

THE STATE OF ALABAMA,
BALDWIN COUNTY.

}

CIRCUIT COURT, IN EQUITY.

No. 302 Fall Term, 1921

Mary A Phlieger Complainant

vs.

S.Z. Phlieger Defendant

To T.W. Richerson, Register:

In the above stated cause a Decree Pro Confesso having been taken against the Defendant, and evidence having been taken, and the cause being ready for submission for final decree, and no defense having been interposed, the

Complainant, by W.H. Hawkins,

Solicitors of record, now files with the Register of this Court this written request to deliver the papers in this cause to the Judge for final decree in vacation.

W.H. Hawkins,

Solicitor for Complainant.

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

Mary A. Phlieger

vs.

S.Z. Phlieger

REQUEST FOR DECREE IN
VACATION.

Filed August 24th, 1911

T. W. Richmond

Register

Recorded in Record

Vol. Page

Register

Mary A Phlieger
Complainant

vs.

S. G. Phlieger, Deft

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 of Defendant, and testimony of Mary A
Phlieger and S. G. Phlieger

and in behalf of Defendant upon

J. M. Rice

Register

No. 302

THE STATE OF ALABAMA,
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

Mary A. Phleger

vs.

J. G. Phleger

NOTE OF TESTIMONY.

Filed in Open Court this 24th

day of August 1921

J. P. Richardson

Register

MARY A. PHLIEGER

COMPLAINANT

VS

S. Z. PHLIEGER

DEFENDANT

IN THE CIRCUIT COURT-EQUITY SIDE

STATE OF ALABAMA
BALDWIN COUNTY

Comes the defendant and for answers to the complainant
in the above cause filed says:

FIRST: The defendant denies the allegations contained
in said bill and each paragraph thereon and demands strict proof
of the same.

Steuers Steuers
SOLICITORS FOR DEFENDANT.

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

To any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon

S G Phleger

of *Baldwin* County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

Mary a Phleger

against said

S G Phleger

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this *18* day of *January*

192*1*

T. W. Richerson

Register.

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

Original

Serve on _____

Circuit Court of Baldwin County
In Equity

No. _____

SUMMONS

Mary A Phlieger

vs.

S G Phlieger

J H Hawkins

Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

Received in office this _____

day of _____ 1921

Sheriff

Executed this *29th* day of

March 1921

by leaving a copy of the within summons with

A F Phlieger

Defendant

Sheriff

By *Chas. Lenoir*

Special Deputy Sheriff

RECORDED

To the Honorable John D. Leigh, Judge of the Circuit Court of Baldwin County, Alabama, in Equity:

Comes your oratrix, Mary A. Phlieger, and, by this, her bill of complaint exhibited against S. Z. Phlieger, respectfully represents:

First.

That she is over the age of twenty one years, is now and has been for the past five years next before the filing of this bill of complaint, a bona fide resident of Baldwin County, Alabama, residing near Fairhope, Alabama; that S. Z. Phlieger is over the age of twenty one years, and resides at Fairhope, Alabama.

Second.

That your oratrix and S. Z. Phlieger, the defendant were lawfully married on the 20th. day March ¹⁸⁹³ ~~1905~~, and about ten years ago moved to Fairhope, Alabama, and have resided there ever since.

Third.

That defendant has a violent and ungovernable temper, and beginning about five years ago, he has constantly abused, threatened and put your oratrix in constant fear of bodily harm. That about five years ago, he cruelly beat your oratrix, hitting her about the face, and threatened to take her life, and was only prevented from so doing by one of her sons intervening in her behalf. At another time, about two years ago, he abused and cursed your oratrix, and took up a brick to hurl it at complainant, but her son prevented him from carrying out his threat to kill her with said brick, and again last summer, he had a stick in his hand and threatened to strike complainant with it. On account of these acts and threats, she has lived in constant fear of her life or of great bodily harm, and it was necessary to have one of her sons stay with her all the time, so as to protect her life or keep her from receiving great bodily harm from him, the said defendant. That he has constantly cursed and abused her, charging her with all manner of offenses, and making her life one of shame, humiliation and fear.

Fourth.

That on account of his cruel treatment of complainant, his cursing and abuses, the young daughter of complainant and defendant was forced to leave her home, as she could not stand the bad language used by defend-

ant before her, and the bad treatment of her mother, and ~~their~~ the young son has left home, so that your complainant has no one to protect her from the cruel treatment of ~~your~~ defendant, so that on account of her constant fear for her life or great bodily harm, she can not live alone with her husband, for from his past conduct she fears that if she should live with him again, he would carry out his threats, as she would have no one to protect her.

Fifth.

That defendant having committed violence to her person by hitting her as aforesaid in such a manner as to endanger her life and health, and with conduct since then from which she has reason to believe that such violence will be repeated should she further resume married relations with him.

Complainant further states that living with defendant has become intolerable, and that on account of his cruel, abusive and insulting treatment, she can no longer live with him, and would live in constant fear and dread, if she did live with him.

Sixth.

That defendant during the past ten years, has contributed scarcely anything to the support of herself and family, although he is well able to supply her with the necessaries of life. That she is forced to hire out to work for wages for her support, as she has no means of support, and has to depend mostly on her relatives and the little work she can do for a livelihood. That she is in bad health, and not able to work for her livelihood, and her husband will contribute nothing to her support.

~~xxSeventh~~

THE PREMISES CONSIDERED, complainant prays that S. Z. Phlieger by appropriate process be made a party defendant to this bill of complaint, required to answer same within the time prescribed by law, and to abide by such orders and decrees as your Honor ~~make~~ make in the premises.

Complainant further prays that an order of reference be made forthwith commanding the Register to ascertain a suitable amount to be allowed complainant as alimony pendente lite, and what further allowance would be suitable to her for solicitor's fees for the prosecution of this cause; that upon said report a suitable decree be made ordering defendant to pay such amounts as to your Honor shall seem proper.

Complainant further prays that upon the hearing of this cause a decree be rendered forever divorcing her from the bonds of matrimony existing between her and the said S. Z. Phlieger, granting her the right to marry again, if she desires, and ordering the payment to her of such sum for permanent alimony, as to your Honor shall seem proper, together with such, other, further or different relief as to equity may seem meet.

And in duty bound, complainant will ever pray, etc.

W. S. Hawkins

Solicitor for Complainant.

Foot Note--- Defendant is required to answer each and every allegation in the foregoing complaint, but not under oath, oath thereto being waived.

W. S. Hawkins

Solicitor for Complainant.

The State of Alabama, Baldwin County.

CIRCUIT COURT, IN EQUITY.

Mary A Phlieger, Complainant

vs.

S.Z. Phlieger, Defendant

Deposition of Complainant.

By virtue of the appointment to take the Deposition, indorsed in writing, on the Interrogatories by the Solicitor filing the same, in the above stated cause pending in said Court of said County, I,

T.W. Richerson, Register of said Court of said County, have called and caused to come before me Mrs. Mary A Phlieger, William Phlieger,

the witness es named in the Interrogatories, and having first sworn the said witness es to speak the truth, the whole truth and nothing but the truth, the said witness deposes and says as follows:

Mrs. Mary A Phlieger being first duly sworn, doth depose as follows:

My name is Mary A Phlieger, and I live at Fairhope Baldwin County, Alabama, I am over the age of 21 years and is now and has been for the past 5 years next before the filing of the bill of complaint in this cause a bon a fide resident of Baldwin County, Alabama.

I am the Complainant in the cause of Mary A Phlieger vs S.Z. Phlieger, S.Z. Phlieger is over the age of 21 years and has been for 5 years a resident of Baldwin County, Alabama, S.Z. Phlieger and I were lawfully married on the 20th day of March 1895,

S.Z. Phlieger the defendant has a violent and ungovernable temper and beginning about 5 years ago he has constantly abused, threatened, and put me in constant fear of bodily harm. About 5 years ago Defendant cruelly beat me, hit me about the face, and threatened to kill me saying that he would kill me if he could get to me and he was prevented from carrying out his threat by my son Graydon Phlieger pushing him back and intervening in my behalf.

In May about 2 years ago he abused and cursed me and took up a brick to hurl it at me and told me to get in the house and shut

my mouth or he would throw it through me, and he would have carried out his threat to kill me with a brick if my son William had not prevented him from doing so.

In June 1920, he had a large stick in his hand and told me that if I didn't hush he would hit me with it, at the same time cursing and abusing me, About a month after this last occurrence he left me and my young daughter and son William all alone and left nothing for our support. Since he left me in July 1920, he never returned to live with me neither has he contributed anything to the support of myself and my children, I was always afraid to live with him alone so that it was necessary to have one of my sons stay with me all the time to protect my life and keep me from receiving great bodily harm from him or being killed by the Defendant.

The Defendant cursed and abused me nearly every day and charged me with all manner of offenses and made my life one of shame humiliation and fear. He not only cursed me but he cursed and used profane and abusive language in the presence of my young daughter Lila Adelle Phlieger, and on account of said cursing and bad treatment of her mother the daughter could not stay at home and was forced to leave and also our young son William left home so that I have no one to protect me from the cruel treatment of Defendant, if he should return to my home and on account of my constant fear for my life or great bodily harm to me I cannot live alone with him for from his past conduct I fear that if I should live with him again he would carry out his threats to do me great bodily harm or to kill me and I would have no one to protect me, I have lived with him and put up with his cruelty, abuses, and threats on account of the children and on account of said cruelty, threats and abuses, my health has been in danger and living with him has ~~been~~ become intolerable and I can no longer live with him for if I did I would live in constant fear and dread of great bodily harm or death.

As he has failed to support me or contribute in any way to my support although my health is not good and has not been for some years I have had to work out and make enough money to support myself.

I have always been a good and dutiful wife, faithful to him in every respect and I have never given him any cause to be cruel to me.

Mrs Mary A Phlieger

William Phlieger, witness for Complainant who being duly sworn testified as follows:

My name is William Phlieger, I live at Fairhope Baldwin County Alabama and I am a son of S.Z. Phlieger and Mrs. Mary A Phlieger, I know of the cruelties and threats to kill my mother Mrs. Mary A Phlieger made by my father S.Z. Phlieger, I have not lived with my mother and father for the past 2 years but I went there often, and when I was there I saw the abuses and cruelties on the part of my father toward my mother about 4 years ago while I was living with them he went to the drawer where the pistol was kept and said that if he got the gun he would shoot her and at the same time he was cursing and abusing my mother, and he then went and looked for the gun but did not find it . About 2 years ago I was present ~~when~~ my father S.Z. Phlieger took up a brick and threatened to kill my mother and at this time I told him to put the brick down and not to hit her and if I had not been present and prevented him from throwing the brick he would have undoubtedly have struck her with this brick.

About 5 years ago he hit her over the eye with a large potato but I was not present at the time he hit her but I saw the bruise over the eye and also cut her lip also on the breast.

I have been at home on several occasions and heard my father curse my mother and say that he would kill her . From what I know of my father and his abuses of my mother I do not think that she would be safe in living with my father any longer without some one to protect her and my mother has always been a good and faithful wife to my father and always true to him and never at any time has she given him any cause for such cruel treatment and abuses he has heaped upon her, she has always been a good mother to her children .

My father left my mother ,my sister and myself alone without any support about a year ago and since said time he left he has never contributed anything at all to the support of my mother ,my sister and myself, neither has he shown any disposition to help my mother in any way .

William Phlieger

I, D. Robinson, the said Register, hereby certify that the foregoing testimony was taken down in writing by myself in the words of the witness, and were read over to them, that they assented, swore to and subscribed the same in my presence, the 24th day of August, 1921, at Bay Minette, Alabama; that I have personal knowledge of, or had proof made before me of the identity of the witness, and 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.

And I enclose the deposition, together with the Interrogatories, Direct and Cross, and the documents which were deposed to, in an envelope properly endorsed and sealed and placed the same on file in my office.

Given under my hand and seal this the 24th day of August, 1921
D. Robinson, Register.

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	\$.....
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.....	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	\$.....

The State of Alabama,

Baldwin COUNTY.

IN CIRCUIT COURT, IN EQUITY.

Mary A. Phleger

vs. Complainant,

J. Phleger

Defendant.

Deposition Taken Before Register on Interrogatories.

Deposition of Helman

for Complainant.

Filed 24th day of August, 1921

Published by order of the Court _____

_____, 19____

J. W. Helman
Register.

----- X
MARY A. PHLIEGER,)
Complainant.)
-vs-)
S. Z. PHLIEGER,)
Defendant.)
----- X

IN THE CIRCUIT COURT-EQUITY SIDE.
STATE OF ALABAMA
BALDWIN COUNTY

"Demurrer to complaint."

And now comes the defendant, S. Z. Phlieger, and demurs to the bill of complaint in this cause filed, and for grounds thereof says:-

"A"

There there is no equity in said bill of complaint.

The defendant demurs further to the bill of complaint and to each paragraph thereof, separately and severally, and for grounds thereof, says:-

"FIRST."

That the complaint fails to set forth or allege any grounds for the granting of the divorce prayed for.

"SECOND."

That the complaint fails to set forth or allege cruelty on the part of the defendant in that it fails to set forth ^{or show} ~~and allege~~ ~~facts showing~~ that the defendant committed actual violence on her person attended with danger to life or health.

"THIRD."

That the complaint fails to set forth and allege cruelty on the part of the defendant in that it fails to set forth ^{or show} ~~and allege~~ ~~facts showing~~ that from the conduct of the defendant there is reasonable apprehension on the part of the complainant of actual violence being committed on her person attended with danger to life or health.

"FOURTH."

That the complaint shows on its face that the acts alleged as cruelty have been condoned by the complainant.

"FIFTH."

That the complaint fails to allege and set forth specific acts of cruelty on the part of the defendant.

"SIXTH."

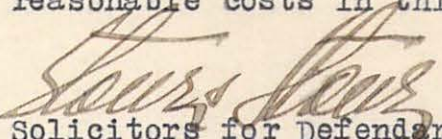
That the complaint ~~is~~ nowhere contains any allegations or allegation setting out that the defendant has property out of which the allowance that is prayed for could be granted.

page two-

"SEVENTH."

That the bill of complaint nowhere contains any allegation or allegations which show that the earning capacity of the husband is such that such an allowance as is asked could be granted therefrom.

WHEREFORE, this defendant demurs to said bill and to all matters and things therein contained and prays the judgment of this honorable court whether he shall be compelled to make any further answer there to and prays to be dismissed with his reasonable costs in this behalf sustained.


Solicitors for Defendant.

The State of Alabama, }
Baldwin County.

No. 302. CIRCUIT COURT, IN EQUITY

Mary Phlieger Complainant.....

vs.

S.Z. Phlieger, Defendant.....

This cause, coming on to be heard at this Term, was submitted upon the Bill of Complaint, decree pro confesso and the testimony as noted by the Register; and, upon consideration thereof, the Court is of 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 the Complainant is forever divorced from the Defendant.

on account of cruelty of the said S Z Phlieger to the said Mary Phlieger, which endangered her life or limb.

It is further ordered, that the said Mary A Phlieger be, and she is hereby permitted to again contract marriage, upon the payment of the costs of Court in this cause.

It is further ordered, that the said Mary A Phlieger, pay the costs herein taxed, for which execution may issue, and if such execution is returned "no property found," then execution for such costs may issue against the said S.Z. Phlieger

It is further ordered, adjudged and decreed that said Mary A Phlieger shall not again marry except to said S Z. Phlieger until sixty days after this date, and that if an appeal is taken within sixty days she shall not marry again except to said S.Z. Phlieger, during the pendency of said appeal.

This 1st day of September 1921
John D. Leigh
Judge of the Circuit Court of Baldwin County.

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT, IN EQUITY.

I, _____ Register of said Circuit Court of said County, Alabama, do hereby certify that the above is a full, true and correct copy of the decree rendered by said Court on the _____ day of _____ 1921, in the cause of _____ Complainant.....

vs.

_____ Defendant.....
as appears of record in said Court.

Witness my hand and the seal of said Court, this the _____ day of _____ 1921

Register.

No. 302.

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT IN EQUITY,
BALDWIN COUNTY, ALA.

Mary A Phlieger,

Vs.

S.Z. Phlieger,

DECREE OF DIVORCE.

Filed in office this 30th

day of September, 1921.

W. R. Resurrection

Register.

E. O. M.

RECORDED

Mary A Phlieger
S. Z. Phlieger
W. R. Resurrection
W. R. Resurrection

WERMIL
BOND

W. R. Resurrection
W. R. Resurrection

HAM