

A. Nine.

Q. You have another boy named Leslie Eugene Phillips by a prior marriage?

A. Yes sir.

Q. How old is he?

A. 16.

Q. Was he adopted by your present husband?

A. Yes sir.

Q. Now have you and your husband entered into a separation agreement?

A. Yes sir.

Q. Is this a copy of it?

A. Yes.

MR. BRANTLEY: I offer this separation agreement in evidence and ask that it be marked Complainant's Exhibit 1.

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

I hereby ce rtify that the foregoing, consisting of pages 1 and 2, is a true and correct transcript of the testimony as taken by me in the above styled cause, in open Court on this date.

This 1st day of November, 1960.

Louise Anshuman

Official Court Reporter

Complainant's Exhibit 1

BERTHA FAYE PHILLIPS,		IN THE CIRCUIT COURT OF
Complainant		BALDWIN COUNTY, ALABAMA
VS		
LOUIS R. PHILLIPS,		IN EQUITY
Respondent.		CASE NO. _____

KNOW ALL MEN BY THESE PRESENTS, that whereas the Complainant has heretofore filed a suit for divorce against the Respondent in the above styled cause, and pending a final decree in this cause, they have reached a mutual agreement which is as follows:

1.

That the Complainant shall have the care, custody and control of Kay Marshall Phillips and Leslie Eugene Phillips, and the Respondent shall have the right of reasonable visitation at all reasonable times and places. And that in the event the Respondent becomes financially able, the Complainant and the Respondent agree that he shall be allowed to send Kay Marshall to a military school within a 250 mile radius of Loxley, Alabama.

2.

It is further understood and agreed that the Respondent will pay all hospital, doctor and medical bills, now owing or incurred because of illness and accident of Kay Marshall Phillips and Leslie Eugene Phillips. This, however, does not include hospital, doctor and medical bills of Bertha Faye Phillips incurred in treatment of her self.

3.

It is further understood and agreed that the Respondent will pay all future doctor, hospital and medical bills incurred for treatment of Kay Marshall Phillips.

4.

It is further understood and agreed that the Respondent Louis R. Phillips, shall hold the home place free of any liens or obligations caused or created by any debt or judgment which he may owe, including all cost of construction or material now in this house.

5.

It is further understood and agreed that Bertha Faye Phillips, the Complainant, shall have title to the house and lot which they own in Stapleton, Alabama. Said land being in Section 22, Township 4 South, Range 3 East, and it is further understood and agreed that the Respondent shall make payments

as they fall due on the mortgage now owing by the Complainant and Respondent. These payments shall be made to the Baldwin County Savings and Loan Association when the same become due. And he agrees to make these payments and not allow them to become delinquent and continue making said payments until said mortgage is paid in full.

6.

It is further understood and agreed that the Complainant shall have, and she is now hereby given all the furniture located in said home.

7.

The Respondent agrees further that at the time the aforesaid mortgage is paid in full, that he will support and maintain his minor child, Kay Marshall Phillips, by paying the Complainant the sum of \$ 100⁰⁰/₃₀ per month until said child is self supporting or reaches his majority.

WITNESS our hand and seal this the 1st day of November, 1960.

Betta Jay Phillips (SEAL)

Louis R. Phillips (SEAL)

Witnesses:

Willard M. Brantley

Address

Jeffrey J. Marbleware

Address

BERTHA FAYE PHILLIPS

vs.

LOUIS R. PHILLIPS

THE STATE OF ALABAMA
 Baldwin County

IN EQUITY
 Circuit Court of Baldwin County

This cause is submitted in behalf of Complaint upon the original Bill of Complaint,
 Agreement between Complainant and Respondent, and Answer of the Respondent.

~~and in behalf of~~ Defendant upon
William M. Brantley

Alice J. Luck
 Register.

ml

No. _____

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

BERTHA FAYE PHILLIPS,

Complainant

VS.

LOUIS R. PHILLIPS,

Respondent

Note of Testimony

Filed in Open Court this _____

day of _____, 19____

Register.

BERTHA FAYE PHILLIPS,
Complainant

VS

LOUIS R. PHILLIPS,
Respondent.

¶

¶

¶

¶

¶

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

This cause coming on to be heard was submitted upon Bill of Complaint, Testimony as noted by the Register, an agreement between the Complainant and the Respondent, and the answer of the Respondent, and upon consideration thereof, the court is of the opinion that the Complainant is entitled to the relief prayed for in said Bill.

It is therefore Ordered, Adjudged and Decreed by the Court that the bonds of matrimony heretofore existing between the Complainant and the Respondent be, and the same are hereby dissolved, and that the said Bertha Faye Phillips is forever divorced from Louis R. Phillips for and on account of Voluntary Abandonment.

It is further Ordered, Adjudged and Decreed that the Complainant be given the care, custody and control of Kay Marshall Phillips and Leslie Eugene Phillips. That the Respondent be given the right of reasonable visitation at all reasonable times and places. That the Respondent be allowed to send Kay Marshall to a military school if it be within a two hundred and fifty mile radius of Loxley, Alabama.

It is further Ordered, Adjudged and Decreed that the Respondent pay hospital, doctor and medical bills incurred in treatment of Kay Marshall and Leslie Eugene.

It is further Ordered, Adjudged, and Decreed that the Respondent pay all future doctor, hospital and medical bills incurred for treatment of Kay Marshall Phillips.

It is further Ordered, Adjudged and Decreed that BERTHA FAYE PHILLIPS be, and she is hereby given, title to the house owned by the Complainant and the Respondent in Stapleton, Alabama, and the Respondent is hereby ordered to pay the mortgage now due on said property to the Baldwin County Savings and Loan Association at such times and places as is provided for in said mortgage.

It is further Ordered, Adjudged and Decreed that the Respondent pay the Complainant the sum of (\$100.00) ONE HUNDRED DOLLARS per month for the support of Kay Marshall Phillips; this payment to begin after the aforesaid house is paid for in full, and to continue until Kay Marshall reaches his majority.

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 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 Louis R. Phillips
the Respondent pay the cost herein to be taxed,
for which executed may issue.

This 8 day of November, 1960.

Hubert M. Hester
Judge Circuit Court, in Equity

I, Alice J. Duck, Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that the foregoing is a correct copy of the original decree, rendered by the Judge of the Circuit Court in the above stated cause, which said decree is on file and enrolled in my office.

Witness my hand and seal this the _____
day of _____, 19__.

Register of Circuit Court, In Equity.

710

BERTHA FAYE PHILLIPS,

Complainant

VS

LOUIS R. PHILLIPS,

Respondent.

DIVORCE DECREE

[Faint, mostly illegible text from the reverse side of the document is visible through the paper. The text appears to be a legal document, possibly a divorce decree or a related court filing, containing names and dates.]

[Handwritten notes and markings on the right margin of the page, including the number '710' at the top and '10' at the bottom.]

BERTHA FAY PHILLIPS)	
	)	IN THE
Complainant,)	
	)	CIRCUIT COURT OF BALDWIN COUNTY,
VS.)	
	)	ALABAMA. IN EQUITY.
LOUIS R. PHILLIPS,)	
	)	NO. 4881½
Respondent.)	
)	

This cause coming on to be heard is submitted upon the Petition of the Respondent, Louis R. Phillips, praying a reformation of the decree of divorce heretofore granted by this Court as to the custody of the minor son of the parties, Kay Marshall Phillips, and certain personal property described in the Petition, and the Court, after considering the matters alleged by said petition, and the answer thereto, is of the opinion that the Petitioner is entitled to certain relief. It is, therefore

ORDERED, ADJUDGED AND DECREED by the Court that the Petitioner, Louis R. Phillips, be and he is hereby awarded the custody and control of the minor son, Kay Marshall Phillips, for the period of time beginning July 17, 1961 and ending August 17, 1961, and the same period of time each year hereafter. It is further

ORDERED, ADJUDGED AND DECREED by the Court that the Petitioner, Louis R. Phillips, shall have the right to have said Kay Marshall Phillips be with and visit with him at reasonable times, during the year so long as such visits do not interfere with the school year of the minor. It is further

ORDERED, ADJUDGED AND DECREED by the Court that the said Petitioner, Louis R. Phillips, is granted the right to have said minor, Kay Marshall Phillips, go with him on his trips to California, or such other places as he may regularly go in his trucking business, conditioned that the said Petitioner, Louis R.

B-11-P-88

Phillips shall pick said minor up at his home at Stapleton, in Baldwin County, Alabama and return him to his said home after the period herein granted has expired. It is further

ORDERED, ADJUDGED AND DECREED that the Petitioner Louise R. Phillips, shall have the adding machine described in the petition and also the sofa and other pieces of the suite of furniture described in the petition, conditioned that he shall pay the balance due thereon to Phillips Furniture Company, in Mobile, Alabama. It is further

ORDERED, ADJUDGED AND DECREED by the Court that the said Bertha Fay Phillips, is awarded the complete control and ownership of the piano described in the petition. It is further

ORDERED, ADJUDGED AND DECREED that this decree shall in no wise affect the original decree heretofore granted except as herein recited. It is further

ORDERED, ADJUDGED AND DECREED that the Petitioner shall pay the costs herein, for which execution may issue.

This 5th day of July, 1961.

FILED

JUL 6 1961

ALICE J. DUCK, CLERK
REGISTER

Robert M. Stee
JUDGE

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon LOUIS R. PHILLIPS 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 BERTHA FAYE PHILLIPS, as Complainant and against Louis R. Phillips, as Respondent.

Witness my hand this the 24 day of March, 1960.

Alice J. Duck
Register

BERTHA FAYE PHILLIPS)	
	)	IN THE CIRCUIT COURT OF
COMPLAINANT	)	BALDWIN COUNTY, ALABAMA,
VS	)	IN EQUITY
LOUIS R. PHILLIPS)	
RESPONDENT)	

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

Your Complainant, Bertha Faye Phillips, respectfully represents unto your Honor and this Honorable Court as follows:

1.

That your Complainant and the Respondent are both over the age of twenty-one years and are bona fide resident citizens of Baldwin County, Alabama.

2.

That your Complainant and the Respondent were married at Pascagoula, Mississippi, on September 5, 1948, and lived together as husband and wife until on to-wit, March 11, 1959.

3.

That on to-wit, March 11, 1959, the Respondent abandoned the bed and board of your Complainant and has remained away voluntarily and continuously since that time.

4.

That on to-wit, March 11, 1959, the Respondent struck the Complainant, choked her and threatened to kill her; that on various occasions prior thereto the Respondent cursed, threatened and abused your Complainant and threatened

to do actual violence to her person which would necessarily endanger her life and health; that the conduct of the Respondent was such as to give your Complainant every reasonable apprehension to believe and she did actually believe that if she continued to live with the Respondent he would do further actual violence to her person, which would necessarily endanger her life and health.

5.

That there was born to this union one child, Kay Marshall Phillips; that the Respondent has adopted Leslie Eugene Phillips, a child born to a prior marriage of the Complainant; that Leslie Eugene Phillips is now 16 years old and that Kay Marshall Phillips is now 9 years old; that the Complainant is in all respects a fit and proper person to have the care, custody and control of these two minor children; that the Respondent is not a fit and proper person to have their care, custody and control; that he has no permanent place to live and that he has an ungovernable temper which would be detrimental to the health of these two minor children.

6.

That the Respondent is an abled bodied man earning approximately \$12,000.00 per year; that he owns and operates two tractors and trailers that are worth approximately \$50,000.00;

WHEREFORE, the premises considered, your Complainant prays that Your Honor will by proper process make the said Louis R. Phillips party respondent to this Bill of Complaint requiring him to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Your Complainant prays that upon a final hearing your Honor will enter a decree forever barring the bonds of matrimony existing between your Complainant and the Respondent; that your Complainant be awarded the care, custody and control of the minor children, Leslie Eugene Phillips and Kay Marshall Phillips; your complainant further prays that on a final decree in this cause, Your Honor will cause the Respondent to pay the Complainant for the use of the aforesaid children sufficient monies for

their support and maintenance; your Complainant further prays that Your Honor will cause the Respondent to pay your Complainant alimony, monthly or ingross, in such amounts as is in keeping with the Respondent's earning capacity and in keeping with their status in life; your Complainant prays for such, other, further, different or general relief as she may be in equity and good conscience entitled to receive.

Wilters & Brantley

BY:

Robert M Brantley
Solicitors for the Complainant

FILED

MAR 24 1960

ALICE J. DUCK, Register

4881

Burtha Jay Phillips

vs

Louis R. Phillips

Received 24 day of March 1960
and on 24 day of March 1960
I served a copy of the within Subj. Complaint
on Louis R. Phillips

By service on _____

TAYLOR WILKINS, Sheriff
By W.O. Garner D. S.

County Jail

FILED
MAR 24 1960
ALICE J. DUCK, Registrar

BERTHA FAYE PHILLIPS,
Complainant,
VS.
LOUIS R. PHILLIPS,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 1881

DEMURRER

Comes the respondent, LOUIS R. PHILLIPS, by his Solicitor,
and demurs to the bill of complaint heretofore filed in this
cause, and, for grounds of demurrer, sets down and assigns the
following:

1. That there is no equity in the bill of complaint.

Jessie H. Maslburn
SOLICITOR FOR RESPONDENT.

I certify that I have served a copy of this Demurrer on Hon. Tolbert
M. Brantley, Solicitor for the Complainant, by mailing a copy to him
in a stamped envelope, addressed to him at Bay Minette, Alabama.

Jessie H. Maslburn
SOLICITOR FOR RESPONDENT.

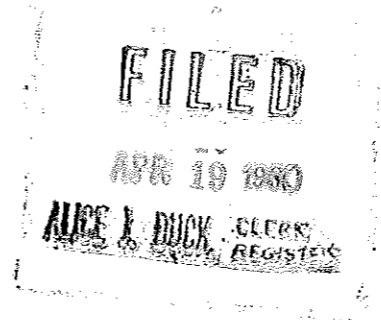
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 1881

BERTHA FAYE PHILLIPS,
Complainant,

VS.

LOUIS R. PHILLIPS,
Respondent.

DEMURRER.



BERTHA FAYE PHILLIPS,

Complainant,

VS.

LOUIS R. PHILLIPS,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. _____

Comes the respondent, LOUIS R. PHILLIPS, and for answer to the bill of complaint heretofore filed in this cause, says:

1. He admits the allegations contained in paragraph 1 of said bill of complaint.

2. He admits the allegations contained in paragraph 2 of said bill of complaint as to the date and place of their marriage, but denies the other portions of paragraph 2 of said bill of complaint;

3. He denies each and every allegation contained in paragraph 3 of said bill of complaint and demands strict proof of the same.

4. He denies each and every allegation contained in paragraph 4 of said bill of complaint and demands strict proof of the same; for further answer to said paragraph 4, respondent denies most emphatically that he has ever threatened to kill the respondent; that the only times he has ever used any manner of force against the said complainant was in self-defense; that on several occasions when she ~~was~~ had come home at unreasonable hours of the night, with no adequate explanation of her whereabouts, when questioned by your respondent, the complainant has viciously attacked your respondent and he has had to use force in self defense.

5. He admits the allegations of paragraph 5 of said bill of complaint with regard to the names and ages of the children, but, especially with regard to KAY MARSHALL PHILLIPS, he denies that the complainant is a fit and proper person to have the care, custody and control of said minor, and he further denies most emphatically that he is unfit to have the care, custody and control of said child; and he further denies most emphatically that he has an unfovernable temper;

6. He denies each and every allegation contained in paragraph 6 of said bill of complaint and demands strict proof of the same; he says further that complainant knows that he has lost money in and about the operation of his said trucks ever since 1957; that he has not even earned good wages for himself in and about the operation of his said trucks since 1957; and that his equipment is old and worn out and not

worth more than \$6,000.00 more than the balance presently owed on said equipment; that respondent presently owns only one tractor and one trailer; that the tractor is approximately two years old; that it cost approximately \$14,000.00 when new; and that respondent stills owes a balance on said tractor of approximately \$5,000.00; that the trailer cost approximately \$12,000.00 when new; that it is now approximately 4½ years old; and that respondent still owes a balance on said trailer of approximately \$2,000.00.

WHEREFORE, THE PREMISES CONSIDERED, respondent prays that this be taken as his answer to complainant's bill of complaint, and that, on a hearing of this cause, your Honor will make and enter a decree denying complainant a divorce, dismissing complainant's bill of complaint, and, if complainant persists in her refusal to live with respondent as his wife, giving to the respondent the care, custody and control of his minor son, KAY MARSHALL PHILLIPS; and respondent prays for such other, further, different or general relief as in equity and good conscience he may be entitled to receive in the premises, and, as in duty bound, he will ever pray, etc.

J. W. Marshall
SOLICITOR FOR RESPONDENT.

FILED
NOV 1 1960
ALICE I. DUCK, Register

BERTHA FAYE PHILLIPS,
Complainant,
VS.
LOUIS R. PHILLIPS,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 4881 $\frac{1}{2}$

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

Your Petitioner, Louis R. Phillips, respectfully shows unto your Honor as follows:

1. That Petitioner was the respondent in the above styled cause; that on the 8th day of November, 1960, this Honorable Court rendered a decree of divorce in favor of the complainant and against the respondent, a copy of which decree, marked Exhibit "A", is attached hereto and, by reference, made a part hereof as though fully set out herein;
2. That under the terms of said decree the complainant was given title to the house owned by the complainant and the respondent at Stapleton, Alabama, which house is reasonably worth approximately \$18,000.00; that complainant was, by said decree, given the custody and control of their minor son, Kay Marshall Phillips, and petitioner was given the "right of reasonable visitation at all reasonable times and places";
3. That petitioner earns his living as a trucker and his headquarters are presently at Laurel, Mississippi; that he has been with his minor son, Kay Marshall Phillips, very little during the last past twelve months; that during the past Christmas Holidays (1960), your Petitioner requested the complainant, BERTHA FAYE PHILLIPS, to permit the said Kay Marshall Phillips to go to Laurel, Mississippi, and visit your petitioner for three or four days; that the said Bertha Faye Phillips absolutely refused and refused to let your petitioner visit his son except for a few hours; that her said refusal was, and is, unreasonable;
4. That, as stated in paragraph 2 above, petitioner, at the time of the divorce from complainant, being desirous of doing the right thing, agreed to convey his interest in their home to the complainant; that nothing was said about the personal property in the home; that since the decree, Exhibit "A", was entered, your petitioner requested the complainant to permit him to take for himself the following items of personal property from the home: an adding machine,

BK. 38 - P. 193A

a piano, and a suite of furniture consisting of a sofa, two end tables and two or three other pieces; that the adding machine was one owned by your petitioner before his marriage to the complainant; that the piano was purchased by your petitioner and that complainant does not play the piano, nor does anyone at complainant's house play the piano; that the suite of furniture was purchased from Phillips Furniture Company in Mobile, Alabama, and that your Petitioner still owes a balance of more than \$500.00 on said furniture; that, despite the fact that the above were the only items requested by your Petitioner and complainant had little or no use for them, she refused to let Petitioner have any of them; and Petitioner is informed and believes and so avers that she dislikes the suite of furniture so that she has given that to her Sister.

5. That Petitioner has complied with the terms of the Decree attached hereto as Exhibit "A" to the best of his ability; and that he submits himself to the jurisdiction of this Honorable Court and offers to do Equity; and that less than sixty days have elapsed since the rendition of the decree above mentioned;

PRAYER FOR PROCESS

THE PREMISES CONSIDERED, Petitioner makes the said BERTHA FAYE PHILLIPS a party to this Petition, and prays that this Honorable Court will, by proper process, notify the said BERTHA FAYE PHILLIPS of the pendency of this Petition, requiring her to plead, answer or demur to this petition within the time provided by law.

PRAYER FOR RELIEF

Petitioner further prays that on a final hearing of this Petition your Honor will grant him the following separate^{and several}/relief:

1. Amending the decree of divorce heretofore entered in this cause so that Petitioner may have his minor son, KAY MARSHALL PHILLIPS, visit him from time to time, wherever Petitioner may be, so long as such visits do not interfere with the schooling of said minor;
2. Ordering the said BERTHA FAYE PHILLIPS to turn over to your Petitioner his adding machine, piano, and the suite of furniture purchased from Phillips Furniture Company in Mobile, Alabama.
3. If the Court should decide that Petitioner is not entitled to the suite of furniture, ordering the said BERTHA FAYE PHILLIPS to pay the balance due on said furniture.

And Petitioner prays for such other, further, different or general relief as in equity and good conscience he may be entitled to receive; and, as in duty bound, he will ever pray, etc.

William A. Maschbauer
SOLICITOR FOR PETITIONER

EXHIBIT "A"

BERTHA FAYE PHILLIPS,
Complainant,

VS.

LOUIS R. PHILLIPS,
Respondent.

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

This cause coming on to be heard was submitted upon Bill of Complaint, Testimony as noted by the Register, an agreement between the Complainant and the Respondent, and the answer of the Respondent, and upon consideration thereof, the court is of the opinion that the Complainant is entitled to the relief prayed for in said Bill.

It is therefore Ordered, Adjudged and Decreed by the Court that the bonds of matrimony heretofore existing between the Complainant and the Respondent be, and the same are hereby dissolved, and that the said Bertha Faye Phillips is forever divorced from Louis R. Phillips for and on account of Voluntary Abandonment.

It is further Ordered, Adjudged and Decreed that the Complainant be given the care, custody and control of Kay Marshall Phillips and Leslie Eugene Phillips. That the Respondent be given the right of reasonable visitation at all reasonable times and places. That the respondent be allowed to send Kay Marshall to a military school if it be within a two hundred and fifty mile radius of Loxley, Alabama.

It is further Ordered, Adjudged and Decreed that the Respondent pay hospital, doctor and medical bills incurred in treatment of Kay Marshall and Leslie Eugene.

It is further Ordered, Adjudged and Decreed that the Respondent pay all future doctor, hospital and medical bills incurred for treatment of Kay Marshall Phillips.

It is further Ordered, Adjudged and Decreed that Bertha Faye Phillips be, and she is hereby given, title to the house owned by the Complainant and the Respondent in Stapleton, Alabama, and the Respondent is hereby ordered to pay the mortgage now due on said property to the Baldwin County Savings and Loan Association at such times and places as is provided for in said mortgage.

EXHIBIT "A" (Cont)

It is further Ordered, Adjudged and Decreed that the Respondent pay the Complainant the sum of (\$100.00) ONE HUNDRED DOLLARS per month for the support of Kay Marshall Phillips; this payment to begin after the aforesaid house is paid for in full, and to continue until Kay Marshall reaches his majority.

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 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 Louis R. Phillips, the Respondent, pay the cost herein to be taxed for executed may issue.

This 8 day of November, 1960.

/s/ HUBERT M. HALL
JUDGE CIRCUIT COURT, IN EQUITY

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 4881½

BERTHA FAYE PHILLIPS,
Complainant,
VS.
LOUIS R. PHILLIPS,
Respondent.

PETITION TO AMEND DECREE.

~~Bertha~~ Bertha
~~Phillips~~ lives in
Brick Home on East of
Ala Hwy # 59, about
3 miles South of
Stapleton.

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,
Baldwin County.



Circuit Court, Baldwin County

No. 4881

..... TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon BERTHA FAYE PHILLIPS

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against _____

BERTHA FAYE PHILLIPS

COMPLAINANT
~~XXXXXXXX~~
Defendant

by _____ LOUIS R. PHILLIPS _____

Defendant
~~XXXXXXXX~~
Plaintiff

Witness my hand this _____ 6th _____ day of January _____ 1961 _____

Alice J. Luck, Clerk

193-F

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

BERTHA FAYE PHILLIPS

Plaintiffs

vs.

LOUIS R. PHILLIPS

Defendants

Summons and Complaint

Filed January 6, 1961

Alice J. Duck Clerk

Plaintiff's Attorney

Defendant's Attorney

25486

Defendant lives at

Received In Office

1/6, 1960

Sheriff.

I have executed this summons

this 1/9/61 19

by leaving a copy with

Bertha Faye Phillips

Sheriff claims 40 miles at

Ten Cents per mile Total \$ 4.00

TAYLOR WILKINS, Sheriff

BY Garner DEPUTY SHERIFF

Taylor Wilkins

Sheriff.

W. O. Garner

Deputy Sheriff.

Saxley

BERTHA FAYE PHILLIPS,
Complainant

VS

LOUIS R. PHILLIPS,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

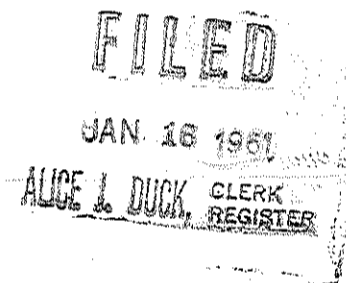
CASE NO. 4881 $\frac{1}{2}$

DEMURS

Comes now the Complainant in the above styled cause and demurs to the petition filed by the Respondent in this cause on the, to-wit, 6th day of January, 1961, and for grounds therefore says:

1.

That the Respondent failed to set forth allegations sufficient to grant the relief he seeks.



WILTERS & BRANTLEY

BY:

Tolbert M. Brantley
Tolbert M. Brantley

BERTHA FAYE PHILLIPS,	⌘	
		IN THE CIRCUIT COURT OF
Complainant,	⌘	BALDWIN COUNTY, ALABAMA
Vs.	⌘	IN EQUITY
LOUIS R. PHILLIPS,	⌘	CASE NO. 4881 1/2
Respondent.	⌘	

1.

Comes now the Complainant in the above styled cause and admits the allegations of Section 1 thereof.

2.

The Complainant admits the allegations of Section 2, except to say that, in her opinion, the house she received is not worth \$18,000.00, but it is worth approximately \$12000.00; and says for further answer to this section that the Respondent, in the divorce agreement, received two (2) trucks and trailers which are worth approximately \$50,000.00.

3.

The Complainant admits the allegations of Section 3, except that part stating that she refused to allow Kay Marshall to visit with the Respondent.

4.

For answer to Section 4, the Complainant says at the time she and the Petitioner were divorced, that they entered into a mutual agreement whereby she was given all the furniture located in their home, and the Complainant was, and is, of the opinion that the adding machine, piano and suit of furniture mentioned in this section were given to her under this agreement. She says further for answer to this section that she is willing to give the Petitioner the suit of furniture mentioned therein, conditioned upon his paying the balance of money owing thereon.

5.

For answer to Section 5, the Complainant says that she does not know whether the Petitioner has complied with the terms of the decree of this court to the best of his ability or not. She says that he has not complied with it in that he has not paid the past due medical bills of the children; that he has not paid the current medical bills, and is now behind two (2) payments on the house, all of which he, by the instrument attached to his Petition, agreed to do.

WILTERS & BRANTLEY

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JUN 22 1966

ALICE J. DUCK, CLERK
REGISTER

BY:

Solomon M. Brantley
Attorney for the Complainant

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BERTHA FAY PHILLIPS,)	
)	IN THE
COMPLAINANT)	
)	CIRCUIT COURT OF BALDWIN COUNTY,
VS.)	
	)	ALABAMA. IN EQUITY.
LEWIS R. PHILLIPS,)	
	)	NO. 4881
Respondent.)	
)	

LEWIS R. PHILLIPS, THE PETITIONER, BEING FIRST DULY SWORN, TESTIFIED
AS FOLLOWS:

Examination by Mr. Mashbufn

- Q. Your name is Lewis R. Phillips?
- A. Yes sir.
- Q. Were you formerly the husband of Bertha Fay Phillips?
- A. Yes sir.
- Q. Were you divorced in this Court by a decree dated the 8th day of November, 1960?
- A. That's right.
- Q. Now under the terms of that decree, and by agreement between you and your wife before the divorce, did you give to her title to the house you and she owned jointly at Stapleton, Baldwin County, Alabama?
- A. Yes sir - you did. I have not given her anything --
- Q. I have not signed your name to any agreement either--
- A. I signed the agreement.
- Q. She was given custody by the decree and by the agreement of your son, Kay Marshall Phillips?
- A. Right.
- Q. You were given the right of reasonable visitation at all reasonable times and places?
- A. Yes.

Q. Was it orally understood by you and your wife -- What business are you engaged in?

A. Trucking.

Q. At the time you made this agreement, was it understood that Kay was to be allowed to visit you in the summer time and make trips with you?

A. It was agreed by Mr. Brantley and Mr. Mashburn that I was to have Kay on week-ends when it didn't interfere with his school work and in the summer he was to go with me at reasonable times and I would take care of him on trips.

Q. All right, since that time have you been able to visit your son when you wanted to?

A. No sir, after the divorce trial, the only time I was able to visit him was to come over on Christmas night.

Q. Have you made attempts to see him on other occasions?

A. No sir; I made plans on the 11th day of this month and I called to see if he was home and he wasn't home and I called her sister's home on Sunday night of the 11th and she said she had just left about an hour before, and on the night of the 12th or the 13th I called back and she told the operator that I had the wrong number and the operator asked who she was, and she said: "This is Mrs. LaBlanch" and then I told operation - and operator asked her if Kay Marshall was there and she said she didn't know anybody by that name and I asked the operator to let me speak to Mrs. LaBlanch --

Q. -- Who is she?

A. That's Mrs. Phillip's sister. I talked to her and asked her how Joe was and the children and I bid her goodbye, and I called over home several times for Kay and about Wednesday, the 13th or the 14th. I was able to get in touch with him,

and while I was talking with him Mrs. Phillips was there - Mrs. Morrow, her mother, told me she was there at which time Kay wouldn't talk to me hardly -- He wouldn't say anything, but I knew what was wrong; that was at 8:30 in the morning. at 1:30 I called back for Kay and he came to the telephone as happy as he could be and hollering, "DADDY, DADDY, DADDY - he was very happy and I talked to Mrs. Morrow, and she said I was welcome any time I wanted to come to her home; all of that was about the same occasion; I was asked--

- Q. All of that was about the same time; how many times have you tried to visit your son since last November?
- A. On Christmas afternoon, about 7:30.
- Q. At that time did you ask Mrs. Phillips to let the boy visit with you for three or four days during the holidays?
- A. Yes sir.
- Q. Did she refuse?
- A. Yes.
- Q. She would't let you see him except for a few hours at her home?
- A. She made the remark that I couldn't take him to Mississippi, Texas - Laurel Mississippi, or California.
- Q. You were not planning to take him to California during the holidays, were you?
- A. No sir.
- Q. Have you tried to call him on other occasions and couldn't get in touch with him and tried to have visits with him and him visit with you?
- A. Several times; after January I decided it was best not to stir up matters.

- Q. To wait until you had the hearing?
- A. Yes sir, wait until I had the hearing.
- Q. Has her general attitude been uncooperative about your seeing the boy?
- A. Yes sir; the last time I talked to her on the 'phone she cursed me and had a raving fit and accused me of registering at the Holiday Inn under an assumed name, and she said that everybody in Bay Minette knew who I was; that I was no good and sorry and had no right to see my child.
- Q. You told us just now that you were a trucker?
- A. Yes sir.
- Q. Do you have plans, if the Court will permit the son to visit you during the summer holidays, do you plan to take him on some of your trips?
- A. Yes sir, I would like to and return him around the middle or the 20th day of July so he can be with his people, and I will make every attempt to put him in military school on September 6th.
- Q. If Judge Hall will permit the child to go with you for a month or six weeks during the summer, will you have him back in Baldwin County when the Judge asks you to?
- A. Yes sir - allow me a little time in the event I get broke down.
- Q. If you do that, you can report to the Court, can't you?
- A. Yes sir.

Q. Now at the time you and your wife were divorced, and you entered into the agreement last fall, was anything said about the furniture and furnishings in the house?

A. Yes sir; I was supposed to give her all of the furniture and the home.

Q. Did that include this adding machine that you are asking her for?

A. No sir.

Q. Tell the Court about the adding machine?

A. The adding machine - I had had that for approximately two years before I knew Mrs. Phillips.

Q. Do you need that adding machine in your business?

A. Yes sir.

Q. Does she have any use for it?

A. Not that I know of

Q. How about this Piano?

A. The Piano, I purchased that the latter part of '56.

Q. Was anything said about that?

A. No sir.

Q. Does she play the Piano?

A. She pecks at it some.

Q. Just why are you asking the Court to give you the Piano?

A. Well I feel like she has my car, my home and all of my furniture - She got most everything she wanted --

Q. Now how about this suite of furniture - the sofa and two end tables and the other pieces - There is still a big balance owned on those --

MR. MASHBURN: You agreed that he could have that?

MR. BRANTLEY: If he will pay for that - pay the balance due on that.

Q. I believe under the divorce agreement, Mr. Phillips, you were

to keep up the payments on the home?

A. Yes sir.

Q. Have you done that?

A. Yes sir I have, but not very promptly every month, but they are up to date at the present time; I have all paid receipts.

Q. Let me ask you this: Do you think it would be to the best interest of your son, Kay Marshall Phillips, if he were permitted to visit with you and make the trips on the truck with you?

A. I think it would if everybody would work together and stop this yapping back and forth and try to make the boy happy, because I want be able to see him very much; it will be very little that I will be able to see him, and I am making every effort to put him in military school in the fall. I believe it is the very best thing for him; during that time I would take him to school and return him home on his visits, and try to divide the visits up.

ON CROSS EXAMINATION OF THE PETITIONER, HE TESTIFIED:

Examination by Mr. Brantley.

Q. Now Mr. Phillips, you all were divorced - you and your wife - were divorced in November of last year, were you not?

A. Right, sir.

Q. At that time you all entered into a written agreement as to the terms of the separation?

A. Un huh.

Q. In your agreement doesn't it provide that your wife, Bertha Fay, will get all of the furniture?

A. That's right.

Q. You agreed to that at the time of the separation?

A. Yes sir.

Q. Now there is no mention in the separation agreement as to what you received, but isn't it a fact that you owned two trucks and two tractors at the time?

A. No sir, one truck and one trailer.

Q. At the time you separated from Bertha Fay, did you own two trucks and trailers?

A. No sir. One.

Q. Is this a picture of your truck and trailer?

A. Yes sir, that is my truck and trailer.

Q. That's the truck and trailer you own now?

A. Yes sir.

Q. That was in your name?

A. The truck I bought January 4th of this year.

Q. And the equipment that you owned at the time of the divorce decree, how much was that worth then?

A. The trailer was worth probably \$4,500.00 and the tractor had a balance of about \$4,500 due and there might have been a profit of \$3,000.

Q. On the tractor?

A. I could probably gotten \$7,000. for it.

Q. That is all of the property you received under the divorce decree?

A. Yes sir.

- Q. But you own this truck and trailer now. Did you own it at the time of the divorce?
- A. I owned the trailer, but not the tractor.
- Q. Is that the trailer that you say is worth \$4,500.00?
- A. Yes, but I am trying to trade it now, and they only want to give me \$3,000.00.
- Q. This is a different and new tractor?
- A. Yes sir.
- Q. How much is that new tractor worth?
- A. Knew tractor is worth around \$21,000.00.
- Q. At the time you and Bertha Fay separated, or quit living together, isn't it a fact that you owned two tracks or tractors and two trailers?
- A. No sir, I owned one tractor and two trailers.
- Q. You were operating two trucks and trailers?
- A. No, one.
- Q. Didn't her brother work for you and drive one of the trucks?
- A. Yes - right.
- Q. What did you do while he was driving?
- A. All during the year 1959, we started out in July to work out of California together and he worked with me until the first week in October of 1960.
- Q. Both working in the same truck?
- A. Yes sir, the two trucks you are speaking of, I had turned one back long before then to the Mack People.
- Q. Mr. Phillips, this house - that was deeded to Bertha Fay, wasn't it? -- Wasn't it built on some property given to her by her father?
- A. That's right.

- Q. It was given to her by her people/
- A. That is right - one acre of it; the other acre and a half her brother and I worked it out together and he gave it to Bertha.
- Q. Lopez gave it to Bertha?
- A. Yes sir.
- Q. Lopez is Bertha's brother?
- A. Yes sir.
- Q. You have never had title to any of the land?
- A. No sir.
- Q. Isn't it a fact that this house was completely paid out - or just lacked a small amount being paid out two or three years ago?
- A. It was paid down to about \$1900.00 at the First National Bank, and--
- Q. Just answer the question - if your Lawyer wants to go further into it, he will ask you.
- Q. Isn't it a fact that you re-mortgaged this property to buy a truck and trailer?
- A. No sir.
- Q. Or pay on a truck and trailer?
- A. That's not true.
- Q. Let me ask you this: Was'nt the money received from the mortgage put on the business or or went to pay debts of the business?
- A. No sir, \$3,500 went out of that to pay Government taxes that she and I foolishly spent and didn't pay, which was a transportation tax of \$4,200.00 and \$3,500.00 went out of that and \$1,500.00 went to the trucks and the balance went to the Bank of Fairhope to pay off notes that I had financed to buy material for the home.

- Q. Now since the divorce decree in November, when was the first time you went back to visit with Kay Marshall?
- A. Christmas day.
- Q. The first time after the divorce in November, that you went back was Christmas day?
- A. Yes sir.
- Q. Did you go back to the home?
- A. No sir, I went to Mrs. Morrow's
- Q. Which is close to where she lives?
- A. Yes sir.
- Q. Did you get in touch or contact with Bertha Fay at all?
- A. Time I hit the door steps, she was calling over there.
- Q. Did you talk to her on the 'Phone?
- A. I sure did sir.
- Q. You say you did talk to her?
- A. Yes sir.
- Q. Did you talk to her about visiting with Kay Marshall?
- A. I asked them ahead of time; I told them that I wanted to take Kay to Laurel with me for a few days and she got on the telephone and started cursing and accusing me of registering two or three times at the Holiday Inn under an assumed name
- Q. That didn't have anything to do with seeing the child?
- A. I don't know why I didn't.
- Q. Were you discussing it at that time?
- A. Yes sir, that is when she told me I couldn't take him to Laurel, Texas or California with me.
- Q. She said you couldn't take him to Laurel, Mississippi, or to California?
- A. Yes sir.

- Q. Did you ever go to the house?
- A. Not after the divorce.
- Q. Have you ever been back there after the divorce?
- A. No sir.
- Q. And that was Christmas Even night?
- A. Christmas night.
- Q. What time of the night was it?
- A. Around 7:30.
- Q. Did she call you, or did you call her?
- A. I don't know - the telephone was ringing when I walked in the door; she called and her mother talked to her and in a few minutes she called me.
- Q. Did she ever send Kay Marshall over to see you?
- A. No sir.
- Q. Did you go see Kay Marshall?
- A. How could it.
- Q. It's just a couple of hundred yards?
- A. That's right.
- Q. After Christmas night -- You say you have not been back to the house since the divorce?
- A. No sir.
- Q. Have you written Bertha Fay or called her about visiting Kay Marshall since this Christmas night?
- A. No sir.
- Q. Have you been back to the house to see the boy?
- A. No sir.
- Q. That's the only effort you have made?
- A. I called her mother and told her I would like to see him. I called ahead of time and said I would like to see him; I wrote about the 11th, I believe and when I called he was gone.

Q. This month?

A. Yes sir.

Q. At the time you filed this petition back in January of 1961, this one time is the only time Bertha Fay had ever refused you the right to see the child?

A. Yes sir.

Q. Since that time how many times has she refused to let you see the child?

A. Since then I have been working and have not had time to see him.

Q. You have not made any effort to see the child until this month?

A. No sir.

Q. Where do you live?

A. Elpadó Hotel, Laurel, Mississippi.

Q. Who do you live with?

A. I live at the Motel.

Q. Are there any women folk there?

A. No sir, but there are some mighty good people living there.

Q. Do you have any kin-folk there?

A. No sir, but a lot of friends.

Q. If you had the custody of the child part time, where would you keep him?

A. With me and when I can't keep him, I will bring him home, and if nothing happens, I will have him in school.

Q. Talking about taking him in this truck--

A. Yes, which rides as good as a Grayhound bus--

MR. BRANTLEY: I would like to introduce this picture as
Complainant's Exhibit 1.

Complainant's Exhibit 1.

- Q. You intend to keep him in this truck?
- A. No sir.
- Q. Where else?
- A. When we arrive at Los Angeles we would go to the Langster Hotel and spend a few days there.
- Q. His pattern of living would follow your's?
- A. No sir - sometimes I can take off; I have a driver and I can take off a week or 10 days.
- Q. How many days have you had off since the divorce?
- A. I believe I have been out about 10 days.
- Q. Do you have any home of any sort to keep the child in?
- A. I will have, sir, right away.
- Q. Where?
- A. That will be next door to the Elpado Hotel; I am moving in with a friend, who is the manager of the Elpado; he has a wonderful home and a wonderful mother.
- Q. Who is living in the home?
- A. He and his mother.

- Q. That arrangement has not been made yet, has it?
- A. Yes sir.
- Q. Assuming the Judge let's you take the boy and go on the trip with you, where will the trip be from and to?
- A. Laurel, Mississippi to around Los Angeles, Fresno and back to New Orleans.
- Q. How many days is that?
- A. It usually takes eight or nine days ; actually it is solid five and one half days back and forth.
- Q. Where will the child stay?
- A. With me in the truck like all other children.
- Q. Sleep in the truck?
- A. Yes sir, it has a 32 by 77 inch inner-spring mattress, and is air-conditioned and heated and is the very best that you can buy .
- Q. The places you stop to eat are the usual places other trucks stop?
- A. They are the very best in the West.
- Q. Most of the people that stop there are men truck drivers?
- A. Men drivers and Trucker's wives and children.
- Q. Who would you propose for the child to play with?
- A. The child has a good time; we would stop and look on the way and make pictures and if he wants to, there would be practically every 100 miles a lay over for possibly an hour or an hour and a half at the time, and there would be time for shower, etc.
- Q. His pattern of living would have to go along with yours so you could keep your run back and forth?
- A. Yes sir, but I think he would enjoy it.

- Q. How old is Kay Marshall?
- A. 13.
- Q. Do you play a Piano?
- A. No sir, I do not.
- Q. What do you propose to do with the Piano if the Court gives it to you?
- A. I plan to build a home as soon as possible, which would be left to Kay --
- Q. are you going to put the Piano in the home you plan to build?
- A. I plan to.
- Q. As a part of your agreement on this divorce, didn't you agree to pay the Past Doctor and Hospital bills of these two boys, or at least one of them? -- Do you remember whether you did or not?
- A. Yes I did.
- Q. Have you done that?
- A. No sir, I have not.
- Q. Did you agree to keep up with Kay Marshall's current hospital and Doctor bills?
- A. Yes sir.
- Q. Have you done that?
- A. I have not had any bills on Kay Marshall; I have made arrangements with Travellers Insurance for \$5,000.00 accidental policy which would take care of all things --
- Q. Has Bertha Fay sent you any hospitals bills since the divorce?
- A. Yes, for the boy.
- Q. Have you paid those?
- A. No sir.

- Q. You agreed to pay them?
- A. Yes sir, and I will pay them.
- Q. You told Mr. Mashburn a minute ago that you had the house payments current. When did you make the last payment?
- A. They are all up to date; they sent me a statement this month and as soon as my check came in, I sent it.
- Q. This receipt here shows day before yesterday?
- A. The 19th, yes sir.
- Q. Mr. Phillips, you allege in here that this house is worth \$18,000.00. How much did it cost you to build the house?
- A. \$18,000.00 -- right at it - just a few dollars under; I bought everything at cost and we paid for the labor as we went along.
- Q. How big is the house?
- A. 28 x 79, I believe.
- Q. How many rooms in it?
- A. About an eight room house.
- Q. How many bath rooms?
- A. Two.
- Q. What type structure is it on the outside?
- A. Dry-wall tile, sir.
- Q. Is that any different from any other tile?
- A. Yes sir, it is the very best - one of the two that is approved by the FHA and guaranteed not to form any condensaton at all.
- Q. What kind of floor does it have in it?
- A. Probably the best floor ever put down 7 x 12 inch clay tile underneath and sealed with paper and tile under the bath room has gravel and concrete is three to four or five inches thick with iron rods in it, and you couldn't have built it for less than \$10.50 a square foot.

- Q. Now this piano that we have talked about that was purchased during the time/and ^{you} Bertha were married, was it not?
- A. That's right sir.
- Q. And the adding machine that we are talki ng about, is that mechanical or electrical?
- A. Mechanical.
- Q. How long had you had it before you married?
- A. About two years.
- Q. How long ago did you marry?
- A. 1949.
- Q. It was purchased in '47?
- A. Yes sir.
- Q. Was it new?
- A. Yes sir.
- Q. What did it cost you then?
- A. \$165.00 I believe, and it is worth around \$275.00 today.
- Q. Cost you \$165.00 in '47?
- A. Yes sir.
- Q. It has been used since that time?
- A. Yes sir.
- Q. Have you used it?
- A. I used it during the time we were married some.
- Q. Now does Kay Marshall play the Piano?
- A. Not that I know of, sir.
- Q. Have you ever given him lessons?
- A. We tried to give him lessons.
- Q. What about the other boy?
- A. We tried to make him start, but it doesn't seem like he could get ahead.

- Q. The other boys were adopted by you, and Kay Marshall is a natural child?
- A. Yes sir.
- Q. Both or all of the boys try to play?
- A. Yes sir.
- Q. You say your wife pecks around?
- A. Yes sir.
- Q. At the time you entered the agreement, did that come up?
- A. No sir, that is a musical instrument and not furniture.
- Q. Did anything come up about the adding machine or the sofa?
- A. No sir.
- Q. Is this the first time it has come up?
- A. Yes sir.
- Q. How far is it from here to Laurel, Mississippi?
- A. From here -- Right here?
- Q. Yes?
- A. About 140 miles.
- Q. How often do you come to Laurel?
- A. You mean from the West Coast?
- Q. Yes?
- A. About every eight or nine days.
- Q. Are you operating on a contract? -- Are you hauling on a contract, or do you do piece work, or how?
- A. Under a verbal contract.
- Q. Your contract calls for you to haul a load how often? -- from California here, or do you do it by each load?
- A. Each load.
- Q. And it takes you about 10 days to fulfill a contract?
- A. Say any where from eight to nine days.
- Q. Do you haul for the same person all of the time?
- A. Un huh.
- Q. And have been for sometime? (page 18)

- A. Yes sir.
- Q. Where is your haul from?
- A. Laurel, Mississippi to California and California to New Orleans.
- Q. That is a regular established route?
- A. Yes sir.
- Q. If the boy were with you, he would have to be in one of those places, or some where between there, except when you were off?
- A. Yes sir, at any time the boy was dissatisfied, or wasn't having a good time, I would return him home.
- Q. What is the normal time for you to stay in Laurel?
- A. Average of two days and two nights.
- Q. How long in California?
- A. Sometimes it might run two days and two nights, in Laurel or it may run two days and nights in California.
- Q. You said New Orleans, how long do you stay there?
- A. Maybe four hours.
- Q. You don't stay over there?
- A. Maybe we would come in ahead of time and spend the night.
- Q. None of your hauls call for you to come to Alabama?
- A. No sir, I always haul back to New Orleans.
- Q. At the present time you are living in a motel, is that correct?
- A. Yes, but within a month or six weeks, I will have a permanent place to live.
- Q. You have not lived in a home since your divorce, have you?
- A. No sir.
- Q. How about Church. Do you go to Church?
- A. Once in a while I do.
- Q. If you get the boy would you take him to Church?

- A. If we are in on Sunday, I will sir.
- Q. Some of your trips are on Sunday - You haul on Sunday?
- A. I say the majority of the time.
- Q. You haul the straight 10 days and get back?
- A. I am about 10 days making a trip and rest periods.
- Q. Continuous 10 day trip - you don't stop and do anything on Sunday?
- A. Maybe we would come in Laurel at two o'clock on Sunday and stay until Tuesday.
- Q. If you were half way between California and Laurel, you would keep coming?
- A. Have to.
- Q. This home that you propose to move into, did I ask you if there would be any women folk there?
- A. Yes sir.
- Q. Would they be related to the child?
- A. No sir, I would be with him.
- Q. The home this child is living in now with his mother and his grandmother lives a couple of hundred yards away?
- A. Yes sir.
- Q. And his aunt lives in the same neighborhood?
- A. Yes sir.
- Q. And a couple of ~~wxxxx~~ uncles close by?
- A. Yes sir.
- Q. All of his kin-folk on his mother's side are in this little community?
- A. Yes sir.

- Q. Now Mr. Phillips, on the age of this boy we are talking about, isn't it a fact that this boy is just 10 years old instead of 13 years old?
- A. No sir, he is older than 10.
- Q. He is 13?
- A. He is right at it, if he is not.
- Q. When was he born?
- A. 1949.
- Q. How old is the next boy?
- A. I don't know, sir to tell the truth.
don't
- Q. You/ know how old Kay Marshall is either, do you?
- A. He should be around 13.
- Q. Would you say -- would you say that he is over 10 years old?
- A. Yes, he is over 10 years old now.
- Q. Would you say he is now 11 years old?
- A. Let's put it this way: Let's say he is close to 12 years old
- Q. Did you have anything to do with the preparation of the answer to the complaint that we filed in March of '60? -- Did you help Mr. Mashburn prepare the answer?
- A. What.
- Q. Did you furnish Mr. Mashburn the information to answer the Petition when it was filed back in March of '60?
- A. Let me see--
- Q. This is the one I filed and when he answered it for you, did you furnish him the information?
- A. Yes I went over it with him.
- Q. In that answer it was alleged that the boy was nine years old, and didn't you agree that was his age at that time?
- A. That was the first suit in '58, I think.
- Q. '58?
- A. Yes?
- Q. Now on the occasion that you came to visit this boy on Christmas

Eve, did you tell Bertha Fay's mother that you would be gone and was coming back to visit the child in a few minutes?

A. No sir, I told her I was going to call Mr. Mashburn and I went and called him and it was too late to get a Court order or do anything about it.

Q. On any occasion did you go visit the child and tell Mrs. Morrow, his grandmother, that you would be gone a couple of hours and would come back and pick him up?

A. No sir.

Q. That has not happened?

A. No sir.

Q. Since the time of this divorce, did you know whether or not your wife has been in a wreck?

A. I have heard of it.

Q. A serious head injury?

A. I heard of it from her mother.

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

Examination by Mr. Mashburn.

Q. The day you went down and tried to visit your son and get him, she raised so much sand that you went to your Lawyer, didn't you?

A. I called you.

Q. And didn't you and I agree that the best thing for you to do was to let the Court decide the thing?

A. Yes sir.

- Q. I told you to stay away from her if you were going to have trouble?
- A. Yes sir.
- Q. You advised me to go ahead and file this petition?
- A. Yes sir.
- Q. Are you asking the Court to take the child and give him to you for the summer or permanently?
- A. No sir, I am not.
- Q. What is it that you want the Court to do?
- A. I would like for the Court to leave the child with me to go with me on trips, so I could take him and show him a part of the West, at convenient times. I will take him to Disney Land, he is crazy about bowling and I would take him bowling and any time he is dissatisfied and wants to come home, I will bring him home.
- Q. You are not asking the Court to take the child away from his mother?
- A. No sir; he loves everybody; his father and his mother and all of his kin people and everybody.
- Q. Mr. Brantley asked you about the conditions that you intend for him to live under. They are the same conditions you live under?
- A. Yes sir, and I think they are as good as the conditions, if not better, than a gray-hound bus.
- Q. In your opinion, wouldn't it be to the best interest of your son to have this experience?
- A. I think it would; we would go to San Fransisco, Fresno and maybe cut back across the desert - Tombstone Arizona and all out there and I think it would be a good education for him.
- Q. Mr. Brantley asked you about the tractor you bought; was your

old Tractor worn out?

A. Yes sir, the motor blew up; I was able to make just one trip; I was down here waiting for it to come from the Factory.

Q. In order to stay in business, was it necessary that you get a new tractor?

A. Yes, or spend \$4,000.00 or \$5,000., which I didn't have.

Q. It is your intention to comply with the decrees of the Court that have been issued in the case?

A. Yes sir.

Q. Do you intend, as soon as you are financially able, to pay the Doctor bills that are due and past due?

A. Yes sir, I do.

MRS. BERTHA FAY PHILLIPS, BEING FIRST DULY SWORN, TESTIFIED:

Examination by Mr. Brantley.

Q. This is Bertha Fay Phillips?

A. Yes sir.

Q. Bertha, since you and Mr. Phillips were divorced back in November of 1960, have you had an automobile accident?

A. Yes sir.

Q. Did you have a head injury?

A. Yes sir.

Q. Is your ability to recall events as good now as before you had this accident?

A. No.

Q. In fact, for a short time after the accident you remembered very little, is that not a fact?

A. Yes sir.

Q. Now how many times has Mr. Phillips called or written you about visiting Kay Marshall since the time of the divorce?

A. I talked to him one time on the telephone and he didn't write.

Q. Where was that?

A. I was at my house and he was at my mother's house and I carried Kay Marshall over there and Mother said he had left

Q. Was that Christmas he was talking about?

A. All I know it was after the divorce; I didn't remember it as being Christmas.

Q. Is that the only occasion when you have talked to him on the telephone since the divorce?

A. Yes sir.

Q. Did you refuse to let him have the child?

A. No I refused to let him go to California, but not to see the child; I told him that he could take him out to dinner.

Q. In that conversation with him, did he ask you to bring the child over to see him?

A. I don't know whether he asked me to bring the child over; I asked him about paying the telephone bill for calls to his ~~detective~~ and his lawyer and his business calls; and he said he would pay them, for me to bring the bills and I got the bills up and took the child over there.

Q. -- Just stick to what I ask you -- don't get off on something else, or we are going to quit --

A. I took the child over and he was gone.

Q. Did he ask you to bring him there? Was it at his request?

A. Yes sir.

Q. You did take him over there?

A. Yes sir.

Q. And he was gone?

A. Yes sir.

Q. Was it your understanding, or did he ask you to bring the child over? --Q What was the reason for your taking the child over there?

A. For him to see his daddy.

Q. How long was it after he called until you took the child there?

A. Almost immediately.

Q. Within an hour?

A. Less than that.

Q. Has he made any effort, that you know of, other than this one time to see Kay Marshall since the divorce?

A. No

Q. Now this Piano, I believe that was purchased during your marriage?

A. Yes sir.

Q. And you have agreed if he will pay for the furniture he can have that?

A. Yes sir, the three piece sofa.

Q. Now have you been receiving Doctor and hospital bills for the two boys?

A. Yes sir.

Q. They are still unpaid?

A. Yes sir.

Q. Have you made Doctor and Hospital bills for Kay Marshall since the divorce?

MR. MASHBURN: He has admitted that.