2984

DIVORCE DECREE

Printed by Moore Ptg. Co.

The State of Alabama, Baldwin County

CIRCUIT COURT, IN EQUITY

MARY ANNE McKAY, Complainant

vs.

JOHN BENJAMIN McKAY, Respondent

This cause coming on to be heard was submitted upon Bill of Complaint, ~~XXXXXXXXXXXX~~ Answer and Waiver and Testimony as noted by the Register, 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 Defendant be, and the same are hereby, dissolved, and that the said MARY ANNE McKAY is forever divorced from the said JOHN BENJAMIN McKAY for and on account of Cruelty

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

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

It is further ordered that MARY ANNE McKAY the Complainant pay the cost herein to be taxed, for which execution may issue.

This 1st day of April, 1953

Hubert M Stacy

Judge Circuit Court, In Equity.

I, _____, 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.

No._____ Page_____

The State of Alabama
Baldwin County

In Circuit Court, In Equity

_____

_____ Complainant

vs.

_____

_____ Respondent

DIVORCE DECREE

FILED
4-1-53
ALICE J. DUCK, Register

MARY ANNE McKAY,
Complainant,

VS.

JOHN BENJAMIN McKAY;
Respondent.

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

NO.....

DEMAND FOR ORAL EXAMINATION.

COMES the Complainant, by attorney, and represents to the Court as follows:

1. That the following named witnesses reside within one hundred miles from Bay Minette, in the County of Baldwin, Alabama, the place of trial of said cause, to-wit: MARY ANNE McKAY AND JOHN BENJAMIN McKAY;

2. That said complainant requires an oral examination of said witnesses before a commissioner appointed by the Register of this Court.

Jeffair J. Maddox Jr.
Solicitor for Complainant.

NOTE:

Complainant suggests the name of JAMES R. OWEN, as a suitable and competent person to act as commissioner upon the examination of said witnesses.

Jeffair J. Maddox Jr.
Solicitor for Complainant.

No 2980

BT-6-40-500

DEMAND FOR ORAL EXAMINATION.

.....,

Complainant,

Vs.

.....,

Respondent.

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

Filed this ..... day of .....,

194.....

FILED

.....

3-31-53. Register.

ALICE J. DECK, Register

COMMISSION TO TAKE DEPOSITIONS

THE STATE OF ALABAMA,
Baldwin County.

CIRCUIT COURT

TO: JAMES R. OWEN

KNOW YE: that we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine MARY ANNE McKAY AND MARION I. BENENSON

as witnesses in behalf of Complainant in a cause pending in our Circuit Court in Baldwin County, of said State, wherein MARY ANNE McKAY

is, Complainant

and JOHN BENJAMIN McKAY

Respondent

on oath, to be by you administered, upon them

to take and certify the deposition s of the witness es and return the same to our Court, with all convenient speed, under your hand.

Witness 31 day of March, 1953.

Register.

Commissioner's Fee, $

Witness' Fees, $

ORAL DEPOSITION

Printed by Moore Printing Co.

The State of Alabama, Baldwin County. } Circuit Court of Baldwin County, Alabama (In Equity)

MARY ANNE McKAY Complainant

VS.

JOHN BENJAMIN McKAY Respondent

I, JAMES R. OWN

as ~~XXXXXXXX~~ Commissioner appointed by the Court to take testimony in this cause

have called and caused to come before me MARKX ANNE McKAY and

witness es named in the Requirement for Oral Examination, on the 31st day of March

19 53, at the office of Telfair J. Mashburn, Jr.

in _____, Alabama, and having first sworn said Witness es to speak the truth, the whole truth, and nothing but the truth, the said Mary Anne McKay

_____ doth depose and say as follows: My name is Mary Anne McKay and I am the Complainant in this cause. I am over the age of twenty-one years and am a bona fide resident citizen of the State of Alabama and have been for more than two years next preceding the filing of the bill of complaint in this cause, although for the past three or four months I have been temporarily residing in Florida, where my husband was on active duty with the United States Naval Air Force. My husband is over the age of twenty-one years and is temporarily residing in Florida as I have already stated. The respondent and I were married at Pascagoula, Mississippi on November 15, 1952. We lived together as husband and wife until the 28 day of March, 1953, when, because of my husband's treatment of me, I was forced to leave him. For a long time he has threatened to do physical violence to my person and finally his manner became so threatening that I came to believe that if I continued to live with him as his wife, he would carry out his threats and would commit an actual violence on my person which would be dangerous to my life or health. I am convinced that we can never again live together as husband and wife. We have no children and we have agreed on a property settlement, a copy of which agreement is filed herewith.

Mary Anne McKay

The said Marion I. Benenson doth depose and say as follows: My name is Marion I. Benenson. I am a bona fide resident citizen of the State of Alabama. I know the Complainant in this cause, Mary Anne McKay and I know that she is over the age of twenty-one years and is ~~XXXX~~ a bona fide resident citizen of the State of Alabama, and has been for more than two years next preceding the filing of the bill of complaint in this cause. I know that she and the Respondent were married in Pascagoula, Mississippi, in November, 1952. I know that they resided temporarily in Florida, where her husband was on active duty with the United States Naval Air Force; and I know that they have separated. However, I do not know the reason for their separation.

Marion I. Benenson

ORAL EXAMINATION

I, James R. Owen, as Register and Commissioner hereby certify that the foregoing deposition s on Oral Examination was taken down by me in writing in the words of the witness es and read over to them and they signed the same in the presence of myself

Telfair J. Mashburn, Jr.

at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness ____ or had proof made before me of the identity of said witness es; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof.

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 30th day of March, 19 53.

James R. Owen (L. S.)

No. 2984 Page

The State of Alabama
Baldwin County,

In Circuit Court, In Equity

vs.

Complainant

Respondent

Oral Deposition

Filed FILED, 19

3-31-53

ALICE J. RECK, Register
By Deputy

Register

Record

Vol. Page

Register

This agreement made and entered into on this the 3 day of March, 1953, by and between JOHN BENJAMIN McKAY, hereinafter referred to as the party of the first part, and MARY ANNE McKAY, hereinafter referred to as the party of the second part, WITNESSETH:

WHEREAS, the parties hereto are husband and wife; and, whereas, said parties have definitely concluded that under conditions now existing it is impracticable for them to live together as man and wife.

NOW, THEREFORE, in consideration thereof, and of the mutual agreements hereinafter made, they have mutually agreed to a complete separation under the following express terms and conditions:

1. The party of the second part shall immediately bring suit for divorce, and that she shall ask for no alimony or property settlement.

2. That neither party shall hereafter in any way harass, threaten, intimidate, or otherwise act in any way so as to embarrass or humiliate the other party.

3. That the party of the first part shall pay to the party of the second part the sum of NINE HUNDRED ($900.00) DOLLARS, which it is mutually agreed and understood shall be in lieu of all alimony and property settlements of any kind whatsoever.

4. That the party of the second part shall have the right to all of her personal belongings and effects.

This agreement has been made and executed by the parties hereto on the day and date hereinabove first set forth, in good faith, with full understanding of all of its provisions, and with the mutual promise on the part of each to comply therewith faithfully and completely.

Witness our hands this thhe day and year first above set forth.

John Benjamin McKay

Mary Anne McKay

WITNESS:

Maxie Miller

Annie Brown

My commission expires Dec. 14, 1956.
Bonded by American Surety Co. of N. Y.

RECORDED

2984

FILED

3-31-53

ALICE J. DUCK, Register

MARY ANNE McKAY, Complainant,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA.
JOHN BENJAMIN McKAY, Respondent.	)	IN EQUITY. NO._____.

ANSWER AND WAIVER.

Comes the Respondent, JOHN BENJAMIN McKAY, in the above styled cause, 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.

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

Respondent accepts service of the bill of complaint heretofore filed in said cause; waives notice of the filing of interrogatories in said cause, and the right to cross same; waives notice of the taking of testimony in said cause, and consents that the same may be taken and the cause submitted for final decree at any time without further notice to him.

John Benjamin McKay

STATE OF FLORIDA,
COUNTY OF Santa Rosa

Before me, Annie Brown, a Notary Public in and for said County and State, personally appeared JOHN BENJAMIN McKAY, who is known to me, and who, being first duly sworn, deposes and says on oath, that, having full knowledge of the contents of the foregoing answer and waiver, he signed the same voluntarily.

Done this 20 day of March, 1953.

Annie Brown
NOTARY PUBLIC, Santa Rosa CO., FLA.

Notary Public, State of Florida at large
My commission expires Dec. 14, 1956.
Bonded by American Surety Co. of N. Y.

702984

RECORDED

McKay

vs.

McKay

Answer and Waiver

FILED

3-31-53

ALICE J. BOCK, Registrar

MARY ANNE McKAY,	)	
Complainant,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA.
JOHN BENJAMIN McKAY,	)	IN EQUITY.
Respondent.	)	NO. _____

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

Your Complainant, MARY ANNE MCKAY, respectfully represents and shows unto your Honor as follows:

1. That your Complainant is over the age of twenty-one years and is a bona fide resident citizen of the State of Alabama, and has been such for more than two years next preceding the filing of this Bill of Complaint; that JOHN BENJAMIN McKAY IS over the age of twenty-one years and is presently, while on active duty with the United States Naval Air Force, residing at Milton, Florida.

2. That your Complainant and the Respondent are husband and wife, having intermarried at Pascagoula, Mississippi, on, to-wit, November 15, 1952.

3. That on, to-wit, ~~February~~ MARCH 28, 1953, and for a long time prior thereto, the Respondent did abuse and threaten your Complainant; that he did threaten to do actual physical violence to the person of your Complainant; that his conduct was such as to give your Complainant reasonable apprehension to believe, and she did actually believe, that should she continue to live with him as his wife, he would carry out his threats and commit an actual violence upon her person attended with danger to her life or health.

THE PREMISES CONSIDERED, your Complainant prays that the said JOHN BENJAMIN McKAY be made a party respondent to this her bill of complaint and that the State's writ of Subpoena be issued, directed to the said JOHN BENJAMIN McKAY, commanding him to answer, pledd or demur to this bill of complaint within the time required by law; and that on a final hearing of this cause, your Honor will make and enter a decree forever divorcing your Complainant from the Respondent and granting her the right to remarry; and that your Honor will grant such other, further, Different or general relief as unto your Honor may seem just and proper, and, as in duty bound, your Complainant

will ever pray.

Tellair S. Mashburn Jr.
SOLICITOR FOR COMPLAINANT.

MARY ANNE McKAY,	)	
	)	
Complainant,	)	IN THE CIRCUIT COURT OF
	)	
Vs.	)	BALDWIN COUNTY, ALABAMA.
	)	
JOHN BENJAMIN McKAY,	)	IN EQUITY.
	)	
Respondent,	)	NO. _____

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

Comes your Petitioners, MARY ANNE McKAY and JOHN BENJAMIN McKAY, and represent and show unto your Honor as follows:

1. That they are the Complainant and Respondent, respectively, in that certain cause in this Court styled as MARY ANNE McKAY, Complainant, vs. JOHN BENJAMIN McKAY, Respondent.

2. That on, to-wit: 31 March 1953 a decree of divorce was granted the Complainant against the Defendant;

3. That since the divorce decree was granted the parties have mutually agreed to resume their marital status and to make another effort to make a success of their marriage.

WHEREFORE, THE PREMISES CONSIDERED, Your Petitioner humbly pray that this Honorable Court will take jurisdiction of this their Petition, and, upon consideration thereof, will make and enter an order and decree setting aside, and declaring null and void and of no effect, the divorce decree heretofore granted the Complainant, MARY ANNE McKAY, by this Honorable Court on, to-wit: 31 March 1953. And, as in duty bound, your Petitioners will ever pray.

John Benjamin McKay

Mary Anne McKay

STATE OF FLORIDA,)
)
COUNTY OF SANTA ROSA.)

Before me, Wm.A.Bonifay,County Judge, personally appeared MARY ANNE McKAY and JOHN BENJAMIN McKAY, who are known to me, and whose names are signed to the foregoing Petition, and being first duly sworn they depose and say, that they have personal knowledge of the facts set forth in the Petition and that such facts are true and correct.

Mary Anne McKay

John Benjamin McKay

Sworn to and subscribed before me on this the 7th day of April, 1953.

Wm. A. Bonifay

~~Notary Public, Santa~~ Rosa County, Florida.
County Judge

RECORDED 2984

MARY ANNE McKAY,

Complainant,

VS.

JOHN BENJAMIN McKAY,

Respondent.

****

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

****

PETITION.

FILED
4-10-53
ALICE J. DOCK, Register

MARY ANNE McKAY,	)	
Complainant,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA.
JOHN BENJAMIN McKAY,	)	IN EQUITY.
Respondent.	)	NO._____.

DECREE.

This cause coming on to be heard is submitted upon the verified petition of the Complainant, MARY ANNE McKAY, and the Respondent, JOHN BENJAMIN McKAY, to set aside, and declare null and void and of no effect the decree of this Court, made and entered on 31 March 1953, dissolving the bonds of matrimony existing between the Complainant, MARY ANNE McKAY and the Respondent, JOHN BENJAMIN McKAY; and the same being considered by the Court, and the Court believing that the parties have become reconciled and are desirous of continuing to live together as husband and wife, and the Court being of the opinion that such a course is to the best interest of the parties and of society;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED by the Court that the decree of this Court rendered in said cause on 31 March 1953, dissolving the bonds of matrimony existing between the Complainant, MARY ANNE McKAY, and the Respondent, JOHN BENJAMIN McKAY, be and the same is, hereby, set aside, vacated, annulled and held for naught.

AND, IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the marriage heretofore contracted between the parties hereto be and remain in full force and effect.

Done at Bay Minette, Alabama, this 10 day of April, 1953.

Hubert M Hall
JUDGE.

MARY ANNE McKAY,

Complainant,

VS.

JOHN BENJAMIN McKAY,

Respondent.

****

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

****

DECREE.

FILED
4-10-53
ALICE J. DUCK, Register

8581. NOTE OF TESTIMONY 1M-7-46 Printed By The Baldwin Times

MARY ANNE McKAY

vs.

JOHN BENJAMIN McKAY

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, Answer and Waiver of the Respondent, and the testimony of MARY ANNE McKAY and MARION I. BENENSON.

and in behalf of Defendant upon Answer and Waiver.

Telfair J. Mashburn, Jr.

Register.

M

No. 2984

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

McKay

vs.

McKay

NOTE OF TESTIMONY

Filed in Open Court this .....

day of FILED 3-31-52, 194.....

ALICE J. DUCK, Register

Register.

Printed By The Baldwin Times