

E. G. RICKARBY, JR.

LAWYER

POPPE BUILDING  
FOLEY, ALABAMA

March 3, 1937.

Honorable F. W. Hare,  
Judge of the Circuit Court,  
Monroville, Alabama.

Dear Judge Hare:- In re: Pippen vs Pippen.

I herewith submit authority for the law that the charge made in the bill can be proved by circumstantial evidence. This has to be so in view of the nature of the act and the fact that an admission can not be used in a divorce case.

"Adultery being an act of darkness and of great secrecy, can hardly be proved by and direct means and presumptive evidence alone is sufficient proof." Mosser vs Mosser 29 Ala 316.

This is not a criminal case where the guilt of the defendant must be proved beyond a reasonable doubt but:

"The only general rule that can be laid down upon this subject is, that the circumstances must be such that would lead the guarded discretion of a reasonable and just man to the conclusion." Citing Jeter v. Jetter 36 Ala 397.

This case has been quoted with approval with a equally strong argument in the relatively like case of Coleman v. Coleman 198 Ala. 225 73 So. 473, where in Subdivision 3 of the opinion, to which I earnestly refer you, Judge Thomas clearly sets out the law under which the evidence was taken. We respectfully submit that we have proved adulterous disposition on the part of the defendant, by the statement.

"I saw Buel Pippen and he told me that we could go out with these girls and could probably have intercourse with them.

And of the Paramour by the statements:

"The girl ~~that~~ Buel had a date with did not have such a good reputation. We were all drinking at the party but none of us were drunk. I was with the girl that Buel was with part of the time and from her actions I knew that if he tried he could make her."

And of the Defendant's opportunity by the Statement:

On the party the language was rather obscene and I was that Buel was familiar with his date. When we went down on the Beach Buel was the first one that went to hunt the dunes. His date acted plenty willing to go. He stayed there for about an hour. When

Judre F. W. Hare. Pippen v. Pippen.

Buel and his date came back they seemed just as friendly as ever if not more so. The reason I am of the opinion that they did have intercourse asside from Buel telling me is from the fact that Buel telling me that we could go out and have intercourse with these girls and was what we went out for and we got the desired results and from the girls talk and from the way that she and Buel were acting in the car both before and after we went out."

And in view of the law as set out in 19 C. J. page 139

"Proof of adulterous disposition on the part of the defendant and Paramour coupled with the opportunity has generally been held sufficient to establish adultery"

We further wish to call attention to the fact that these statements are neither explained nor contradicted, and furthermore, the witness states that the defendant did tell him that he did have intercourse and that asside from this he knows from the circumstances that the defendant did have intercourse.

If you will examin the Coleman case 198 Ala 225, 73 So 473 you will find that the divorce was granted on admissions found in letters written by the defendant and the law in that regard was the same then as it is now.

In the cases above cited, the guilt of the defendant was both denied and explained away, and yet in nearly all of the cases except the Mosser case in which Judge Stone, with obvious disgust, dissented, the defendant's guilt was established by circumstantial evidence. We respectfully submit that we have proved a prima facia case here.

The real issue in this case is whether an inocent girl whose only fault is a girl and boy marriage is to have her life blighted and her future ruined by being tied to a philanderer obviously indifferent to every sence of duty or propriety because she is unable to do the impossible thing, obtain direct evidence of a fact which every authority says is practically impossible of direct proof.

I therefore earnestly submit that the authorities cited amply sustain my contention that the proof is adequate, that it has neither been disproved nor questioned, and that my client should be freed from a bondage, intolerable to her, and obviously worth less than nothing to her husband.

With this I respectfully submit the case on the testimony presented to you at last law day.

Respectfully yours,

*E. R. Hare,*  
*Solicitor for*  
*John Pippen.*

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TO THE

HONORABLE FRANCIS W. HARE,

JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

SITTING IN EQUITY:

WILLENE O. PIPPEN by this her bill of complaint presented against BUELL T. PIRPEN respectfully shows:

FIRST: That she and the said Buell T. Pippen are both natives and bona fide residents of State of Alabama living in Baldwin County. That she is over the age of twenty years and he over the age of twenty-two years.

SECOND: That she and the Respondent were married in Milton, Florida on December 26th, 1934 and lived together as husband and wife in Foley until the 28th day of June, 1935 on which date she left him and since which time they have lived separate and apart ever since, he with his relatives in Foley and she with her parents in Montrose.

THIRD: That since the separation aforesaid the Respondent has been guilty of adultery but the times, places and other details are personally unknown to Complainant but have not been condoned by her in any way.

THE PREMISES CONSIDERED, Complainant prays that Buell T. Pippen be made Defendant to this bill and notified to answer same within the time prescribed by law and abide by such orders and decrees as may be made in the premises.

Complainant further prays that upon the hearing of this cause a decree be rendered forever divorcing her from the said Buell P. Pippens, granting her the right to resume her maiden name of Chapman, the right to marry again should she so desire and such other and further relief as may be meet.

*William S. Pippens*  
*W. S. Pippens*  
Solicitors for Complainant.

WILLENE C. PIPPEN,

Complainant

vs

BUELL T. PIPPEN,

Respondent

E Q U I T Y

CIRCUIT COURT OF BALDWIN COUNTY

ALABAMA

Comes BUELL T. PIPPEN, Respondent in the above entitled cause and for answer to the bill of complaint denies each and every allegation thereof.

Respondent further waives notice of the time and place of taking Complainant's testimony, the right to cross examine witnesses or offer evidence in his own behalf and consents that said testimony be taken without the formal issue of commission and the cause be submitted for final decree without further notice to him upon the pleadings and Complainant's evidence as noted by the Register.

  
Respondent.

STATE OF ALABAMA

COUNTY OF BALDWIN

Before me the undersigned Notary personally appeared BUELL T. PIPPEN who is known to me and who acknowledges that he executed the foregoing answer voluntarily and with full knowledge of its contents.

Witness my hand this the 18<sup>th</sup> day of July, 1936.

  
Notary Public, Baldwin County, Alabama.

WILLENE C. PIPPEN,  
Complainant,  
-vs-  
BUELL T. PIPPEN,  
Defendant.

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

STATE OF ALABAMA,  
COUNTY OF BALDWIN.

Depositions of W. T. Campbell and Willene C. Pippen, witnesses examined on behalf of the Complainant in the above entitled cause, before John R. Davis, Commissioner at the office of E. G. Rickarby, Jr., in the Poppe Building in Foley, Alabama.

W. T. Campbell was examined on the 28 day of July, 1936 and Willene C. Pippen was examined on the 29 day of August, 1936.

Said witnesses were by the commissioner duly sworn and then interrogated by E. G. Rickarby, Jr., Solicitor for complainant and the commissioner caused their testimony to be reduced to writing, read over to them and they signed it as their testimony.

C E R T I F I C A T E.

I, John R. Davis, under and by virtue of an agreement of the parties in this cause do hereby certify that I caused to come before me the above named witnesses at the times and place above stated and that I have personal knowledge of the identity of the said witnesses and that each of the said witnesses after being by me first duly sworn to tell the truth, the whole truth and nothing but the truth was examined before me and their answers were reduced to writing as near as might be, in his own language, read over to him, whereupon he subscribed his name to the same, in my presents.

I further certify that I am neither of counsel nor kin to any of the parties to said cause, nor in any way interested in the result thereof.

Witness my hand and seal, this the \_\_\_\_\_ day of \_\_\_\_\_  
1936.

  
Commissioner

W I L L E N E   P I P P E N .

I am the complainant in this cause, a resident of Baldwin County for more than five years past and over the age of twenty-one years. Buell Pippen is also over the age of twenty-one and a resident of Baldwin. We were married on December 26th, 1934 and lived together as husband and wife in Foley till the last of June 1935 when I left him and came back to live with my people at Montrose where I now live. Since we parted I have had nothing to do with my husband other than to speak to him as we passed.

Since we parted I have learned that he has been untrue to me but I know nothing of this of my own knowledge.

Willene Pippen

TESTIMONY OF W. ~~S~~ CAMPBELL.

Mr. Campbell being by me first duly sworn did testify as follows:

My name is W. ~~S~~ Campbell and I am employed at the CCC camp in Baldwin county. I am a friend of Buel Pippen and know him well. I know that he is a resident of Baldwin county and over the age of twenty-one years. He and I have gone out together several times during the last year and since he and his wife have been separated. I remember one occasion in particular when he and I were out at a dance at the CCC camp. About intermission time we got dates and went down on the Gulf Beach and parked. He took his date and I took mine and we went our ways. We stayed out there about an hour. From he and his dates conduct and actions I know that they had intercourse out there. This was in the middle of April and on a Saturday night but I can not say exactly what day of the month it was. It was in the present year.

This is not the only time that we have gone out on parties like this.

W. ~~S~~ Campbell after reading over the testimony affixed his signature hereto in the presents of John Davis the Commissioner.

W. S. Campbell

Willene C. Pippen,

Complainant

VS.

Buel T. Pippen,

Defendant.

Agreement.

It is hereby agreed that John Davis is to act as commissioner and take the testimony in the above cause as shown by the foregoing testimony.

Buel Pippen

W. R. Davis  
As solicitor for Complainant.

Signed before me on this the 28th day of July, 1936.

Com Fee Paid Direct

John R. Davis



8581. NOTE OF TESTIMONY

Willene C Pippen.

vs.

Buell T Pippen.

THE STATE OF ALABAMA  
Baldwin County

IN EQUITY  
Circuit Court of Baldwin County

This cause is submitted in behalf of Complainant upon the original Bill of Complaint,

Answer & Waiver.

Testimony of Willene C Pippen.

and. W G Campbell.

and in behalf of Defendant upon

*W G Campbell*

Register.

# The State of Alabama, Baldwin County

## CIRCUIT COURT, IN EQUITY

WILLENE C PIPPEN.

Complainant

vs.

BUELL T PIPPEN.

Respondent

This cause coming on to be heard was submitted upon Bill of Complaint, Decree Pro Confesso on ..... 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 WILLENE C PIPPEN. is forever divorced from the said

BUELL T PIPPEN.

for and on account of ~~XXXXXXXXXX~~ ADULTERY.

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 WILLENE C PIPPEN AND BUELL T PIPPEN be, and THEY hereby permitted to again contract marriage upon the payment of the cost of this suit. **it is further ordered that Complainant be and Hereby given the right to resume her Maiden name.**

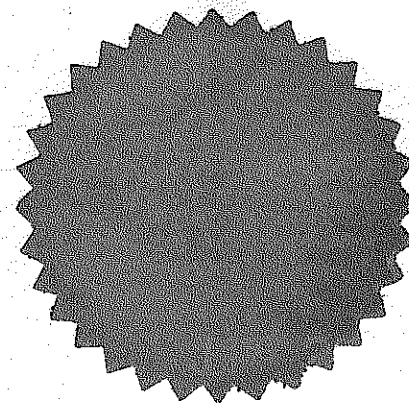
It is further ordered that WILLENE AND BUELL PIPPEN the ..... pay the cost herein to be taxed, for which execution may issue.

This ..... day of ....., 19.....

Judge Circuit Court, in Equity.

I, R S Duck.

....., Register of the Circuit Court for 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 January. ....., 1937

Register of Circuit Court, in Equity.

The State of Alabama, Baldwin County
CIRCUIT COURT, IN EQUITY

WILLIAM C. PIPPEN.

Complainant

vs.

RUSSELL T. PIPPEN.

Respondent

This cause coming on to be heard was submitted upon Bill of Complaint, Decree Pro Confesso on ... 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 WILLIAM C. PIPPEN. is forever divorced from the said

RUSSELL T. PIPPEN.

for and on account of XXXXXXXXXXXX ADULTRY.

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.

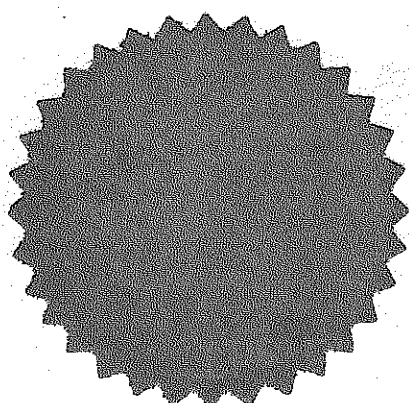
It is further ordered that WILLIAM C. PIPPEN and RUSSELL T. PIPPEN be, and they hereby permitted to again contract marriage upon the payment of the cost of this suit. It is further ordered that Complainant be and hereby given the right to resume her maiden name.

It is further ordered that WILLIAM C. PIPPEN and RUSSELL T. PIPPEN the pay the cost herein to be taxed, for which execution may issue.

This ... day of ..., 19...

Judge Circuit Court, in Equity.

I, R. S. Duck., Register of the Circuit Court for 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 January, 1937

Register of Circuit Court, in Equity.

# The State of Alabama, Baldwin County

## CIRCUIT COURT, IN EQUITY

WILLIAM O. PIPPEN. Complainant

vs.

BIGGIE T. PIPPEN. Respondent

This cause coming on to be heard was submitted upon Bill of Complaint, Decree Pro Confesso on..... 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 WILLIAM O. PIPPEN. is forever divorced from the said

BIGGIE T. PIPPEN.  
for and on account of ~~XXXXXXXXXXXX~~ ADULTRY.

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 WILLIAM O. PIPPEN AND BIGGIE T. PIPPEN be, and ~~that~~ hereby permitted to again contract marriage upon the payment of the cost of this suit. ~~It is further ordered that Complainant be and hereby given the right to resume her marital name.~~

It is further ordered that WILLIAM AND BIGGIE PIPPEN the..... pay the cost herein to be taxed, for which execution may issue.

This..... day of....., 19.....

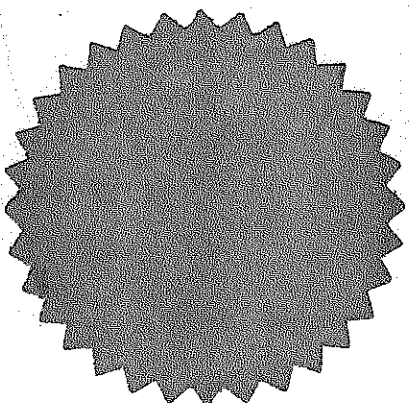
\_\_\_\_\_  
Judge Circuit Court, in Equity.

I, A. J. Duck......, Register of the Circuit

Court for 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 January......, 1937

\_\_\_\_\_  
Register of Circuit Court, in Equity.



WILLENE C. PIPPEN,

Complainant,

VS.

BUELL T. PIPPEN,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

In Equity.

The Bill in this case seeks a divorce on the ground of adultery, and was filed on July 17th., 1936. The Respondent files an answer denying the allegations of the Bill, and waives right to be present and cross examine the Complainant's witnesses, or to offer any evidence in his own behalf, which answer and waiver is filed on July 21st., 1936.

The case is submitted on the testimony of one witness, and his testimony is to the general effect that on one occasion the Respondent attended a dance with a certain unnamed girl, and that these two spent an hour or two alone on the beach, and from appearances, seemed to have had a pleasant time together.

Under the authorities in this State the testimony does not make out a case of adultery. See Powell vs. Powell, 80 Ala. 595, 1 South. 549; Le May vs. Le May 205 Ala. 694; 89 South. 49; Gray vs. Gray, 208 Ala. 284, 93 South. 900; Scott vs. Scott, 215 Ala. 684; 112 South. 218; Hill vs. Hill, 217 Ala. 445, 117 South. 32; Wakefield vs. Wakefield, 217 Ala. 517, 116 South. 685; Brown vs. Brown, 229 Ala. 471, 158 South. 311.

I am of the opinion that the Complainant has not shown herself entitled to relief, and the Register will enroll the following:

D E C R E E:

This cause coming on to be heard is submitted upon the pleading and proof, as noted by the Register, and upon a consideration thereof, I am of the opinion that the Complainant is not entitled to the relief prayed.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Complainant is not entitled to relief, and that this

cause be, and the same hereby is, dismissed, but without  
prejudice.

This 6th day of March, 1937.

*F. W. Hare*

Judge.

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TESTIMONY OF W. G. CAMPBELL.

I am the same W. G. Campbell that testified in this case last July. Before we went out on this party that I testified to about I saw Buel Pippen and he told me that he had arranged dates and that we could go out with these girls and could probably have intercourse with them. I do not remember the exact words that he used but that was the understanding that I had from his conversation. I would rather not mention the names of the girls. The girl that Buel had a date with did not have such a good reputation. *in my opinion* We were all drinking at the party but none of us drunk. I was with the girl that Buel was with part of the time and from her actions I knew that if he tried he could make her. On the party the language was rather obscene and I saw that Buell was familiar with his date. When we went down on the Beach Buel was the first one that went to hunt the sand dunes. His date acted plenty willing to go. He stayed out there for about an hour. When Buel and his date came back they seemed just as friendly as ever if not more so. The reason why I am of the opinion that they did have intercourse aside from Buel telling me is from the fact that Buel telling me that we could go out and have intercourse with these girls and was what we went out for and we got the desired results and from the girls talk and from the way that she and Buel were acting in the car both before and after we went out. ~~From what I saw and heard I am of the opinion that Buel and his date did have intercourse on that party although I did not see him in the act.~~

W. G. Campbell

Subscribed and sworn to before me on this the 22 day of February, 1937.

State of Alabama,

Baldwin county.

I John Davis, under and by virtue of an agreement of the parties in this cause do hereby certify that I caused to come before me the above mentioned W. G. Campbell on the twenty-second day of February, 1937 and that I have personal knowledge of the identity of said witness and that said witness after being first duly sworn to tell the truth, the whole truth and nothing but the truth did testify as hereinbefore shown and that his answers being reduced to writing as near as might be, in his own language, were read over to him, whereupon he subscribed his name to the same, in my presents, and the same is attached hereto.

I further certify that I am neither of counsel nor kin to any of the parties to said cause, nor in any manner interested in the result thereof.

Witness my hand this the 22nd day of February,  
1937.

  
Commissioner.



The State of Alabama, Baldwin County

IN EQUITY

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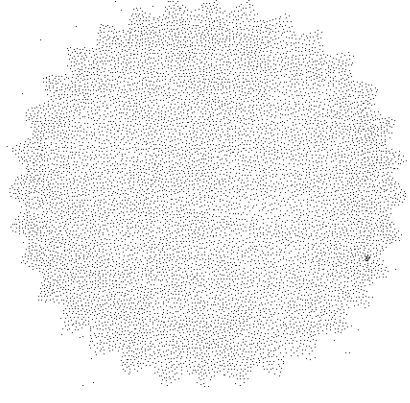
The State of Alabama  
Baldwin County

In Circuit Court, In Equity

vs. Complainant.

Respondent.

**DIVORCE DECREE**



The State of Alabama, Baldwin County

CHIEF CLERK OF COURT

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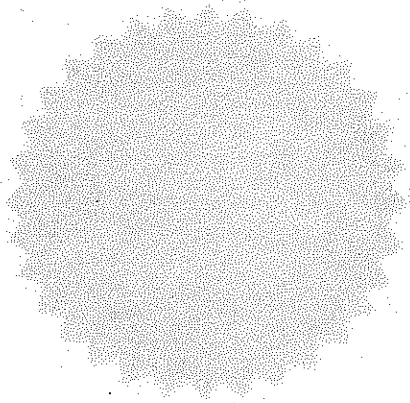
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**DIVORCE DECREE**



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Baldwin County

In Circuit Court, In Equity

vs. Complainant.

Respondent.

DIVORCE DECREE

