(1408)

DIVORCE DECREE

Moore Printing Co., Bay Minette, Ala.

THE STATE OF ALABAMA, BALDWIN COUNTY

CIRCUIT COURT, IN EQUITY

HERMAN E. SMITH Complainant

VS.

MATTIE EARLINE SMITH Respondent

This cause coming on to be heard was submitted upon Bill of Complaint, Decree Pro Confesso on Personal Service 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 HERMAN E. SMITH is forever divorced from the said MATTIE EARLINE SMITH for and on account of Adultry and be it further ordered and adjudged that the Complainant be awarded custody and control of the two minor children, Ethel Earline Smith, and Francis Carlene Smith, subject to further orders of the Court

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 ~~Complainant~~ HERMAN E. SMITH the Complainant pay the cost herein to be taxed, for which execution may issue.

This 18th day of Dec., 1945

F. M. Hare

Judge Circuit Court, in Equity.

I, R. S. 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 _____, 1945

Register of Circuit Court, in Equity

No. _____ Page _____

The State of Alabama

BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY

_____

_____

_____ vs. Complainant

_____

_____ Respondent

DIVORCE DECREE

Filed this _____ day of

_____, 194____

_____ Register

The State of Alabama, Baldwin County

IN CIRCUIT COURT, IN EQUITY

HERMAN E. SMITH Complainant

vs.

MATTIE EARLENE SMITH Defendant

Oral examination before the ~~Register~~ Commissioner of the following witnesses:

Herman E. Smith

Gladys McGill

Ida McGill

who reside in Alabama, said examination being conducted in Atmore Alabama, on this the 14th day of December, 1945, and there being present Commissioner and the said Witnesses

The said witnesses being first sworn to speak the truth, the whole truth and nothing but the truth, testified as follows:

TESTIMONY OF HERMAN E. SMITH.

My name is Herman E. Smith. I am the complainant in the above styled cause and Mattie Earlene Smith is the respondent. We are both over the age of twenty one years and are both bona fide residents of Baldwin County, Alabama and have so resided for more than one year immediately preceding the date I filed my Bill of Complaint for my divorce. We were married to each other at Evergreen, Conecuh County, Alabama on the 16th day of March, 1940 and lived together thereafter as man and wife until August 19, 1945. That on or about the 28th day of March, 1945 the respondent committed acts of adultery with one Reese Posten and that different people told me of this infidelity on and after the 19th day August, 1945 and as soon as I found out about it I quit living with her and have never since lived with her as her husband and have not forgiveh her for her fault in this matter. We have two children, Ethel Earlene Smith, a girl, now about 5 years old and Frances Carlene Smith, a girl

No._____ Page_____

The State of Alabama,

_____COUNTY

IN CIRCUIT COURT, IN EQUITY

_____

_____

vs. Complainant,

_____

_____

Defendant.

Deposition Taken Before Register on Oral Examination

Deposition of_____

for_____

Filed 14 day of Dec, 1945

Published by order of the Court, _____

day of_____, 19____

R. S. Duck
Register.

710—Gill Ptg. & Sta. Co., Mobile, Ala.

now about three years old. These children live with me and have lived with me ever since the date the respondent and I separated. I am a suitable person to be entrusted with the said children, and the respondent, owing to the fact that she lives a wild and dissolute life is not a suitable person to be entrusted with the custody of the children.

Testimony of Gladys McGill. Herman E. Smith

My Name is Gladys McGill. I know both the parties to this cause. They are both bona fide residents of Baldwin County, Alabama and are both over the age of twenty one years. They were married to each other at Evergreen Conecuh County, Alabama on or about the 16th day of March, 1940 and lived together as man and wife until on the 19th day of August, 1945. I lived right across the road from them and on many occasions I have seen Reese Posten come to the house of the respondent and go inside with her and close the door. I have seen them meet out in the woods in the afternoons after Herman went to work. I have seen them get in a car together and go out together after dark. I know that she claimed she loved him and was his woman and had relations with him. I told the complainant of this conduct on the 19th day of August, 1945 and he ceased to live with her. They have two children, Ethel Earlene and Frances Carlene, 3 and 5 years of age respectively and I think that the husband is better suited to have the custody of the children as he is a hardworking and honest man while the respondent is wild and dissolute.

Gladys McGill

Testimony of Ida McGill.

My name is Ida McGill. I know both parties to this cause. They are both bona fide residents of Baldwin County, Alabama and are over the age of 21 years. They were married to each other at Evergreen, Conecuh County, Alabama on March 16, 1940 and lived together as man and wife until the 19th day of August, 1945. I know that about the 28th day of March, 1945 the respondent commenced to have adulterous relations with one Reese Posten and I have seen him come to her house on that occasion and many times since and close the door and remain with her sometimes all afternoon. I have seen her meet

him out in front of the house both day and night and go out and park in the woods together. I know that he took her out and met her out in the woods many times while her husband was away at work. I know both parties and I know that the complainant is a suitable person to have the custody of the two children and has the custody now and that the respondent neglected the children and went out with Posten and would leave them locked up in the house. I believe that it is best for the children to be in the custody of the father. I told the complainant about the misconduct of his wife on or about the 19th day of August, 1945 and I know that he has not lived with her since.

Ida McGill

I, Lenora Fleming, as Commissioner hereby certify that the foregoing deposition s on oral examination s were 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 Commissioner, at the time and place herein mentioned; that I have personal knowledge of the personal identity of the said witness es, 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 in any manner interested in the result thereof.

I enclose the said Oral Examination in an envelope to the Register of said Court, and placed the same on file in my office.

Given under my hand and seal this the 14th day of December, 1945.

Lenora Fleming (L. S.)

WITNESS FEES.

I hereby certify that the following named witnesses are entitled to the amounts stated below:

_____ _____days' attendance at $1.50 per day_____$_____

_____ _____days' attendance at $1.50 per day_____$_____

_____ _____days' attendance at $1.50 per day_____$_____

_____ _____days' attendance at $1.50 per day_____$_____

_____ _____days' attendance at $1.50 per day_____$_____

_____ _____days' attendance at $1.50 per day_____$_____

_____ _____days' attendance at $1.50 per day_____$_____

_____ _____days' attendance at $1.50 per day_____$_____

_____ _____days' attendance at $1.50 per day_____$_____

_____ _____days' attendance at $1.50 per day_____$_____

REGISTER'S FEES

_____days at $1.50 per day_____$_____

_____words at 20 cents per hundred_____$_____

8581. NOTE OF TESTIMONY

Printed by The Baldwin Times, Bay Minette.

Herman E. Smith

vs.

Mattie Earline Smith

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, and Testimony of Herman E. Smith, Gladys McGill, and Ida McGill

and in behalf of Defendant upon Decree Pro confesso

R. S. Deck
Register.

No. _____

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

_____

_____

_____

vs.

_____

_____

_____

NOTE OF TESTIMONY

Filed in Open Court this _____

day of _____, 194____

_____
Register.

Printed by The Baldwin Times, Bay Minette.

EQUITY COST BILL

Moore Printing Co., Bay Minette, Ala.

The State of Alabama, BALDWIN COUNTY

CIRCUIT COURT. (Equity)

Term, 194

Herman C. Smith

No. 1408 vs.

Mattie Eudine Smith

BILL OF COSTS

REGISTER'S FEES	AMOUNT
Fees in Circuit Court— Docketing Cause, One fee only of 1.00	1 00
Issuing Summons on Bill, each ..... .50*	50
Issuing Copies Thereof, each ..... .40	40
Entering Return of Same, each ..... .15	15
Orders of Publication to Non-Residents, each 1.00*	
Filing Bill or Other Paper, each ..... .10	30
Copies of Same, Per 100 Words ..... .15	
Entering Appearances, each ..... .25*	25
Issuing Writs of Injunction, Ne Exeat, each 1.50	
Issuing Copies Thereof, each ..... .50	
Entering Return of Same, each ..... .15	
Decrees Pro Confesso, each 1.00*	
Order Appointing Guardian Ad Litem, each 1.00*	
Issuing Commissions to Take Testimony, each .... .50	50
Taking Testimony, Per Day 1.50	
Taking Testimony, Per 100 words ..... .20	
Receiving and Filing Depositions, each pkg. ..... .10	10
Indorsing Depositions Published, each pkg. ..... .10	
All Entries on Commission Docket, Each Cause ..... .50	
Entering Order Submitting Cases for Decree, each. .50	50
Other Orders of Court, each ..... .25	
Noting Testimony on Hearing of Cause, each ..... .50	50
Entering Decrees, of 500 Words of Less, each ..... .75	75
Per 100 words over 500 ..... .15	
Taking Accounts, etc., on Ref., per Day 3.00*	
Taking Testimony on Reference Relating to Trustee, etc., per 100 words ..... .15	
Reference and Reports, each 2.00*	
Reports of 500 Words or Less 2.50	
Per 100 Words over 500 ..... .15	
Issuing Subpoenas for Witnesses, each ..... .25	
Issuing Witness Certificates, each ..... .25	
All Entries on Subpoena Docket, each Cause ..... .50	
Taking and Approving Bonds, each 1.00	
Making Complete Record, per 100 Words ..... .15	2 25
Hearing, etc., Regarding Appointment of Receiver or Trustee 3.00	
Settlements with Receiver or Trustee, each 3.00	
Examining Vouchers in Settlements, each ..... .10	
Examining Answers on Exceptions, each Answer .. 3.00	
Removal Disabilities on Non-Age	
Commissions on Sales	
Making Deeds to Property Sold, each 2.00	
Receiving and Paying Out Money Other Than That Arising from Sales	
Certificates or Affidavits, with Seal, each ..... .50	
Certificates or Affidavits without Seal, each ..... .25	
Issuing Scire Facias or other Notice, each ..... .50	
Other Orders of Register, except Cont., each ..... .50	
Entering Certificates of Supreme Court, each ..... .50	
Transcript for Supreme Court, per 100 words, each. .15	
Additional Copies, per 100 words ..... .05	
Appeal Bond, each 1.00	
Certificate of Appeal, each ..... .50	
Notice of Appeal, each ..... .50	
Report to State Board of Health, each case ..... .50	50
Certificate of Judgment, each ..... .25	
Issuing Executions, each ..... .75	
Entering Returns Thereof, each ..... .15	2 00
Decree	
Total Register's Fees	9 50

SHERIFF'S FEES:	AMOUNT
Summoning on Bill, Each Defendant 1.50	1 50
Executing Writ of Injunction, or Ne Exeat, each .. 1.50	
Executing Subpoenas for Witnesses, each ..... .65	
Executing Writs of Possession, each 5.00	
Executing Scire Facias or Notice, each 1.50	
Taking and Approving Bonds, each 1.00	
Impaneling Jury ..... .75	
Collecting Execution for Costs Only, each 1.50	
Sheriff's Commissions	
Total Sheriff's Fees	1 50

SUMMARY OF FEES, COSTS, AND JUDGMENT

Fees in Circuit Court—	
Register's Fees	9 50
Ex-Register's Fees	
Sheriff's Fees	1 50
Ex-Sheriff's Fees	
Witness Fees	
Commissioner's Fees	
Guardian Ad Litem	
Publisher's Fees	
Solicitor's Fees	
Court Reporter's Fees, Per Day or fraction thereof .5.00	
Trial Tax 3.00	3 00
Fees and Costs in Inferior Court:	
Clerk of Inferior Court Fees	
Sheriff's Fees	
Witness Fees	
Total Fees and Costs in Inferior Court	14 00
Total Fees and Costs	
Judgment	
Total Fees, Costs, and Judgment	

I certify that the within is a true and correct Bill of Costs in the within styled cause.

ATTEST:_____

Register Circuit Court, Baldwin County, Ala.

Received payment this_____day of_____194____

ATTEST:_____

Register Circuit Court, Baldwin County, Ala.

No._____ Page_____

The State of Alabama,

BALDWIN COUNTY

CIRCUIT COURT

vs.

Plaintiff____

Defendant____

EQUITY COST BILL

_____ Term, 19____

Fee Book_____, Page_____

Plaintiff's Attorney.

Defendant's Attorney.

Moore Printing Co., Bay Minette, Ala.

COMMISSION TO TAKE DEPOSITIONS

Moore Printing Co., Bay Minette, Ala.

THE STATE OF ALABAMA,
BALDWIN COUNTY

Circuit Court

To Lenora Fleming

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 Herman E. Smith, Gladys McGill and Ida McGill

as witnesses in behalf of Herman E. Smith in a cause pending in our Circuit Court in Baldwin County, of said State, wherein Herman E. Smith

Complainant

and Mattie Earlene Smith

Respondent

on oath, to be by you administered, upon

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

Witness 14th day of December, 19 45

R.S. Duck
Register

Commissioner's Fee, $

Witness' Fees, $

No.

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

Complainant

VS.

Defendant

COMMISSION TO TAKE DEPOSITION

COMMISSIONER:

WITNESSES:

8604 Decree Pro Confesso on Personal Service. 3107 Code Moore Printing Company, Bay Minette, Ala.

The State of Alabama,
Baldwin County.

No. 1408 CIRCUIT COURT IN EQUITY.

HERMAN E. SMITH Complainant

vs.

MATTIE EARLINE SMITH Defendant

In this cause it appears to the

that a summons requiring the Defendant ~~TO ANSWER OR DEMUR~~ Mattie Earline Smith

to appear and demur, plead to or answer the Bill of Complaint in this cause within thirty days after the service of said Summons upon

was served upon Deft by the Sheriff of Escambia County, Alabama, on the 17th day of October 1945.

And the said Defendant having failed to demur, plead to or answer the said Bill of Complaint to this date, it is now, therefore, on motion of Complainant, Herman E. Smith

ordered and decreed that the said Bill of Complaint in this cause be and it hereby is in all things taken as confessed against the said Defendant, Mattie Earline Smith

Defendant aforesaid.

This 17th day of Dec 1945

R. S. Duck Register.

No. 1408 Page

The State of Alabama,

Baldwin County.

CIRCUIT COURT, IN EQUITY

HERMAN E. SMITH

vs.

MATTIE EARLINE SMITH

DECREE PRO CONFESSO ON PERSONAL SERVICE

Issued 12-17-45 19

R.S. Deuck

Register.

Moore Printing Company, Bay Minette, Ala.

MOTION FOR DECREE PRO CONFESSO ON PERSONAL SERVICE. Re-Order No. 723—Sold by Gill Ptg. & Sta. Co., Mobile, Ala.

THE STATE OF ALABAMA, Baldwin County

In the Circuit Court, In Equity.

Herman E. Smith Complainant

vs.

Mattie Earlene Smith Respondent

Now comes the Complainant by his Solicitor of Record and shows the court that on the ____ day of ____ 19__, he filed his Bill of Complaint in the above stated cause, and a summons issued in said cause and was served by the Sheriff of ____ County on the Defendant more than thirty days prior to this date, and said Defendant has to this date failed to appear and demur, plead to, or otherwise answer the allegations of said Bill of Complaint as required by law, the Complainant by his Solicitor of Record now moves the Register of this Court to enter up or render a Decree Pro Confesso in this cause against said Defendant.

This 11th day of December 19 45

Frank G. Horne

Solicitor for Complainant.

No. ..... Page .....

The State of Alabama

..... COUNTY

In Circuit Court, in Equity

.....

.....

vs. Complainant,

.....

.....

Respondent.

MOTION FOR DECREE PRO CONFESSO ON PERSONAL SERVICE.

Filed ..... 19.....

..... Register

Recorded in

..... Record

Vol. ..... Page .....

..... Register

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA, } No. 1408
BALDWIN COUNTY

CIRCUIT COURT BALDWIN COUNTY
Sept, TERM, 1945

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon ~~HERMAN E. SMITH~~ ~~MATTIE EARLENE SMITH~~

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

MATTIE EARLENE SMITH RESPONDENT, Defendant

by HERMAN E. SMITH.

COMPLAINANT

Witness my hand this 24th day of Sept. 1945

Register.

No. ..... Page .....

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

_____

_____ Plaintiffs

vs.

_____

_____ Defendants

SUMMONS AND COMPLAINT

Filed ..... 194__

..... Clerk

_____ Plaintiff's Attorney

_____ Defendant's Attorney

Moore Printing Co., Bay Minette, Ala.

_____

Defendant lives at

_____

RECEIVED IN OFFICE

..... 194__

..... Sheriff

I have executed this summons

this ..... 194__

by leaving a copy with

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

..... Sheriff

..... Deputy Sheriff

HERMAN E. SMITH COMPLAINANT VS. MATTIE EARLENE SMITH RESPONDENT	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY. NO._____

TO THE HON. F. W. HARN, JUDGE OF THE TWENTY FIRST JUDICIAL CIRCUIT OF THE STATE OF ALABAMA. SITTING IN EQUITY.

Now comes the Complainant, Herman E. Smith, humbly complaining of the Respondent, Mattie Earlene Smith, in a matter of divorce, as will hereinafter appear, and represents and shows unto Your Honor as follows:

FIRST: That both the Complainant and Respondent are over the age of twenty-one years and both are bona-fide residents of Baldwin County, Alabama, and have both so resided for more than one year next immediately preceding the date of the filing of this Bill of Complaint.

SECOND: That they were married to each other at Evergreen, Conecuh County, Alabama, on, to-wit, the 16th day of March, 1940 and lived together thereafter as man and wife until on, to-wit, the 19th day of August, 1945.

THIRD: That on, to-wit, the 28th day of March, 1945 the respondent committed an act of adultery in Baldwin County, Alabama with one Reese Poston. That Respondent did not find out about this conduct until on, to-wit, the 19th day of August, 1945 at which time he immediately ceased to live with her as her husband. He further represents and shows that he has not forgiven her for her conduct and has not received her in conjugal embrace since he discovered her infidelity.

FOURTH: That there were born to the union of the Complainant and Respondent two children, Ethel Earlene Smith, now about five years of age and Frances Carlene Smith, now about three years of age, both of whom are girls and who are in the custody of the

Complainant. Complainant represents unto Your Honor that he loves these children with the lasting love of a father, and that he is a suitable person to be entrusted with their custody, while the Respondent on account of her way of living is not a suitable person to be given the care and custody of the said children. Complainant represents that these children are in his custody and have been in his custody ever since the separation of the parties and that he is well able to provide for and maintain them in accordance with their station of life and their needs.

PRAYER FOR PROCESS

To the end that equity may be had in the premises, Complainant prays that Mattie Earlene Smith made party Respondent to this Bill of Complaint, and that a summons be issued, and together with a copy of this Bill of Complaint, be served upon her, and that she be required to plead, answer or demur to the within Bill of Complaint within the time and under the penalties prescribed by law and the rules of this Honorable Court.

PRAYER FOR RELIEF

The premises considered, the Complainant prays that upon a final hearing of this cause Your Honor will make and enter a decree dissolving the bonds of matrimony heretofore existing between the Complainant and Respondent and will grant to the Complainant a full and absolute divorce from the said Mattie Earlene Smith, and in and by virtue of the decree in the cause will be granted the right to again contract marriage. Complainant prays that in and by virtue of the decree in this cause he will be granted the absolute and permanent custody of the children, Ethel Earlene Smith and Frances Carlene Smith subject to the further orders of the Honorable Court.

Complainant prays such other, further different and general relief to which he may be entitled, the premises considered, and he will ever pray, etc. etc..

Horne & Hadnelle
Solicitors for Complainant