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Clerk, Supreme Court of Appeals
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Record No. 6989

In the
Supreme Court of Appeals of Virginia
at Richmond

AMY BAIRD (STRUMINGER) LUNDEEN

v.

DONALD LEWIS STRUMINGER

FROM THE CIRCUIT COURT OF THE CITY OF PETERSBURG

RULE 5:12—BRIEFS

§5. NUMBER OF COPIES. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. SIZE AND TYPE. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a.m.; Adjourns at 1:00 p.m.

IN THE
Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6989

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 5th day of June, 1968.

AMY BAIRD (STRUMINGER) LUNDEEN, Appellant,
against

DONALD LEWIS STRUMINGER, Appellee.

From the Circuit Court of the City of Petersburg
D. Carleton Mayes, Judge

Upon the petition of Amy Baird (Struminger) Lundeen an appeal is awarded her from a decree entered by the Circuit Court of the City of Petersburg on the 20th day of November, 1967, in a certain chancery cause then therein depending, wherein Donald Lewis Struminger was plaintiff and the petitioner was defendant; upon the petitioner, or some one for her, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of \$300, with condition as the law directs.

RECORD

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page 8 }

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ORDER

THIS CAUSE came on this day to be heard upon the motion of the defendant, after notice to the complainant, for custody of the infant children of the parties as well as support money for said infant children and counsel fees and court costs, and was argued by counsel.

And it appearing to the Court that a written agreement was entered into by and between the parties in July of 1965, whereby it was agreed that the defendant, Amy Baird Struminger, would have the custody of the said children subject to certain visitation rights of the complainant, and it further appearing that the infant children of the parties hereto, Alexander Struminger and Bruce Struminger, are both very young children; the Court is of the opinion that it would be to the best interest of the said children that custody be given to the defendant pending final decision of this suit on its merits; it is therefore **ADJUDGED, ORDERED** and **DECREED** that the defendant, Amy Baird Struminger, shall have the care and custody of the infant children, Alexander Struminger and Bruce Struminger, during the pendency of this suit, provided, however, that the complainant, Donald Lewis Struminger, shall have the right to the custody of the children every Sunday between the hours of 12:00 Noon and 7:00 P.M. and every other week-end, beginning March 5, 1966, from 9:00 A.M. Saturday morning until 7:00 P.M. Sunday evening and, provided that the said Amy Baird Struminger shall not remove the said infant children from the State of Virginia until further Order of

this Court. And it is further **ORDERED** that the page 9 } said Donald Lewis Struminger do continue to pay to the said defendant the sum of \$100.00 each and every week for the support, maintenance and education of the infant children during the pendency of this suit.

And this cause is continued upon the docket for such further

Orders or Decrees that the Court may deem necessary and proper.

* * * * *

Enter this:

D. CARLETON MAYES, Judge

Date: March 3, 1966.

* * * * *

page 10 } THIS AGREEMENT, Made this 30th day of July, in the year 1965, by and between AMY STRUMINGER, party of the first part, and DONALD L. STRUMINGER, party of the second part.

WHEREAS, the parties hereto are husband and wife but difficulties have arisen between them and they are now living separate and apart from each other; and,

WHEREAS, the parties hereto desire to adjust and compromise their property rights between themselves.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: For and in consideration of the premises and of the covenants and agreements of the parties as hereinafter set forth the said Amy Struminger and Donald L. Struminger do covenant and agree as follows:

1. That the said Donald L. Struminger hereby forever relinquishes and releases all right, title, and interest which he now has or ever may have in and to the real, personal, and mixed property of the said Amy Struminger, all right of curtesy, all right, title and interest which he has or ever may have in and to the property or estate of the said Amy Struminger at her death, and all right and interest to take against her will or under the intestate laws, and each and every other right, title and interest he has or ever may have against the said Amy Struminger, her heirs, executors, administrators and assigns, excepting only every right that is given him in and by this Agreement.

2. That the said Amy Struminger forever relinquishes and releases all right, title and interest which she now has or ever may have in and to the real, personal and mixed property of the said Donald L. Struminger, all right of dower, all right, title and interest which she has or ever may have in and to the property or estate of the said Donald L. Struminger, at his death, and all right and interest to take

against his will and under the intestate laws, and each and every other right, title and interest she has or ever may have against the said Donald L. Struminger, his heirs, executors, administrators and assigns, excepting only every right that is given her in and by this Agreement.

page 11 } 3. The said Donald L. Struminger hereby assigns, transfers and delivers to his wife all right, title and interest that he might have in the Blue Corvair automobile presently titled in his name and further agrees that he will cause the certificate of title to the said automobile to be transferred into the name of his wife, Amy Struminger.

4. The said parties hereto have reached an understanding concerning the division of their various furniture and other household effects and in the interest of brevity the details of such division are not included in this agreement. It is understood, however, that once the physical division and separation of the property has been completed that both the said Amy Struminger and the said Donald L. Struminger hereby expressly assign, transfer, set over and release and quitclaim one unto the other all of the right, title and interest which each might have in and to that property allocated to the other party.

5. The said Amy Struminger covenants that she will not at any time hereafter contract any debt or liability whatsoever for which her husband may be liable, she further agrees to indemnify and save her husband harmless from any contract, debt or liability incurred in violation hereof.

6. The said Donald L. Struminger covenants that he will not at any time hereafter contract any debt or liability whatsoever for which his wife may be liable, he further agrees to indemnify and save his said wife harmless from any contract, debt or liability incurred in violation hereof.

7. It is mutually agreed by the parties hereto that subject to any order which may hereafter be entered by any Court of competent jurisdiction, the said Amy Struminger shall have the custody of the infant children of the parties hereto; namely, Alexander Struminger and Bruce Struminger, but, however, subject to the rights of the said Donald L. Struminger as hereafter set forth:

page 12 } (a) The said Donald L. Struminger shall have the right to the custody of the children every Sunday between the hours of 12:00 P.M. to 7:00 P.M. and on every fourth week end from 9:00 A.M. Saturday morning until 7:00 P.M. Sunday evening. It is understood and agreed that the said Amy Struminger shall have the children prepared in advance of the above specified hours.

(b) The said Donald L. Struminger shall also have the right to see and visit said children at all reasonable times, provided he shall first notify his wife of his intention to visit.

8. The said Donald L. Struminger agrees that he will pay the said Amy Struminger the sum of \$50.00 each and every week for the support of their son, Alexander Struminger, and the sum of \$50.00 each and every week for the support of their son, Bruce Struminger, until they respectively attain the age of twenty-one years. That the obligation of Donald L. Struminger to pay such amounts shall cease as soon as each child attains the age of twenty-one years, becomes emancipated or shall die before reaching his majority, or upon the death of Amy Struminger, whichever of the four events shall occur first. It is further agreed that the said Donald L. Struminger will pay for any unusual or extraordinary medical expenses that may be incurred by or on behalf of the said children.

9. The said Donald L. Struminger further agrees that he will keep a minimum of \$30,000.00 in life insurance on his life payable to the said children or their legal guardian or to a trust for the use and benefit of the said children until the said children attain the age of twenty-one years.

10. The said Amy Struminger, for and in consideration of the covenants of the said Donald L. Struminger, hereinabove set forth does release the said Donald L. Struminger from any and all rights, claims or demands for temporary or permanent alimony or support for herself.

11. That if a divorce should ever be awarded to page 13 } either party, the parties to this Agreement shall petition the Court to approve and confirm the provisions of this Agreement as the contract of the parties intended to be in settlement of and in lieu of any claim to alimony, as a determination of the respective property rights of the parties, and, insofar as the Court shall permit, a determination of the custody and support of the children.

12. That the parties hereto shall and will at any time or times hereinafter make, execute, and deliver any and all such further instruments and things that the other of such parties shall require for the purpose of giving full effect to these presents and to the covenants and agreements thereof.

WITNESS the following signatures and seals this 30th day of July, 1965.

AMY BAIRD STRUMINGER (SEAL)

DONALD L. STRUMINGER (SEAL)

page 14 }

* * * * *

ORDER

THIS DAY, Came the complainant and moved the Court for leave to amend his Bill of Complaint by including the following allegation to be numbered as paragraph II A, as follows:

That on the 20th day of July, 1965, the defendant, without cause, wilfully deserted and abandoned your complainant and the parties have not cohabited as man and wife since said act of desertion occurred.

And the Court having read and considered said Bill and Answer is of the opinion that such amendment should be permitted; it is, therefore, ORDERED that the complainant hath leave to amend his said Bill as set forth above, and whereupon complainant filed his Amended Bill in open Court and the defendant filed her answer thereto.

Enter: August 24, 1966.

D. CARLETON MAYES

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page 18 }

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DEPOSITIONS

The depositions of Donald Lewis Struminger and Harvey L. Goldstock, taken before Norma Brown, a Notary Public in and for the City of Petersburg, State of Virginia, at Room 517 Petersburg Mutual Building, Petersburg, Virginia, on the 18th day of August, 1966, at 3:15 p.m., to be read as evidence on behalf of the complainant in a certain suit in chancery pending in the Circuit Court of the City of Petersburg, Virginia, wherein Donald Lewis Struminger is the complainant and Amy Baird Struminger is the defendant, pursuant to waive of notice of the taking of depositions filed by counsel for defendant.

PRESENT:

J. H. Lavenstein, counsel for complainant Donald Lewis Struminger, complainant in person Harvey L. Goldstock, a witness Norma Brown, a Notary Public

Donald Lewis Struminger

DONALD LEWIS STRUMINGER, the complainant, a witness of lawful age, being duly sworn, deposes and says:

DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Please state your name and residence.

A. Donald Lewis Struminger. I live at 810 Northampton Road, Petersburg, Virginia.

Q. Are you the Donald Lewis Struminger who brought suit for divorce against Amy Baird Struminger in the Circuit Court of the City of Petersburg on February 14, 1966.

A. I am.

Q. When and where were you married to your wife, Amy Baird Struminger?

A. On January 3, 1961, in Basel, Switzerland.

page 19 } Q. Were any children born of the marriage?

A. Yes, two.

Q. Please state their names and ages?

A. Alexander Struminger, who is now four and a half and Bruce Struminger, who was three on yesterday, August 17, 1966.

Q. You testified that you were married in Basel, Switzerland. Were you a resident of Switzerland at the time of your marriage?

A. No. I was with the United States Armed Forces in Germany and we returned to Petersburg, Virginia, and established our home in Petersburg in April of 1961.

Q. Have you been domiciled in and are you and have you been an actual *bona fide* resident of the State of Virginia for more than one year prior to the commencement of this suit on February 14, 1966?

A. Yes.

Q. In your amended Bill of Complaint, you alleged that on the 20th day of July, 1965, your wife, Amy Baird Struminger, without cause, willfully deserted and abandoned you. Please state what occurred at that time.

A. On the 20th day of July, 1965, she informed me that she no longer wanted to live with me and that she was going to move to Richmond and set up a separate residence and she did this. She went to Richmond and I assume was trying to find an apartment. She finally moved out on July 28, 1965.

Q. Did she take the children with her at that time?

A. She left the children with me and then came back on August 2, 1965, and took them with her.

Harvey L. Goldstock

Q. Have you cohabited as man and wife with Amy Baird Struminger since July 20, 1965?

A. No, I have not.

Q. Has any reconciliation taken place between you and your wife or is any reconciliation probable?

A. No, none.

page 20 } Q. To what race do you and your wife belong?

A. The white race.

Q. In your original Bill of Complaint, you asked for the custody of your children. Do I assume you are still asking for custody?

A. That is correct.

Q. Are you contributing to the support and maintenance of your children at the present time?

A. Yes, I am contributing \$50.00 a week for each child for their support and maintenance.

And further this deponent saith not:

DONALD LEWIS STRUMINGER

HARVEY L. GOLDSTOCK, a witness, of lawful age, being duly sworn, deposes and says:

DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Please state your name and residence.

A. Harvey L. Goldstock, 2008 Burks Street, Petersburg, Virginia.

Q. Are you related to either Donald Lewis Struminger and/or his wife, Amy Baird Struminger?

A. Donald is my brother-in-law.

Q. Do you know Amy Baird Struminger and if so, for approximately how long?

A. I have known her since approximately April, 1961, when she and Donald returned from Europe and established their residence here.

Q. Donald Struminger has brought suit for divorce and filed an amended Bill of Complaint alleging that on the 20th day of July, 1965, his wife, Amy Baird Struminger willfully deserted and abandoned him. Do you know anything about this allegation?

A. I was present at their home on the day she left. It was July 28, 1965. I went to their home at 6:30 that night with

the express intention of trying to perfect a reconciliation with Donald and Amy. I spoke to Amy and Donald page 21 } separately and together. I asked Amy if she would stay with Donald and she said she would not stay with him.

Q. Then, did Amy Baird Struminger actually leave on the 28th day of July, 1965?

A. She did.

Q. As far as you know, has Donald Lewis Struminger and Amy Baird Struminger cohabited as man and wife since the 20th day of July, 1965?

A. Not to my knowledge. Amy has maintained a separate home in Richmond and I know Donald has maintained a separate home in Petersburg.

Q. Has Donald Lewis Struminger been domiciled in and is he and has he been an actual *bona fide* resident of the State of Virginia for more than one year preceding the commencement of this suit, which was on February 14, 1966?

A. He has so been.

And further this deponent saith not:

HARVEY L. GOLDSTOCK

* * * * *

page 22 }

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DECREE

THIS CAUSE, which has been regularly matured, docketed and set for hearing came on this day to be further heard upon the Bill of Complaint and exhibit filed therewith and Answer thereto; upon the Amended Bill of Complaint thereto, upon the evidence taken in open court; upon the depositions of witnesses on behalf of the complainant, regularly taken after waiver of notice of the taking of depositions was filed in this cause; and was argued by counsel or the plaintiff.

UPON CONSIDERATION WHEREOF, the Court finds from the evidence independently of the admissions of the parties in the pleadings or otherwise, the following facts: That the parties are members of the white race and over the age of twenty-one; that they were lawfully married in Basel,

Switzerland, on January 3, 1961; there are two infant children born of this marriage, whose names are Alexander Struminger and Bruce Struminger; that the plaintiff is domiciled in and is and has been an actual *bona fide* resident of the State of Virginia for a period of more than one year immediately preceding the commencement of this suit; that the plaintiff and defendant last cohabited as husband and wife in the City of Petersburg, Virginia; that the charge of *wilful* desertion of the plaintiff by the defendant on the 20th day of July, 1965, as alleged in the Amended Bill of Complaint, has been fully proven by the evidence and that the plaintiff is entitled to the relief prayed for, and it further appearing that the parties hereto have not cohabited as man and wife since said act of desertion occurred and that more

than one year has elapsed since said act of desertion occurred, the Court, doth, therefore, AD-
 page 23 }
 JUDGE, ORDER and DECREE that the complainant, Donald Lewis Struminger, and the defendant, Amy Baird Struminger, are hereby divorced from the bonds of matrimony created by the aforesaid marriage.

The Court doth further ADJUDGE, ORDER and DECREE that until the further order of the Court:

1. The custody and care of the infants herein is hereby awarded to the defendant, Amy Baird Struminger, until the 16th day of December, 1966.

2. That on the 16th day of December, 1966, the custody of said infants shall be with the complainant, Donald Lewis Struminger, for a period of six months.

3. That beginning with June 16th, 1966, each parent shall have the alternate custody of said children for a period of six months in each yearly period.

4. That during each six months period that said children are with the defendant, Amy Baird Struminger, the complainant, Donald Lewis Struminger, shall pay to the said defendant the sum of Fifty Dollars (\$50.00) each and every week for each of said children for the support and maintenance of said children.

5. That while said children are in the custody of either of the parties herein, the other party shall have the right to take custody of the children every other Saturday from 9:00 A.m. until 7:00 P.M., Sunday evening.

NOTHING FURTHER REMAINING to be done in this cause, it is ORDERED that the same be removed from the docket of this Court and placed among the ended causes

herein, with leave to either of the parties to reinstate for cause.

Enter: August 24, 1966.

D. CARLETON MAYES, Judge

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page 27 }

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ORDER

The complainant having served the defendant with Notice that he would move the Court for an Order granting him the sole custody of the infants herein, and the Court doth on motion of the complainant, by counsel, reinstate this cause upon the docket of this Court.

It further appearing that full and complete investigation should be made of the parties herein and their respective homes, surroundings, manner of living and such other matters as may assist the Court in determining to whom and on what basis the custody of the children should be awarded, the Court doth ORDER that:

1. The Department of Public Welfare of Henrico County, Virginia, shall make a full and complete investigation concerning Amy Baird Struminger, her home, surroundings, manner of living and such other matters as may effect the welfare of the infants herein if custody is awarded to Amy Baird Struminger.

2. The Department of Public Welfare of the City of Petersburg, Virginia, shall make a full and complete investigation concerning Donald Lewis Struminger, his home, surroundings, manner of living and such other matters as may effect the welfare of the infants herein if custody is awarded to Donald Lewis Struminger.

The Court doth further order that the Clerk of this Court forward a copy of this order to the Department of Public Welfare of Henrico County, Virginia, and the Department of Welfare of the City of Petersburg, Virginia.

Enter: May 16, 1967.

D. CARLETON MAYES, Judge

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page 30 }

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CITY OF PETERSBURG
VIRGINIA

June 2, 1967

The Honorable Willis W. Bohannon, Judge
Hustings Court
Petersburg, VirginiaRe: Donald Lewis Struminger—Complainant
White—Male
810 Northampton Road
Petersburg, Virginia

Dear Judge Bohannon:

In accordance with your request of May 16, 1967, to make a full and complete investigation concerning Donald Lewis Struminger, his home, surroundings, manner of living and such other matters as may effect the welfare of the infants herein if custody is awarded to him, we are enclosing a report of our findings.

Sincerely yours,

(MRS.) ELIZABETH ZEHMER
Child Welfare Worker(MRS.) JANE S. WILSON
Child Welfare SupervisorApproved: (MRS.) ELIJABETH P. ROBERTSON
Superintendent

EWZ/wkj

Encl.

cc: Mrs. Doris D. Falconer, Child Welfare Representative

Filed June 6, 1967.

R. M. B., Clerk

page 31 } SUMMARY FOR
MR. DONALD LEWIS STRUMINGER

Identifying Information

Name: Donald Lewis Struminger

Address: 810 Northampton Road Petersburg, Virginia

Race: White

Infants herein: Alexander Baird Struminger, born 12-2-61,
Portland Oregon Bruce Hamilton Struminger, born 8-17-63,
Petersburg, Virginia

Present Address of Infants: 810 Northampton Road Peters-
burg, Virginia

Home Situation

A home visit was made on 5-23-67 when the family was seen together. Present for our interview were Mr. and Mrs. Donald Lewis Struminger and the children, Alexander Baird and Bruce Hamilton Struminger and Michael Adler, four year old natural child of the present Mrs. Struminger. The house, itself, is a one-story, brick rancher consisting of six rooms and one bathroom. Mr. Struminger stated that he has listed his home with several realtors to sell as he is aware that they need a larger living area for the family. Upon entering the home is the living room which is a fairly large room, comfortably furnished in modern furnishings. The dining room is located directly beyond the living room. The kitchen is directly toward the back of the house. It is very modern, up-to-date, and consists of most modern conveniences. To the left of the kitchen is the family room and den combination which has enclosed bookshelves and television. This room reflects a very informal atmosphere with modern furnishings; the decor is very bright and cheerful. The two bedrooms and bathroom are toward the right of the living room and may be reached by proceeding down a small foyer. The master bedroom is occupied by Mr. and Mrs. Struminger. The bedroom belonging to the children is toward the back of the house. It is a fairly large room and is presently occupied by the three children, Michael, Alexander and Bruce. There are bunk beds for Bruce and Alexander and a twin bed for Michael. The room is very attractively furnished as a young boys' room. Mr. and Mrs. Struminger remarked that the room is fairly adequate for the children, but they would like to separate them. The children all have adequate space for their personal belongings and the appearance of this room does not appear to be "jammed together". There is a little yard in the front but the back yard has been fenced in and

provides a safe play area for the children. This residential section consists of families of above-average standards of living. There are numerous children in the neighborhood; a few close friends of the children reside nearby. Schools, churches and other community stores are in close proximity. There are two cars used by the family for general transportation.

Family History

Mr. Struminger is Donald Lewis Struminger, born 10-4-37 in Long Island, New York, to Gertrude and Irving Struminger, the youngest of two children. He stated that his family moved to Virginia when he was approximately four years of age. Since that time the family have settled in Petersburg City. His parents are both living and are presently residing within the City. Mr. Struminger attended the public schools in Petersburg. He went to D. M. Brown Elementary School, Bolling Junior High School and completed his high school requirements at Petersburg High School. He then enrolled in Carnegie Institute of Technology and received a Bachelor of Science Degree in Mechanical Engineering. Shortly after his graduation from college, he served a period of two years in the United States Army. He was honorably discharged and presently has the rank of Captain in the United States Army Reserve Corps. Mr. Struminger recalled a happy childhood and felt that his family have always been a close family.

He felt that his family afforded him many opportunities in growing up. Marriage to Amy Baird was his first marriage. The two children in question, Bruce and Alexander, were born in this union. This marriage was terminated by divorce. Mr. Struminger married his second wife on 1-22-67. Mr. Struminger is presently employed as an engineer for the Virginia Linen Service, Incorporated, a corporation founded by his family. He is presently in the field of research and development and has been employed in the Central Office which is located in Petersburg, Virginia.

In appearance, Mr. Struminger is tall and has a medium frame. He has dark black hair and brown eyes. He is friendly, outgoing and displays a very even temperament and obviously shows a great deal of affection toward his family.

Mrs. Struminger is Judith Susan Struminger, second wife of Mr. Struminger. She was born on 1-29-42 in Madison, Wisconsin, to David and Kate Rosenthal, the youngest of two children. She stated that her father is deceased; her

mother is presently residing in McAllen, Texas. She recalled moving to Texas when she was a young child as her father moved to establish a retail produce business. She attended the public schools in McAllen, Texas and then enrolled in the University of Texas where she remained for a period of three years. She stopped college after her junior year to marry her first husband, Michael Adler. One child, a son, was born in this union. This marriage was soon terminated by divorce and the present Mrs. Struminger returned to complete her college education by enrolling in Pan-American College. She received a degree in Elementary Education. For a period of two and a half years she taught school in the public schools in Dallas, Texas. At the present time Mrs. Struminger is unemployed.

In appearance, Mrs. Struminger is short and has a slight frame. She has long black hair, blue eyes and freckles. She has a very pleasing smile. She appears vivacious and friendly. She obviously enjoys the children and seems to have adjusted readily to her new role of parenthood with the addition of the two boys.

Financial Situation

Mr. Struminger is employed as an engineer in research and development by the Virginia Linen Service, Incorporated. He reported his annual salary of 1966 at \$16,000.00 (verified). Mrs. Struminger is unemployed.

Mr. Struminger is buying his home which has an estimated value of approximately \$21,000.00. The present mortgage on this home is \$12,500.00. He reported no outstanding debts of any significance or income from other resources. He stated he has life insurance, face value in the amount of \$27,000.00. He is in the process of securing additional life insurance, a term policy in the amount of \$100,000.00 which is to be effective within the next two weeks. He has a trust fund which he estimates face value at approximately \$30,000.00 for his two children. He has hospital insurance for the family with major medical coverage with Travelers Insurance Company.

Marital Situation

Mr. Struminger first married Amy Baird on 1-2-61 in Basel, Switzerland. The two infants herein, Bruce Hamilton and Alexander Baird, were born in this union. According to Mr. Struminger, he met his first wife while he was serving a tour of overseas duty in the European area and Amy was traveling abroad. Their courtship lasted approximately four

months prior to their marriage. In April of 1961 Mr. Struminger was honorably discharged from the Army and returned home to Petersburg with his wife, who at that time was expecting their first child. According to Mr. Struminger, she left him in the summer of 1961 of her own volition as she was unhappy here in Petersburg and wanted to return to the home of her parents.

This was an amiable separation followed by a reconciliation in March, 1962. Their first child was born in Portland, Oregon. According to Mr. Struminger, marital conflicts continued but they lived together until June, 1965, at which time Mrs. Struminger left of her own volition again to go to live in Richmond, Virginia. He secured a divorce on the grounds of desertion on 6-16-66 in Petersburg, Virginia. In the divorce decree, he voluntarily agreed to pay \$100.00 per week for child support during the six months of the year when his first wife has custody of the children. Mr. Struminger remarried on 1-22-67. He and the present Mrs. Struminger, Judith Susan Rosenthal Struminger, appear to have a very harmonious relationship. According to Mr. Struminger, he met the present Mrs. Struminger through a distant relative and mutual friend of the family. This couple obviously center their interests around the children. It is a future plan of Mr. Struminger to adopt his step-son, Michael, who is now four years of age.

Religion

Mr. and Mrs. Struminger are present members of the Temple Brith Achim, South Boulevard, Petersburg, Virginia. The children attend Sunday School services regularly at the same temple when they are living with their father. The family is obviously very active in their church and their religion plays an important part in their life. It is apparent that they are very conscious of spiritual and moral values.

Health

Mr. and Mrs. Struminger seem to enjoy good health. The children seem healthy and are checked routinely by Dr. Kirby Hart and Dr. David Drewry, local pediatricians. Mr. Struminger reported that during the previous six months while Alexander was living in Richmond with his mother, the child reportedly had an allergy; however, there has been no health problem since he has been in Petersburg. According to Mr. Struminger, both pediatricians find the children to be healthy, normal children.

Children in Question

Alexander Baird Struminger was born on 12-2-61 in Portland, Oregon to Amy Baird and Donald Lewis Struminger. He has been in the care and custody of his natural father, Mr. Struminger, since January, 1967. Alexander is presently enrolled in the Petersburg School of Childhood Kindergarten in Petersburg, Virginia. He seems to enjoy the association with his peers. Mr. Struminger stated that Alexander has always been adept, easy to learn, and often spends many happy hours looking at his own books, as well as books beyond his comprehension. Alexander seems happy and most content in his present environment.

Bruce Hamilton Struminger was born on 8-17-63 in Petersburg, Virginia to Amy Baird and Donald Lewis Struminger. Bruce has been in the home with his father since January, 1967. In appearance, Bruce is tall for his age. He has a slight build, dark hair and brown eyes. This child obviously is developing normally for his age. He may be described as a very outgoing, happy-go-lucky youngster. He, too, apparently is quite well rooted in his environment. He seems to enjoy his older brother and Michael, who is of the same age. If custody is granted to Mr. Struminger, Bruce will be enrolled in kindergarten in the fall of 1967.

The interaction of the children in this household seems positive.

page 34 } *References' Evaluations*

Rabbi Solomon Jacobson of the Temple Brith Achim, South Boulevard, Petersburg, Virginia, was interviewed in his study on 5-24-67. Rabbi Jacobson told us that he was happy to be a reference for Mr. Donald L. Struminger. He remarked that he would give his evaluation of the situation as objectively as possible as he was truly interested in the welfare of the children. According to Rabbi Jacobson, he has known the Strumingers well for a period of fourteen years; he related that he is a personal friend as well as a Rabbi serving in the Temple that their family attends regularly. This reference stated without any reservation that it seems to be in the best interests of these children to be awarded custody to their natural father. Rabbi Jacobson in substantiating his opinion, related that he knew what the marital problems were that existed between Amy Baird and Donald Struminger. It is his opinion that the natural mother, Mrs. Amy B. Struminger, is an irresponsible, flighty person who never could quite accept the role of motherhood as she seemed more concerned

with her own personal pursuits of life. This reference remarked that Mrs. Amy Struminger is very interested in art and is presently enrolled as a student at R.P.I., Richmond, Virginia.

Rabbi Jacobson stated that the children seem well rooted in the present home with natural father and his second wife as the atmosphere is "more normal". He feels that the children now receive the proper care and training as well as love and much understanding. Rabbi Jacobson questions the care that they have received in the past by their natural mother.

Another reference, Dr. Julius Hopkins, Ear, Nose and Throat Specialist, Shore Street, Petersburg, Virginia, stated that it is his feeling that there is no doubt that the children are much better off in their present home with the natural father than with their natural mother. He related that it is apparent that Mr. Struminger is a capable, intelligent, young man, who is financially able to provide an excellent home for his children. Dr. Hopkins further remarked that Mr. Struminger's moral values and character are above reproach.

Mr. Ben Jacobs, a local shoe merchant, who resides at 1855 Westover Avenue, Petersburg, Virginia, was interviewed on 5-26-67. Mr. Jacobs reported that he has known Mr. Struminger since he was a young child having met his family shortly after coming to Petersburg, Virginia, to make their home here. This reference related that he knows Mrs. Amy Baird Struminger well as she and his daughter-in-law were at one time best of friends as each seemed to share the same interest in art. Mr. Jacobs remarked further that he has observed the children since they have been with Mr. Struminger and it is certainly apparent that they are happy and receive better care and more love and affection. In the opinion of this reference he believes that Mr. Struminger should be granted custody of his children. He believes Mr. Struminger is a well reputed young man in this community and has done well in his job as an engineer with the Virginia Linen Service, Incorporated.

Judge Benjamin L. Campbell, Petersburg Juvenile and Domestic Relations Court, stated that he has known Mr. Struminger for approximately five years. It is his opinion that Mr. Struminger is a nice person, who has an excellent background. Judge Campbell further described Mr. Struminger as a cooperative, devout young man, who could provide an excellent home and supervision for his children. This reference stated that he does not know the natural mother of these children.

According to these references, they feel that Mr. Donald Lewis Struminger has much to offer his children.

page 35 } *Reasons Custody Requested of Said Children by
Mr. Struminger*

Mr. Struminger is requesting full custody of his two children, Alexander Baird and Bruce Hamilton Struminger, as he feels it is more desirable to have the children in one environment rather than custody being transferred back and forth to each parent every six months. During the first six months of their custody, while being with their natural mother, Mr. Struminger has become quite concerned about their general welfare as he does not believe the natural mother has had their best interests at heart. She is more interested, it seems, in art. She is presently enrolled in Richmond Professional Institute in Richmond, Virginia and while she is in attendance at class, she leaves the children with a maid. It is not believed by Mr. Struminger they receive adequate care or supervision. Mr. Struminger has stated he does not believe the natural mother has a sincere interest in the children as she has shown little concern about their general whereabouts or activities since they have been in his custody since the first of the year. Mr. Struminger stated that he feels the children could lead a more normal life with him and is seeking permanent custody as he feels it is to their best well-being.

Submitted by: (MRS.) ELIZABETH W. ZHEMER
Child Welfare Worker

Approved: (MRS.) JANE S. WILSON
Child Welfare Supervisor

Date—6-2-67.

* * * * *

COUNTY OF HENRICO
21st and Main Streets—P. O. Box 3V
Richmond, Virginia 23207

June 8, 1967

The Honorable D. Carlton Mays, Judge
Circuit Court of the City of Petersburg
Petersburg, Virginia

RE: Donald Lewis Struminger Complainant
V
Amy Baird Struminger Defendant

Dear Judge Mays:

At your request, we have investigated the circumstances surrounding Mrs. Amy Struminger and feel her home is an exceptionally good placement for her two young sons, Alexander (age 5) and Bruce (age 3). Our information indicates that she is an understanding, loving mother, whose entire life is planned around the care of her sons. Concern for the boys seems to enter into all of her decisions. Mrs. Struminger lives in one of the exclusive apartment complexes in the Richmond area. Though a newcomer to Richmond, the friends to whom she referred, were all prominent in the professions, the arts, and the field of education. She is engaged to Dr. Bruce W. Lundeen, a well-known Radiologist and Professor at Medical College of Virginia. We did not uncover any reason why she should be denied custody of her children.

Mrs. Struminger has grave concern in several areas regarding problems created by the boys presence in their father's home:

1. She is concerned about the trauma created by separation from her. Bruce is showing definite signs of emotional disturbance, as would be expected. Alexander's age tends to lessen the extent of damage, though he would be expected to suffer considerable trauma from the separation.
2. Mrs. Struminger has a respiratory weakness. Alexander has hay fever, which Mr. Struminger refuses to accept.

- as anything but psychosomatic. The children's colds are not treated by a physician and they seem to be almost continuous. They have visited her with high temperatures and untreated. This can lead to serious respiratory complications in later life if not cared for now.
3. The second Mrs. Struminger has a four year old child and is pregnant. This will make four small children, who will need a great deal of individual attention. It would seem, time wise, impossible to meet all of their needs, and it would also seem unreasonable for any mother to neglect her own, in order to give to her husbands' children.

Mrs. Struminger's apartment is located on the second floor rear of the building, farthest removed from Three Chopt Road. There is a large fenced in area for play and many young children live in the complex. The apartment itself consist of a foyer, medium sized bedroom, very large living-dining area, small kitchen and bath, and terrace. The effect is light airy, spacious, and most attractive. There is ample space and ventilation in the bedroom for the three single beds. The space is adequate and acceptable for two small boys and their mother. Mrs. Struminger had reserved a two bedroom apartment in the same building for June 16, 1967, the date her sons were due to return to her care.

page 37 } Mrs. Struminger is an emerging artist of some distinction. She has paintings in three museums, at present, and earns most of her living selling her works. At the time of the separation, Mrs. Struminger faced the problem of supporting herself. Though she could earn a great deal more in the fields of commercial art or *advertizing*, she felt these were strenuous careers that would interfere with her care of her sons, and she decided to complete her formal education so that she could teach art in a college and be free when her sons returned from school. She secured a scholarship at Richmond Professional Institute, and has been offered a position at LaSalle College in California. Mrs. Struminger's brother in Viet Nam contributes substantially to her support and she works very hard and long hours producing work for sale.

Mrs. Struminger's decision to marry Dr. Lundeen, has of course, altered her plans. The wedding is scheduled for this summer, and this will erase any financial strain.

We were able to interview Dr. Lundeen and Mrs. Struminger together and were impressed by the quality and maturity of their relationship. Besides their quite evident de-

light in and admiration for each other, they demonstrated an ability to think and plan together. They have very similar backgrounds, and share each other's interests. Dr. Lundeen is also a creative person, who likes to "tinker" with things. He is able to include the boys in helping him. He exhibited fondness, concern, and a desire to care for the boys. The boys like Dr. Lundeen and respect him. They obey him without question. Mrs. Struminger is a very feminine woman. Dr. Lundeen appears to accept her dependency needs and to fulfill them. He is definitely the leader in what appears to be a very compatible relationship.

It is impossible for Mrs. Struminger and Dr. Lundeen to complete their plans until the court renders a decision regarding the custody of Alexander and Bruce. They expect to get an apartment as a temporary place of residence. Alexander has been entered for the fall session at St. Christophers Kindergarten.

Mrs. Mary Fleischer, a neighbor and wife of an attorney, reports that Mrs. Struminger has a good reputation. She spends most of her spare time painting. Mrs. Fleischer has seen Mrs. Struminger with the children and feels she is a loving and expert mother. Mrs. Fleischer feels Mrs. Struminger is very capable, and a person of good morals, and feels she should have her children.

SUMMARY:

We found Mrs. Struminger to be alert, intelligent, and of good moral character. Her plans for her children are good, and show capable planning. She plans to be married this summer. This is a first marriage for Dr. Lundeen, who is well established in his profession. There will be no financial strain and Mrs. Struminger will not have to work, freeing herself to devote full time to her home and children. We feel that children are better off with their mother and a step-father than they are with their father and a step-mother.

We recommend that Mrs. Struminger be given full custody of her children.

Yours very truly,

(MRS.) NELL B. MEREDITH, Senior Social Worker

(MRS.) DOROTHY L. WILKINSON, Supervisor

Filed June 16, 1967.

R. M. B., Clerk

* * * * *

DECREE

This cause which has been regularly matured, set for hearing and docketed came on this day to be again heard upon the papers formerly read, upon the order of this court reinstating the cause on the docket, upon the notice and motion for complainant, upon the motion of defendant, and upon the evidence heard orally in open court, and was argued by counsel;

UPON CONSIDERATION WHEREOF, and the court being satisfied that it is in the best interest of the children, it is hereby

ADJUDGED, ORDERED and DECREED that the motions of each party hereto for sole custody of the infant children of the former marriage between complainant and defendant be, and they hereby are, denied, and the custody of said children is awarded to their mother, the defendant herein, until January 3, 1968 and to their father, the plaintiff herein, until August 4, 1968. Thereafter, pending page 39 } the further order of this court, custody shall be divided, with each party having custody for six successive calendar months, the defendant to have custody the first six months beginning August 4, 1968; and it is further

ADJUDGED, ORDERED and DECREED that the parent without custody of the children shall, unless notice to the contrary is given to the other parent at least 24 hours in advance, have the right to have said children visit with him or her on every other weekend from 9:00 a.m. Saturday until 7:00 p.m. Sunday but shall pick up and return said children to the parent then having custody at his or her own expense, such pick up and return shall be at the residence of the parent then having custody, and it is further

ADJUDGED, ORDERED and DECREED that the children of the marriage shall be reared in the Jewish faith by either party having their custody, and shall regularly attend a Jewish Sunday School on Sunday morning during its regular school year, and shall attend such synagogue services as may be reasonably prescribed by such Sunday School, but in no event oftener than either Friday, Saturday or Sunday of each week, and it is further

ADJUDGED, ORDERED and DECREED that all pro-

visions of the previous order of the court herein, not inconsistent herewith, are continued in full force and effect.

Nothing further remaining to be done herein, it is ORDERED that this cause be stricken from the docket and placed among the ended causes, properly indexed.

Enter: November 20, 1967.

D. CARLETON MAYES

page 40 } We ask for this:

FREDERICK T. GRAY, p.q.
J. H. LAVENSTEIN, p.q.

I have seen this and object and except thereto for the reasons stated in open court:

CHARLES W. LAUGHLIN, p.d.

* * * * *

page 41 }

* * * * *

NOTICE OF APPEAL

Defendant, Amy Baird Struminger, hereby gives notice of appeal from the Decree entered in this cause on November 20, 1967, pursuant to Rule 5:1, § 4 of the Rules of the Supreme Court of Appeals of Virginia and sets out her assignments of error below.

ASSIGNMENTS OF ERROR

Defendant assigns as error the following:

1. The court erred:

(a) By decreeing that defendant is not entitled to sole custody of the infant children of the former marriage between the parties and in overruling defendant's motion for such custody;

(b) By decreeing that custody of said infant children should be divided between defendant and her former husband as set forth in said Decree;

page 42 } (c) By requiring in said Decree that said infant

Donald Lewis Struminger

children be reared in the Jewish faith and by requiring their attendance at a Jewish Sunday School and at synagogue services as set forth in said Decree; and

(d) By finding that the best interests of said infant children are served by the provisions of said Decree.

2. The record before the court did not, as a matter of law, authorize the entry of said Decree.

AMY BAIRD STRUMINGER
By Counsel

CHRISTIAN, BARTON, PARKER, EPPS & BRENT
500 Mutual Building
Richmond, Virginia 23219
Counsel for Defendant

CHARLES W. LAUGHLIN, Of Counsel

* * * * *

page 5 }

* * * * *

DONALD LEWIS STRUMINGER, the complainant, first being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Will you please state your name, your residence and your age.

page 6 } A. My name is Donald Lewis Struminger. I live at 810 Northampton Road in Petersburg, Virginia. I'm 28 years old.

Q. Mr. Struminger, are you the husband of Amy Struminger?

A. Yes, sir, I am.

Q. The defendant in this suit?

A. Yes, I am.

Q. Where and when were you married to your wife, Amy Struminger?

A. On January 31, 1961 in Basel, Switzerland.

* * * * *

Donald Lewis Struminger

Q. Mr. Struminger, were there any children born of your marriage?

A. Yes, sir. Two.

Q. Please state their names and ages at this time.

A. First, son was Alex Baird Struminger, who is approximately four and three-quarters years old, and the second one was Bruce Hamilton Struminger which—who will page 7 } be three on August 17.

Q. Mr. Struminger, from the time of your marriage where did you reside?

A. From the time of our marriage for a few months we lived in Germany where I was stationed with the Armed Forces and returned to the United States and we moved here to Petersburg. We lived for a few months in an apartment in Petersburg then we moved to a home at 810 Northampton Road.

Q. You don't have to name the street.

A. In Petersburg, Virginia.

Q. Where did you and your wife cohabit as man and wife?

A. In Petersburg.

Q. At what address?

A. At 810 Northampton Road.

Q. Is that an apartment or a dwelling or what is it?

A. It's a private home which I own.

Q. Private home?

A. Which I own.

Q. Did Amy Struminger move out of this home?

A. Yes, sir, she did.

Q. If so, approximately when?

A. May I ask a question? I have some notes which to refresh my memory with. I kept notes on these things.

page 8 } Q. You made them at the time?

A. Yes, I did.

NOTE: The witness took notes from a blue notebook.

A. (Continued) Will you ask me the question again. Will you repeat the question. Read it.

NOTE: The questions "Did Amy Struminger move out of this home?" Answer "Yes, sir, she did." "If so, approximately when?" is read to the witness.

Donald Lewis Struminger

A. On approximately the 20th of the month of July of 1965.

Q. When you say she moved out of the house did you know where she moved to or anything about that?

A. On the 20th of July she told me that she was going to move to Richmond, and she then—she then went to Richmond and was looking for an apartment.

Then, on—on July 28 she informed me that she had found an apartment, and she came to the house and she took various items of furniture and she moved out.

Q. During this time from July 20 when she first told you until she finally moved out, was she still living at page 9 } this residence that you maintained?

A. During this period of time she came back maybe one or two nights. Otherwise, I did not know where she was.

Q. When she went to Richmond during this period of time where were the children?

A. The children stayed with me.

Q. Who took care of the children in the house while she was away?

A. I did. The children were taken care of by me. I was on vacation this particular week and I took care of the children.

Q. You took care of the children?

A. That's right. There was a maid there who assisted me.

Q. There was a maid?

A. There was a maid there who assisted me.

Q. Do you remember her name?

A. Yes. Her name is Mattie Williams.

Q. She is in court this morning?

A. I saw her here, yes.

Q. You have seen her here?

A. Yes, sir.

Q. Mr. Struminger, is July 20 the first time that she informed you she was leaving you?

A. Yes. She just came back from Virginia Beach page 10 } and she told me she was leaving. She wanted a divorce.

Q. You say she had just come back from Virginia Beach. Was there any particular occasion for her to be in Virginia Beach that you know of?

A. She went to Virginia Beach—

Robert C. Vaughan, Jr.

Mr. Pollard: Excuse me a minute, Mr. Lavenstein. The ground for the divorce according to the Bill of Complaint is adultery, not desertion. I wonder as to the materiality of this line of questioning, Your Honor. If there were a suit based on desertion, of course, it would be proper, but I can't see the point of it in this case.

Mr. Lavenstein: May it please the Court, the point is this is not only ground for a divorce, but we are asking for child custody, and I think we have the right to show, within very narrow limits maybe, what occurred even prior to the time that she left. So, therefore, I think it's perfectly proper to bring in this area. It's right there in July a few days before she actually told him she was leaving.

The Court: Let me ask you this question, too, Mr. Lavenstein. Have you all amended to include desertion?

Mr. Lavenstein: No, sir.

The Court: I had hoped you did or would, because I'm of this opinion, that where there are children, some day the mother or father, regardless of what either one does, but, I mean—That's all I want to say along that line, but a lot of them do, and I just—

Mr. Gray: Judge, I'm sorry. I missed a part of what you said.

The Court: If it's a close case, the mother and the father are still the parents of both of the children, sometimes it can all be answered in desertion, and you get the same relief for the time that has passed, and the children are going to grow up some day, they still have got the same father and same mother, and I like to protect children as much as I can. I'm not worried about the two grown-ups.

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page 12 }

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ROBERT C. VAUGHAN, JR., first being duly sworn, testified as follows:

page 13 } DIRECT EXAMINATION

By Mr. Gray:

Q. Would you state your full name, age and address, please.

Donald Lewis Struminger

A. Robert C. Vaughan, Jr., age 47, Petersburg.

Q. What is your profession?

A. Minister.

Q. Do you know Donald Struminger?

A. Yes.

Q. Would you tell under what circumstances you have come to know him, how you know him?

A. Yes. As a neighbor. He lives in the same general neighborhood, in the vicinity. And as a member of the Kiwanis Club which we both belong to.

Q. Do you know his reputation in the community?

A. Yes.

Q. State to the Court what his reputation is?

A. Beyond reproach.

The Court: Any questions, Mr. Pollard?

Mr. Pollard: No, sir.

Witness stood aside.

Mr. Gray: Now, if Your Honor please, the page 14 } complainant would like to amend the Bill of Complaint to allege that the defendant, or respondent, deserted him—

The Court: On July 20, 1965.

Mr. Gray: —on July 20, 1965. And in making the amendment, if Your Honor please, we are amending so that the Bill of Complaint would be in the alternative that—

The Court: You are alleging desertion and adultery.

Mr. Gray: Yes, sir.

The Court: All right.

Mr. Lavenstein: Should the record show whether Mr. Pollard objects to that or assents to that.

Mr. Pollard: I have no objection to that.

The Court: No objection.

Mr. Gray: Your Honor, should we file a written amendment?

The Court: I think it should be later on. I will allow you to file it later on amending it to include desertion.

DONALD LEWIS STRUMINGER, the com-
page 15 } plainant having been previously duly sworn, tes-
tified further as follows:

Donald Lewis Struminger

DIRECT EXAMINATION

By Mr. Lavenstein: (Continued)

Q. Mr. Struminger, when we interrupted this examination you had said, I believe, that your wife had been at Virginia Beach a few days before the 20th when she returned. Do you know when she did go to Virginia Beach?

A. She went—She went to the beach on the 14th of July. To an art exhibit.

Q. To an art exhibit?

A. Yes, sir.

Q. She returned when?

A. She stayed there until July 19.

Q. Where were the children while she was at Virginia Beach?

A. The two children stayed with me in my home.

Q. Did you go and pick her up on the 19th or did she come back by any other means?

A. I went to the beach to pick her up on the 19th.

Q. Was anyone with you?

A. I took my son, Alex, with me.

Q. Mr. Struminger, after your wife returned, you have already testified that she informed you that she was not going to live with you any longer. She went to Richmond. You gave the dates she was in Richmond. She came back and picked up some things and then she finally moved out. Did you during this period of time or around that period of time enter into an agreement what we call a property settlement agreement with your wife?

A. Yes, I did.

Q. I hand you here an agreement dated—

The Court: Filed with the papers.

A. Yes. July 30, 1965.

Mr. Pollard: It's already in evidence.

The Court: Yes, it's filed with the papers.

Mr. Lavenstein: It's filed in the papers, but I think you still have to put it in evidence.

Q. I ask you to examine that agreement and state whether or not that is the agreement that you and your wife entered into?

Donald Lewis Struminger

A. It is, and signed by me.

The Court: Let's mark it as an exhibit.

Mr. Lavenstein: Mark this in evidence as Plaintiff's Exhibit No. 1.

NOTE: The above-referred-to paper writing is marked and filed as Plaintiff's Exhibit No. 1.

Q. Mr. Struminger, I think you also said that page 17 } she then moved out, took furniture from the house which was agreeable to you, and she moved into this apartment with the two children?

A. That's correct.

Q. Mr. Struminger, under this agreement which provided, Paragraph 7A, that the said Daniel L. Struminger shall have the right to custody of the children every Sunday between the hours of 12:00 p.m. to 7:00 p.m. and on every fourth weekend from 9:00 a.m. Sunday morning until 7:00 p.m. Sunday evening. It is understood and agreed that the said Amy Struminger shall have the children prepared in advance of the above-specified hours.

Were the terms and conditions of those privileges carried out or in any way changed?

A. They were changed in that when she moved out on the 28th she left the children with me until August 2 because she said that she was busy in Richmond trying to get things set up at the new apartment that she had just rented.

She then gave them to me the following weekend, which is August 7 and 8. Then, thereafter, it seemed to work out that she was going to give me the children every weekend because she had something to do with school or these other things that she wanted to do in the house, and I had no objection to this. I was very happy to take them, so I took them every weekend.

page 18 } Q. So when you say every weekend, when would you normally pick them up?

A. I would pick them up either Friday evening at say 5:30 to 6:00. I would keep them until Sunday night about 8:00. Sometime I would pick them up on Saturday afternoon between 12:00 and 1:00.

Q. From the date she moved to Richmond with the children until January 1, did you at my request make a record or have you got a record of the number of days that you had actual custody of your children?

Donald Lewis Struminger

A. Yes, I do. From the day she left until January 1, 1966, I had them 44 days out of 150.

Q. That was with her approval and consent?

A. Yes. 1966 I had them—

Q. I'll come to that later. I'm trying to cover '65 first.

Mr. Struminger, as I recall your attention to the fact that under the agreement you were to have them every Sunday between the hours of 12:00 and 7:00 and then on every fourth weekend from 9:00 until 7:00. Did you then according to your records have them more than what this provided for?

A. Yes.

Q. Did you make any record as to how much additional time you had, have you made any computation on that point?

page 19 } A. Yes, sir.

Q. How much additional time did you have with them?

A. From when to when?

The Court: Now, Mr. Struminger, you had better look my way.

The Witness: Excuse me. I didn't understand the question.

Q. What I'm getting at, you were supposed to have them here, to see them every Sunday, that's every seventh date. I don't know how many Sundays there were between the date she left and January 1st. Then on every fourth week you were to have them Saturday morning until Sunday. Now, if you were to add that all up, it comes to a certain number of days. You testified, as a matter of fact, you had them, I think you said 44 days, if I remember correctly. What I'm getting at, did you work out a schedule showing under this decree how many you were only entitled to?

A. No, I didn't.

Q. Well, we'll take it up in argument how many you were. If necessary, that can be pointed out.

Now, at this point maybe it would be proper to ask you this. From January 1, 1966 until today have you kept a record of how many days you have had those children?

page 20 } A. Yes, I did. And I had them for a total of 52 days out of a possible 156 days.

Q. On these extra occasions that you had the children—when I say extra I mean in addition to what was

Donald Lewis Struminger

called for in this decree—how many did that come to? In other words, did you say to her I want these children, or how did it come about that you had them this additional time?

The Court: I think you ought to say pursuant to the agreement. You mean the agreement, this decree, didn't you?

Mr. Lavenstein: I'm sorry. Yes. Please use the word "agreement".

A. Amy is going to school as a full-time student, and she—

By The Court:

Q. Where?

A. University of Richmond—not University of Richmond. At RPI. Richmond Professional Institute. And she had various changes and she had various art shows that she was very active in, and I personally wanted the children as much as possible and she agreed, and was to give them to me every weekend that it was convenient.

By Mr. Lavenstein: (Continued)

Q. Was that at her suggestion or yours that page 21 } you have the children that additional time?

A. When she first left, the first few weeks we went by the agreement. Then she called me up one day, she said she would like me to take the children on an off weekend which I normally was not supposed to have them because she had something to do at school. I readily consented to this, and then I asked her if she would have any objection to my taking them every weekend as long as she felt this way about it. She said no.

Q. Was it at any time that she refused to let you take the children? I'm going back up to January 1, 1966. Was there any of those weekends when you wanted the children or you came by to get the children that she refused to give them to you?

A. No. She always gave them to me whenever I wanted them.

Q. You said your wife was going to RPI. Do you know what type courses she was taking?

The Court: He said she was taking art.

Mr. Lavenstein: I didn't know he brought that out.

Donald Lewis Struminger

Q. Your wife was classified as an artist, am I right?

A. No. I don't know that she was classified as an artist but she does a lot of art work.

page 22 } Q. For the purpose of the record, when you were living in Petersburg together was she attending classes then?

A. She attended classes for about a year before she left at Richard Blanton.

Q. How frequently, do you know?

A. When she first started out, it was only once a week. I think, during the first semester. I think it was once a week at night. Then the semester before she left I believe it was three times a week.

Q. Do you recall any incident that occurred on October 5 and 6, 1965 concerning the children?

A. (Looking through notes).

Q. Mr. Struminger, I see you are referring to a notebook. What is that notebook you have got there?

A. As a practice in my business I always keep track of where I am in any special event, which has been my training as an engineer, and I have a record of any particular event as to my whereabouts at any particular time.

Q. When did you make these entries—

A. I either make these entries on the same day the event occurs or soon thereafter.

Q. It's in your handwriting?

A. Yes. I made all these entries myself.

Q. Do you have any reference to anything that occurred on October 5 and 6?

page 23 } A. Yes. On October 5 and 6, which was a Tuesday and Wednesday, I picked up both Alex and Bruce in Richmond and kept them for those two days because of High Holy Days, which are part of the Jewish religion.

Q. What day was that on, the 5th and the 6th?

A. It was Tuesday and Wednesday.

Q. Did you pick them up on the weekend also as you had been accustomed to?

A. Yes. I didn't pick them up that weekend but Sunday, October 10, I took them to the zoo in Richmond from 1:00 to 4:00.

Q. Was that with your wife's permission?

A. Yes.

Q. Did you bring them back in time or at any particular

Donald Lewis Struminger

time, you recall, and what occurred when you brought them back?

A. She said that she had to go to school to take care of some work and she would meet me back at the house at 4:00. When I got back to the house at 4:00 there was a baby-sitter there who said she had called—

Q. Well, you have no right to quote the babysitter.

A. It was a babysitter.

Q. There was a babysitter there?

A. Yes, sir.

Q. Did you see your wife at all then?

page 24 } A. No.

Q. By the way, where is this house that your wife lived at?

A. 4202 Forest Hill Avenue.

Q. Richmond, Virginia?

A. In Richmond, Virginia.

Q. What does that house consist of?

A. It's an old home that has been converted into two apartments.

Q. Is there an upstairs and downstairs apartment or two downstairs apartments or what apartment does she occupy?

A. Amy occupies the downstairs. The other apartment is half downstairs and half upstairs.

Q. Do you know whether or not when Amy moved into that apartment the other apartment was occupied?

A. It was unoccupied.

Q. Do you know approximately when that other apartment was rented out?

A. The other apartment was not rented out until approximately—well, the end of January.

Q. 1966?

A. 1966.

Q. Now, Mr. Struminger, did you have an occasion to pick up your children on the 16th day of October, 1966?

page 25 } A. Yes, I did.

Q. What day of the week was that?

A. That was Saturday.

Q. Will you please state what you did at that time?

A. I picked—I picked up the two boys, Alex and Bruce, at approximately 12:30 in the afternoon, and we got in the car and we started to drive back to Petersburg, and as is my custom I asked the children what they had been doing the week before.

Donald Lewis Struminger

Q. When you picked the children up was there anybody else in the apartment?

A. Yes, there was Mark Williams in the apartment.

Q. Who is Mark Williams?

A. Mark Williams is a young man who goes to high school. Amy told me he was helping her do some work around the house, and he was in the apartment when I got there.

Q. Had you ever seen him there before?

A. Yes, I had seen him there three or four times before.

Q. He was there at this particular day, the 16th of October, when you picked up the children?

A. Yes.

Q. When you left, did you leave him in the apartment?

page 26 } A. No. Amy and him both got in—got into her car with him driving and they drove away at the same time.

Q. Now, you proceeded toward Petersburg then with your children, I assume?

A. Yes.

Q. Now, continue.

A. I asked the boys what they had been doing the previous week—

Q. Now, at this point, I don't think you have the right to tell us what the children told you in words. As a result, however, of anything the children told you, what did you do?

A. Well, there were several remarks that the children made that made me somewhat suspicious of the relationship between this Mark Williams and Amy. I think the suspicion was compounded because when I had gone to pick up the boys I noticed this boy Mark was very familiar with the house. For instance, he picked up her mail as if it were his mail, leafed through it, and just the various ways he seemed to make himself at home indicated to me that he had spent quite a bit of time in the house and had a little bit more familiarity with her personal effects than perhaps he should have had, in my opinion. As a result of this suspicion I went back to Richmond that night—

Q. Well, you took the children home?

page 27 } A. I took the children home, yes, sir.

Q. All right, sir.

A. That evening, I made arrangements to have someone stay with the children and I came back to Richmond. I arrived in Richmond that night at about 8:00 and I went to

Donald Lewis Struminger

Amy's house. Her car was there. Weren't any lights on in the house. So I decided to go to a movie, and I went to a movie.

After the movie, then I went back to her house. I arrived at the house approximately 11:45, and I could see that there were some lights on in the house, saw lights on in the bedroom and lights on back in the kitchen. It was the 16th of October and it was still fairly warm, and I noticed the windows were open and her car was parked out front. I felt if I wanted to find out if there was anybody in the house I would have to go up, I would have to listen at the window, so I did this.

Her bedroom window was open, and I went to the bedroom window. I stood under it. I could hear Amy, I could hear this boy Mark Williams.

I stayed there for approximately fifteen minutes, and I didn't particularly care to stand under the window, so I went back to my car. I sat in the car about fifteen minutes.

Later, the lights went off in the bedroom and I went back to the bedroom window and I could hear Amy and I could hear this boy Mark inside.

page 28 } And the bed is approximately five feet from the window, and the sound that I heard indicated that they were on the bed.

Q. Did you do anything after that?

A. Yes. I went to a telephone and I called my lawyer.

Q. Don't tell us what you told your lawyer or what your lawyer told you.

What then did you do?

A. I went to the telephone and because I didn't quite know what to do, and the decision I came to was to have some witnesses observe the same thing, so I called my father and I called my brother-in-law and I asked them to meet me in Richmond.

After I called them and they said they would, I think by this time it was about 12:30 at night, and I went back to the house.

By the time I got back to the house the car was still there and the lights were still off.

I waited there a while then for a certain amount of time because I knew they had to drive from Petersburg into Richmond. I waited outside the house about 30 minutes, then I drove to the Du Pont area where I told them I would meet them because they didn't know how to get there.

Donald Lewis Struminger

I then drove to the Du Pont area. I waited for
page 29 } them, and they got there at about 12:30.

We then all got in the same car. We drove back to Amy's house at which time the only light on in the house was the light from the kitchen. The bedroom light was still off and the car was gone.

I then drove over to Mark Williams' house.

Q. Where does he live?

A. He lived at 1903 Hanover Avenue, Richmond. And I found the car parked at his house.

Q. What car did you find?

A. Amy's car.

Q. Did you see her or Mark there?

A. No, sir, I did not.

Q. What did you then do?

A. I then drove back to Petersburg.

Q. This was early Sunday morning, I presume?

A. Right.

Q. The children were in Petersburg?

A. Children were in Petersburg.

Q. You were supposed to bring the children back that Sunday, were you?

A. Yes, sir.

Q. Did you?

A. I came back Sunday. I arrived at 8:05, and Amy was
page 30 } not there. The back door of her apartment has a loose chain, and, as a matter of fact, the boys showed me they can go in through the back door, just slip the chain, so that's what we did, and we waited, when I got in the house, and I took the boys.

I took the suitcase in. Then, I noticed the house was in pretty much of a mess. It was quite a disarray.

She had not shown up. It was about 8:30. I looked around the house and I found that the beds were all messed up; and I examined the bed, and the bed indicated to me that sexual relations had taken place on the bed. I was quite upset about this, and I again called Petersburg and decided I would wait a little while longer to see if she showed up.

I waited until 9:15. She finally showed up at 9:15.

Q. May I interrupt a moment?

A. Yes.

Q. While you were there waiting for her from, I think you said 8—

A. 8:05.

Donald Lewis Struminger

Q. —8:05, did you try to reach her in Richmond at any place?

A. No, I didn't, because I didn't know where to reach her.

Q. She finally came in at what time?

A. She came in at exactly 9:15.

page 31 } Q. What—

A. As a matter of fact, I was getting ready to leave.

Q. What occurred at that time?

A. I asked her where she had been. She said she had been out, and I told her what I thought was going on in the house because it was so messed up, and she told me that she—had loaned the apartment out to Mark Williams' brother and his girl friend, and that she hadn't been there the night before, that it must have been them.

Q. She hadn't even been there?

A. No.

Q. Did you ask her what her car was doing there or anything like that?

A. No, I did not.

Q. As a result of that incident that you have referred to, what did you then do in relation to this case?

A. Well, the purpose of my going there on the 16th of October was to find out exactly how the children were being taken care of and under what type of environment they were being exposed to, and I found out to my satisfaction that things were not as they should have been.

I contacted a firm of private investigators and I employed them to find out further information for me to determine—

page 32 } Q. So, it was after this incident of the 16th of October, do I assume I'm correct—

A. Yes.

Q. —that you first contacted some investigating agency?

A. That's correct.

Q. Did you engage them?

A. I engaged them.

Q. Would you state the name of the agency?

A. The name of the agency is the Mercury International, Incorporated.

Q. Was there a manager, or I don't know what you call the man you discuss this with, but you asked what to do?

A. Yes, I did.

Q. What was his name?

Donald Lewis Struminger

A. His name was Mr. Withers.

Q. From that time on did you ever get any report from Mr. Withers' office as to anything they observed?

A. Yes. I received a report weekly.

Q. By the way, at this point maybe I should ask you this question. Since your wife left you, as you have testified, has there been any reconciliation between you all?

A. No, sir, there has not.

Q. Have you all had any relationship as husband and wife at all?

page 33 } A. No, we have not.

Q. Has she spent a night in your house in Petersburg or have you spent any night at her house or apartment in Richmond?

A. She has not and I have not.

By The Court:

Q. I want to get in just a little bit of something.

If I understand, at the time she left July 20 she told you she was leaving and wasn't coming back, is that correct?

A. She said she was leaving and that she was going to look for an apartment in Richmond, and as soon as she found one she was coming back to get the furniture, and she was—

Q. She intended to break it up?

A. That's correct.

By Mr. Lavenstein: (Continued)

Q. Along with that may I put this into the record.

You previously testified when your wife returned from Virginia Beach she informed you that she was going to leave you. Did you and your wife live together as man and wife from that time on?

A. No, we did not.

The Court: All right, go ahead.

page 34 } Q. Now, do you have any record or recollection of anything that occurred on December 28, 1965?

A. (Referring to notes) Yes. It was a Tuesday, and I picked up Bruce at 7:00 at night. As Amy said, the other son, Alex, had a temperature, must have been 104.

Q. Excuse me. I'm having difficulty hearing you. Would you mind speaking a little louder.

A. Yes. I picked up Bruce at 7:00 that night. It was a

Donald Lewis Struminger

Tuesday. I did not pick up Alex because he had a temperature, 104 temperature. She said he was sick, therefore she preferred him not to go.

Q. And you brought, I assume, you brought him to Petersburg?

A. I brought him to Petersburg and I kept him until December 31.

Q. At that time what occurred?

A. Amy, this Mark Williams, and Alex came to Petersburg to pick up Bruce.

Q. You mentioned again the name of Mark Williams on this incident. You mentioned he goes to a high school or prep school, I think you said. Do you know the name of the prep school or high school he goes to?

A. The Blue Ridge School.

Q. Do you know where that is?

A. Near Charlottesville, Virginia.

page 35 } Q. Charlottesville, Virginia?

A. In that area. I'm not sure exactly where it

is.

Q. Mr. Struminger, while you were living with your wife in Petersburg, what was her physical condition? I mean by that was she a nervous person, excitable person, or can you give us any picture of her? Did she take medicines of any kind or was she under doctor's care for anything at all in your home?

A. There were certain periods of time she was quite nervous and she took—she took various tranquilizers which she felt was okay.

Q. Do you know whether or not she was under the care of any physician for this condition?

A. No, she was not. She went to doctors on several occasions for various things, but—

Q. You mentioned the word tranquilizer. In Richmond did you have any occasion on your visits when you picked up the children to notice whether or not there was any medicine there?

A. Yes.

Q. What?

A. Usually—

Mr. Pollard: Your Honor, I can't see the purpose of this line of examination. I have gone along with it for several questions and answers. A lot of people take tran-

Donald Lewis Struminger

page 36 } quilizers. I would like to know where we are going
with it.

Mr. Lavenstein: Well, all I'm trying to do is give a picture to the Court of the living conditions, which I feel is proper.

The Court: I'll let you show how often she took them.

Mr. Lavenstein: I'll ask if he knows. He said they were there.

By The Court:

Q. How long had she been taking tranquilizers altogether?

A. She took them ever since I knew her.

The Court: All right.

By Mr. Lavenstein: (Continued)

Q. Now, do you have any record of anything that occurred on January 19, 1966?

A. Yes. That was a Wednesday evening. And I called Amy at her home at about 7:00 and it wasn't any answer. I called her to check on just how we would handle the children this weekend, what time I would pick them up, and there wasn't any answer. I kept trying until, my notes, approximately 9:50.

page 37 } At that time I thought she might be at the
Williams house, and I called her at the Williams home in Richmond. The phone was answered by Mrs. Williams who said that Amy was in school.

Mr. Pollard: I object to anything that anybody else told him on the phone.

The Court: Objection sustained.

Q. Do you know whether or not the children were there at the time?

A. Yes. I could hear them crying in the background.

Mr. Pollard: Your Honor, I object to this. There has been no foundation laid that he knows whose children were crying or anything.

Mr. Lavenstein: Heard children crying in the background.

The Court: Heard children crying. All right, let's go ahead.

Q. Did you refer any message to whoever you talked to to have your wife, Amy, contact you?

Donald Lewis Struminger

A. Yes. I left a message for her to call me.

Q. Did you ever receive a call from her.

A. No.

Q. On that particular night, I'm referring to.

A. No, I did not, but I called back again ap-
page 38 } proximately 10:30.

Q. At that same number, same house?

A. Same number. She answered the telephone, speaking
of Amy answered the telephone.

Q. Do you recall anything she told you at that time?

A. Yes. She told me she was staying there that night
because Bruce was sick.

Q. That Bruce was sick?

A. Yes.

By The Court:

Q. Staying at the Williams home?

A. At the Williams house because both Bruce and Alex
were there and Bruce was sick, she was staying there with
them.

By Mr. Lavenstein: (Continued)

Q. Did she give any other reason for staying there?
Would you check your record?

A. She said the heat in the house was not what she thought
it should be and—

Q. What day of the week was that?

A. That was on a Wednesday. She also told me she was
in school that night was why she wasn't there.

page 39 } Q. Did you pick the children up that same week?
I believe that's the 21st, am I right?

A. I picked them up on Friday night, the 21st, at 5:30.

Q. Where were you at that time?

A. I picked them up at their home at 4202 Forest Hill
Avenue.

Q. Was anything said by Amy as to Bruce's health, in
view of the fact that you have said earlier that he was run-
ning a temperature?

A. She gave me some medicine to give him.

Q. You were supposed to bring those children back when?

A. Sunday evening.

Q. Did you bring them back that Sunday?

A. No, I did not.

Q. Why, what occurred?

Donald Lewis Striminger

A. She called me Sunday evening. She called me, she wasn't feeling well, perhaps it would be better if I kept them in Petersburg until she was feeling better.

Q. How long did you keep them?

A. I kept them until Wednesday, January 26, and I brought them back that evening at 7:30.

Q. When she called—

A. She called me Wednesday.

page 40 } Q. When you saw her at that time did she make any statement as to whether or not she was feeling all right or not, was anything said about her at that time?

A. No, I don't think so.

Q. Do you have any record of anything that occurred on January 28, 1966?

A. Yes. Two days—I brought them home on the 26th, and on Friday, January 28 I picked them up again because she said there was a movie at the school that evening and she wanted to go to an art show that was in Washington, D. C. that weekend. So she asked me to meet at the post office, which is right across the street from the Du Pont plant, at approximately 5:30 because she had to make the movie at 6:30, something like that.

I got there, I was late. I got there at 5:45. She was not there when I arrived. She arrived at 6:15. She gave me the children and I took them back to Petersburg with me.

Q. Do you know whether or not she went to the movie that night or where she went, of your own knowledge now, I mean?

A. Well, I received a report—

Q. No, not any report you received. We have those witnesses.

A. No.

page 41 } Q. Do you know, to your knowledge, did you try to reach her that night?

A. My own knowledge, I called her at the Williams house that night and she was there.

Q. She was there?

A. Yes, she was there, because I called—

Q. Do you know what time that was?

A. I don't have a note of that. If I remember it was about 10:00. The purpose of the call was to find out where she was going in Washington because she didn't tell me where she was going to stay.

Q. Was it the next day she was going to Washington?

Donald Lewis Struminger

A. She was going to Washington the following day.

Q. This was Saturday?

A. Which was Saturday morning.

Q. Now, you were to keep the children until she returned. When was she supposed to return from Washington?

A. Sunday night.

Q. Now, did she tell you the purpose of the trip to Washington and who was going with her or who she was going with?

A. She said she was going to Washington, D. C. for the purpose of an art show that she wanted to see. She was going with Mrs. Williams, and that was—that was all she was going with.

page 42 } Q. Do you know of your own knowledge—Did she return on that Sunday and pick up the children?

A. No, she did not.

Q. Did you hear from her at all?

A. I received a call from the United Press International that said that there was a snow storm and she could not reach me, and he gave me a phone number where she was staying since she had moved out of the first hotel she had stayed at. She had gone to a private home.

Q. Did she give you the name of the hotel where she and Mrs. Williams were going to stay in Washington?

A. Yes. She told me she was going to stay at the Fairfax Hotel in Washington, D. C.

Q. Did you get this phone number? By the way, was this a severe snow storm?

A. Yes.

Q. Did you call Washington?

A. I called Washington, the phone number she gave me. I was able to get through right away, and she was at a Mrs. Chamberlayne's house.

Q. Whose house?

A. Mrs. Chamberlayne. In Washington, D. C.

Q. What occurred during that conversation?

A. She told me that she and Mrs. Williams had run out of money and could not stay at the hotel any longer since there was a snow storm, they were unable to get back to Petersburg—rather to get back to Richmond, and that Mrs. Chamberlayne was a friend of Mrs. Williams, that's why they went there.

page 43 } During the course of the conversation she also mentioned

Donald Lewis Struminger

the name Mark Williams did this or he did that. I asked whether Mark Williams came with you. She said no, he is not with me. And I pursued this and asked her several more questions about who was with her. She said only Mrs. Williams and no one else. And she seemed somewhat upset about the whole thing, about my questions.

Q. When did you next hear from her?

A. I next heard from her Tuesday, February 1. I called her—In other words, I still did not hear from her. She said she would try to get back either Monday or Tuesday. I didn't hear from her Monday, so I figured she would be back Tuesday morning.

I still did not hear from her, so about 1:00 I called her home in Richmond. She answered the phone, said she had just arrived.

By The Court:

Q. 2:00 in the morning?

A. No, 1:00 in the afternoon. 1:00. February 1. It was a Tuesday.

page 44 } I asked her when she wanted me to bring back the children, and she said no, because she had to buy a lot of groceries for the house. It was a lot of snow on the walk, she didn't have anyone to shovel it off, could I keep them for several more days?

She also told me they would be staying at Williams house for the next few days.

By Mr. Lavenstein: (Continued)

Q. She would be staying at the Williams house?

A. Yes.

Q. All right, go ahead.

A. And I kept the children. And we agreed that I would bring them back on Sunday.

Q. During this time that she left on a Friday night when you had picked up the children, and you now are going on, she returned the following Tuesday, and you were to bring the children back on that Sunday. That was a matter of about eight or nine days that she had not seen her children. During the time that she was in Richmond, when she returned on Tuesday, did she contact you at any time to inquire as to how the children were or anything like that?

A. No. But I called her at the Williams home on Friday morning at approximately 9:20, and, as a matter of fact, I

Donald Lewis Struminger

waked her up, and I forget the purpose of my
page 45 } call. I think it was some question about the chil-
dren. Other than that, I did not speak to her.

Q. Did you bring the children back on this Sunday night
that you had agreed to?

A. No, I did not.

Q. Did you go there that Sunday night and see your wife?

A. Yes, I did.

Q. What was the purpose of your—

Mr. Pollard: Which Sunday night was that?

The Witness: February 6.

Mr. Lavenstein: Sunday night, February 6.

Q. What occurred at that time?

A. In lieu of everything that had been happening I felt
that the children should not live with her, and I went back to
Richmond by myself to discuss it with her, to discuss the
way she had been living, the fact that I didn't think it was
in the best interest of the children that she carry on with
an eighteen-year-old boy and—

Q. Well, up to that time, Mr. Struminger, to the best—
had you told your wife that you had an investigation?

A. No, not until this minute.

Q. As far as you know, up to that time did she know that
an investigator had been watching her?

A. To my knowledge, no, she did not.

page 46 } Q. On that particular night did you then tell
her that you had investigators?

A. At first I didn't. At first I talked to her, I know, about
her activities, and she wouldn't admit anything to me, so I
told her I had had her watched and I did know these things.

Q. You previously testified as to something that you saw
and observed on the night of October 16 and the conversa-
tion that you had with your wife which was on the following
Sunday.

Did your wife during this conversation with you—this
was on February 6, 1966—you say you had talked—

The Court: You are on October 16 or February 6?

Mr. Lavenstein: October 16 is the date which he made
certain personal observations, and on the following Sunday,
on the next day, Sunday, is when he bought the children
and told his wife what he saw, and he has testified she denied

Donald Lewis Struminger

any misconduct, but she said she had turned the apartment over to Mark Williams' brother and his girl friend, that was what she said.

Q. (Continued) Now, on this particular night you were having this discussion—

The Court: That is February 6?

Mr. Lavenstein: Correct, February 6.

page 47 } Q. (Continued) I gather from what you have said that you told her that she had been watched or that an investigator had been checking her?

A. That's correct.

Q. Did you make any further accusations accusing her of misconduct with Mark Williams?

A. I don't understand the question.

Q. Sir?

By The Court:

Q. Did you tell your wife, did you make any further remarks about what you knew concerning her or that you did know something concerning her?

A. Yes, I did.

By Mr. Lavenstein: (Continued)

Q. Now, as a result, or during this conversation, did your wife at any time make any statement as to whether or not Mark Williams had ever been in her bed?

A. Yes, she did.

Q. Exactly what did she say, if you remember?

A. She said that he had been in her bed but that he didn't touch her.

Q. Didn't touch her?

A. Right.

page 48 } Q. I believe it was following that, the record will show, that suit for divorce was filed.

Mr. Lavenstein: Your Honor, I think the record will show that.

The Court: Filed February 14.

Mr. Lavenstein: Excuse me. (speaking to reporter) Would you read back the question, how I phrased it: Did she make any statement about Mark Williams being in her bed.

Donald Lewis Struminger

NOTE: The above-referred-to question, "Now, as a result, or during this conversation, did your wife at any time make any statement as to whether or not Mark Williams had ever been in her bed?" is read by the reporter.

Q. (Continued) Now, did she make any statement as to whether or not on this occasion in October that she was also in bed with him?

A. Yes, she said that she was. She said he and her were in bed together but he did not touch her.

Q. Didn't touch her. Did you ask her why he was in her bed or how long they stayed in the bed, did you go into any detail whatsoever?

A. Well, she told me she loved him and he loved her, and I told her did I understand he wanted to marry her. She said that was true. She said he stayed there late at night several times, that he wasn't feeling well or he was sick, or for one reason or the other he stayed there, at her home.

Q. As a matter of fact, didn't she tell you that on one occasion he stayed until 6:00 in the morning due to his being under the influence, am I right or wrong?

A. Yes.

By The Court:

Q. On these days did they stay in the same bed?

A. She said she stayed in the same bed. There were two bedrooms. One bed is hers and the other is for the children.

By Mr. Lavenstein: (Continued)

Q. Mr. Struminger, subsequent to that for that you filed suit for divorce, am I correct, sir?

A. That is correct.

Q. Do you recall or were you present in the Judge's office on the day that we had a preliminary hearing here?

A. Yes, I was.

Q. Do you recall the Judge informing Mrs. Struminger not to see Mr. Williams any longer again?

A. Yes, I do remember that.

page 50 } Q. Do you know whether or not, to your knowledge, since that hearing, I think it was February 21, she has seen him?

A. Yes, I do.

Q. Have you seen her with him?

Donald Lewis Struminger

A. I have not seen him with her but she has stayed at the home quite frequently, and she herself told me she has seen him at his home.

Q. You say she stayed at his home quite frequently. How do you know that?

A. Because for various reasons I have called her at his home and I have spoken to her there.

Q. Mr. Struminger, you testified that your wife went to RPI when she came to Richmond. Do you know how frequently she attended classes or was supposed to have attended classes?

A. Yes. She attended classes five day a week and one night a week.

Q. Do you know who took care of the children when she was not at home?

A. Yes. She had various—she had a maid and she uses various babysitters.

Q. Have you seen this maid there on occasions?

A. Yes, sir, I have.

Q. Have you seen these babysitters on occasion?
page 51 } A. Yes, I have.

Q. What ages are these babysitters, would you have any idea?

A. They range anywhere I think, from about fourteen years old up to maybe thirty-five or forty years old.

Q. Were they boys or girls?

A. Both. Some were young boys, some were young girls. One was a woman in her forties, I believe, early forties.

Q. Mr. Struminger, you testified that you lived, at 800—

A. 801.

Q. Northampton Avenue, Petersburg?

A. Right.

Q. What type of house is that?

A. It's a brick private home.

Q. How many rooms?

A. Six rooms plus bath.

Q. How many bedrooms?

A. It has two bedrooms and a den, which is used as a bedroom if necessary.

Q. I know the Judge is familiar with Petersburg, but would you tell him in what area Northampton Avenue is?

A. It's in Walnut Hill right off of Westover Avenue. Residential area.

page 52 } Q. Do you still live there?

Donald Lewis Struminger

By The Court:

Q. How old are the children?

A. Alex will be five the first week of December and Bruce will be three on August 17.

By Mr. Lavenstein: (Continued)

Q. They are both boys?

A. They are both boys.

Q. Was this house you lived in in Petersburg when your wife was living with you apparently adequate for you and your family to live there?

A. Yes. We moved in in June of 1962.

Q. When your wife was living there was there anyone to help in maintaing the home?

A. Yes. There was a maid.

Q. How frequently was she there?

A. She came in five days a week from about 11:00 in the morning—She usually got there between 11:00 and 11:30, and she stayed until 5:00 or 6:00.

Q. Since your wife left—you gave that as your residence—have you been living there?

A. I still continue to live there, yes, sir.

Q. In the event the Court were to award you page 53 } the custody of those children where would those children live?

A. At the same residence with me.

Q. You are employed, are you?

A. Yes, I am.

Q. You mentioned several times that you were an engineer. Where did you attend school?

A. I went to Carnegie Institute of Technology in Pittsburgh.

Q. What degree did you receive?

A. I received a bachelor of science degree in engineering, mechanical engineering.

Q. Do you know whether your wife is a college graduate?

A. She's not a—she's not a college graduate but she has attended college.

Q. The house or apartment that your wife rented in Richmond, I think you said, I might be mistaken, but I think you said it was an old house that has been made into two apartments.

A. Yes, that's correct.

Q. How many rooms are there, do you know?

Donald Lewis Struminger

A. In her apartment there is one, two—four rooms.

Q. Consisting of what?

A. There's a living room, there are two bedrooms
page 54 } and a kitchen.

Q. It's Forest Hill Avenue, I believe you said?

A. Yes, sir.

Q. Is there any play area around the house or anything for the children to run around in?

A. Westover Hills is a main thoroughfare. As a matter of fact, I think there is a highway number on the road. I'm not sure which one. To my knowledge they play in the back yard. There's a small area back there which is right off the kitchen. I imagine that's where they play.

At one time I think it was some chicken wire that separates it from the street, but it wasn't effective. It was laying down all the time that I was there, and I had occasion to be there this past Sunday when I took the children back and I had to take them to the back door, and it wasn't there then, so there was no separation from the back yard to Westover Hills Avenue.

Q. Going back to one of my earlier questions for the benefit of the Court, in the event the Court awards you custody of the children, I think you said you would bring them back to your home in Petersburg?

A. Yes, sir.

Q. You are employed?

A. That's correct.

Q. What are your hours of employment?

A. My general hours are from 8:30 until 6:00.
page 55 }

Q. Who would be taking care of these children while you were at work?

A. If I had full custody of the children I would hire a practical nurse to live in the home and to take care of the children.

Q. To live there?

A. Yes, sir.

Q. You are associated with a concern that has other units at other places. I think there's one in West Virginia, am I correct?

A. Correct.

Q. I believe there's one in Norfolk?

A. That's right.

Q. Do you on occasions have to go, for business purposes, to those places?

Donald Lewis Struminger

A. Yes, I do.

Q. Now, if you were called out to go there what would you do with the children if you were awarded their custody?

A. First of all, the occasion of my being called out if I had custody of the children would be very few because I have already made arrangements with my employer for this. If it were necessary, first of all, my parents live right around the corner. I have a sister also in Petersburg who page 56 } is married. And I'll have this nurse who lives in —who will live in for me, and, therefore, I feel that it will be taken care of.

By The Court:

Q. Do you have a particular nurse in mind?

A. I have made several contacts but, of course, I couldn't make a definite arrangement—

Q. How old was this nurse you talked to?

A. One is in her forties and the other is in her fifties.

Q. I'm not trying to bring in race relations, but is this white or colored?

A. Colored.

By Mr. Lavenstein: (Continued)

Q. Mr. Struminger, you have mentioned earlier some dates that the children were with you during the religious holidays. The Jewish holidays you had the children over to Petersburg.

A. For all the Jewish religious holidays she gave me the children.

Q. You have had the children on those occasions?

A. Yes.

Q. Have you taken them to church or to the Temple or Synagogue?

page 57 } A. Yes, I have.

Q. You have done that?

A. Yes.

By The Court:

Q. Let me ask a question. Do you belong to the Jewish faith and she belong to the Jewish faith?

A. She—we belong as man and wife to the same Synagogue. We do not belong to any other church, but she's a Catholic and never converted to the Jewish faith.

Donald Lewis Struminger

By Mr. Lavenstein: (Continued)

Q. When you were living together did your wife on occasions attend services with you at the Synagogue?

A. Yes, she did.

Q. And various affairs that were held at the Synagogue?

A. Yes, she did.

By The Court:

Q. The children are being raised in the Jewish church?

A. I don't know how they are being raised right now.

Q. But I thought that was the way it was in the page 58 } beginning.

A. That was our original agreement but there was a conflict with this as it turned out.

Q. She has been taking them to the Catholic church?

A. No. She never took them with her.

By Mr. Lavenstein: (Continued)

Q. Mr. Struminger, you have been since the hearing here on the 21st of February—I think that is the date—seeing your children according to the same schedule you had before. In other words, it hasn't gone back to that every Sunday certain hours and every fourth week?

A. No. The Judge at the time said I could have them every other weekend.

Q. She gave them to you?

A. She gave them to me.

Q. You have been seeing them under these conditions?

A. Yes. I have taken them out on Friday and taken them back Sunday evening.

Q. On the occasions you picked them up have they always been picked up at her apartment?

A. Sometimes at her apartment, sometimes at the post office which is right across the street from Du Pont.

Q. She always gave you the children when you went there?

page 59 } A. No. On several occasions she had a baby-sitter there to either pick them up or to receive them. In other words, when I'd pick them up she would have a babysitter, when I brought them back she would have a baby-sitter there.

Q. So there were occasions you didn't see her at all?

A. That's right.

Rabbi Solomon Jacobson

Mr. Lavenstein: Will you kindly answer any questions by the Court or Mr. Pollard.

CROSS EXAMINATION

By Mr. Pollard:

Q. Mr. Struminger, we might as well start where we left off.

By The Court:

Q. How old are you, Mr. Struminger?

A. Be 29 October 4. She'll be 29 August 4. Two months older than me.

* * * * *

page 60 }

* * * * *

RABBI SOLOMON JACOBSON, a witness of lawful age, first being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Will you please state your name, residence, age and your profession?

A. Solomon Jacobson, 1941 Van Dorn Street, Petersburg, Virginia. A Rabbi.

Q. How long have you been a resident of Petersburg?

A. 13 years.

Q. Do I presume during that period of time that you have been the Rabbi of one of the congregations in Petersburg?

A. Congregation Brith Achim, yes, sir.

Q. Rabbi, do you know Donald Lewis Struminger?

A. I do.

page 61 } Q. How long would you say you have known him?

A. The whole time I have been there, 13 years.

Q. Do you feel that you are in a position to have any views as to his reputation in the community?

A. I feel I'm in that position.

Q. Would you state what his reputation is?

Donald Lewis Struminger

A. His reputation is excellent in every way. Character, integrity, and honesty, responsibility.

* * * * *

page 62 } DONALD LEWIS STRUMINGER, the plaintiff, resumed the witness stand, and testified further as follows:

CROSS EXAMINATION

By Mr. Pollard: (Continued)

Q. Mr. Struminger, don't you frequently work on Saturday afternoons?

A. Excuse me.

Q. Don't you frequently work on Saturday afternoons?

A. I frequently work on Saturday from 9:00 to about 12:00 or 1:00, depending on whether I have anything to do or—

Q. You don't have occasion to work on into 3 or 4 or 5:00 in the afternoon?

A. If I have nothing better to do.

Q. Haven't you on occasion when the children were at your home worked on through Saturday afternoon?

A. No.

Q. You have not?

A. No, I have not.

Q. You say your wife went with you to Synagogue on several occasions for various functions of some sort.

A. That's right.

Q. Did she ever attend the Catholic church in Petersburg?

page 63 } A. Over the course of three or four years that she was in Petersburg she went several times.

Q. Did you ever make an objection to her going to the Catholic church?

A. No, I did not.

Q. You did not?

A. No, I did not.

Q. Now, you made a statement that you had the children so many days from I believe January until the present time?

A. Yes, sir, that's correct.

Q. How many days was this?

A. Let me refer to my notes. I have it written here.

Donald Lewis Struminger

You are talking about from January 1, 1966 until today, June 15?

Q. Until today?

A. 52 days.

Q. Are you including in that 52 days the two weeks you had the children without her consent?

A. Included in that—included in the 52 days are 14 days during which custody was—

Q. During the 52 days you said you had the children, 14 days was when you withheld custody against her consent?

A. That's right.

Q. It wasn't a voluntary action on her part that page 64 } you had the children during this time?

A. No. I guess it was 38 days.

Q. So, it was 38 days.

The Court: Let me get the question straight. You said was there any objection. Did she call and want the children and he refused to send them back?

Mr. Pollard: That time when he came back on February 6 he said I'm not going to bring the children back.

By The Court:

Q. What I want to know, was there any contact, any call from her, and you refused to take them back, in the meantime?

A. Yes. She said she wanted the children back, and I refused to give them to her, but I did permit her to come to the home to see the children during this period.

By Mr. Pollard: (Continued)

Q. Wasn't there a hearing had in this court determining custody of the children, whether or not she could have the children back at that time?

A. That's right.

Q. Who requested that hearing, do you know?

A. It was requested I guess by you.

page 65 } Q. By Mrs. Struminger. Now, you stated in Richmond where she lives that there was very little place for the children to play, or words to that effect.

Are you aware there is a park about half a block from the house on Forest Hill Avenue?

A. There's a park but they can't get there by themselves.

Q. What do you mean they can't get there by themselves?

Donald Lewis Struminger

A. Well, someone has to take them.

Q. They can't get there with the maid?

A. If someone is available to take them.

Q. Well, there's no reason they couldn't go there and play, is it?

A. If someone is available to take them, that's right.

Q. Now, the babysitters you have spoken of seeing at various times at the home in Richmond, you say some of them appeared to be as young as 15, ranged all the way up to 40?

A. Right.

Q. You say this was sometime in the afternoons and sometimes at night? Did you ever see anybody else as young as 15 there at night?

A. (Pause) I can't actually recall whether it was night or during the day or when. I know the names of the page 66 } various people.

Q. So it may be then that the only times the young ones were there would have been in the afternoon?

A. No. I know that there was one occasion, at least one, several—if I go through my notes and tell you the exact occasions—when there were young men there at night. In other words, I called the house and they told me exactly who they were, that they were a babysitter and they gave me their names.

Q. But you don't know how old these people would be?

A. Yes. Around 15 years old.

Q. Around 15. Could be 16 or 17 just as easily?

A. I don't think so.

Q. Well—

A. I could be wrong, yes, sir.

Q. You don't know?

A. I don't have their birth certificate, no.

Q. Now, you have apparently, according to your own testimony, been in your wife's apartment on several occasions.

A. That's right.

Q. In Richmond. And you know the general layout of her apartment?

A. That's right.

Q. Now, she has, does she not, a kitchen and the next room is the bed that she normally sleeps in, she uses page 67 } this as her bedroom, the room adjacent to the kitchen?

A. Yes.

Donald Lewis Struminger

Q. And she also uses this as a dining room, eating area?

A. No, I don't think so. It's my knowledge she eats in the kitchen.

Q. You don't know whether or not she eats in this room on occasions?

A. I don't know what she does.

Q. Is the television located in this room?

A. Excuse me.

Q. Is the television located in this room?

A. As far as I know she doesn't have a television unless she just got one recently.

Q. Are you saying there was no television in this room?

The Court: He said he didn't know.

A. As far as I know there isn't any television unless she just got one.

Q. Now, this bed in that room, isn't this the kind of bed that doubles into a sofa in the day time?

A. No.

Q. Convertible type bed?

A. It's nothing but a mattress.

Q. No springs, no legs or nothing?

page 68 } A. It's a mattress and springs. It's a regular
—in other words, it's just like you take a metal
frame and you put two mattresses on top of it.

Q. Haven't you, in fact, Mr. Struminger, gone in there and sat on these very beds yourself dressing the children and so forth?

A. Yes, I have sat on the bed.

Q. It's used to sit on a lot during the day time?

A. Well, I guess you can sit on any bed if you want to sit.

Q. I'm asking you about this particular one.

A. I have sat on the bed, yes. There are chairs in the room also.

Q. What chairs are in the room?

A. There are about five or six chairs in that room.

Q. These are old antique chairs?

A. No. Rocking chair. The table you are referring to, which is a round table, which I assume from observation she uses as a work desk because she keeps all her papers on the table, has four chairs which are regular chairs. As a matter of fact, there are six chairs.

Q. One of these you sat in and broke one time, did you?

Donald Lewis Struminger

A. I sat in it and it broke, yes.

Q. These are quite old chairs, are they not?
 page 69 } A. No. As a matter of fact, several of them
 were originally antique chairs but they didn't
 match the set so we had some brand new copies made, so
 they are brand new chairs made in the shape of antique,
 but they are brand new chairs.

Q. Now, to go back to this agreement that you entered
 into with your wife of last year, you say that the arrange-
 ments for custody, I mean the times you would have the
 children, were changed, and she asked that you come and get
 the children on Saturdays on some occasions instead of on
 Sunday.

Didn't you discuss with your wife, didn't you both discuss
 the fact that it was possibly better for the children for you
 to have them two days rather than for them to be brought
 over on Sunday morning and taken back in the afternoon?

A. Yes, sir.

Q. Did you discuss this with her?

A. I certainly did.

Q. Didn't you tell her that you felt that the children did
 not have time over that period to adjust to you?

A. That's right.

Q. It was a question of bringing them in and taking them
 right back out?

A. That's right.

Q. Wasn't it a matter of mutual agreement and consent
 it be done this way?

page 70 } A. Yes, it was.

Q. For the benefit of the children?

A. Yes, it was. In fact, I asked her to leave them with
 me all the time.

Q. I know, but the reason it was changed from Sunday to
 Saturday—

A. I felt it was much better for the children.

Q. Coming to get the children, taking them out and bring-
 ing them right straight back wasn't fair to the children in
 your opinion?

A. I didn't think it was fair to the children because of the
 45 minute drive to get to Petersburg, so I figured by the
 time they get there it's late already. By the time you get
 back, well, you've spent an hour and a half traveling.

Q. Now, on times when you had various holidays and festi-
 vities in your church, did your wife make any objection to
 your having the children?

Donald Lewis Struminger

A. No, she did not.

Q. Did she cooperate with you?

A. Yes, she did.

Q. You had no trouble at all in this?

A. No trouble at all.

Q. Now, on February 6 you have testified that you examined the sheets. What bed was this that these sheets were on?

page 71 } Mr. Lavenstein: What date did you say?

Mr. Pollard: February 6.

Mr. Lavenstein: You mean October 16, don't you?

Mr. Pollard: You are right, October 16. October 16, 1965.

A. I examined the sheets on Amy's bed.

Q. You testified you saw evidence of relations on the bed. Was this the bed in Amy's room or the children's room?

A. It was the bed in Amy's room. The bed in the children's room was messed up also.

Q. Had the sheets apparently been cleaned recently?

A. Beg your pardon.

Q. Did the sheets appear to be recently laundered on any

A. Beg your pardon.
of these beds or what?

A. Let me put it this way. It was so disorderly it looked like there had been an orgy. I mean, they were just—

Q. On both beds?

A. Yes.

Q. On both beds?

A. On both beds.

Q. In other words, you were craning outside the window on the night of the 16th?

A. That's right.

page 72 } Q. And it was the day of the 17th that you examined these sheets?

A. That's right.

Q. And you say that both beds appeared to you to be messed up?

A. That's right. The pillows were on the floor and the pillows themselves looked right messed up.

Q. When you talked to her about this didn't she suggest to you that the sheets hadn't been cleaned and the children at times wet the beds at night?

A. No.

Donald Lewis Struminger

Q. You didn't discuss this with her?

A. No. Her explanation was that she loaned her apartment to Mark Williams' brother and his girl friend.

Q. I know, but you discussed this with her on more than one occasion. You discussed it with her, I believe, on September, October, and didn't you again discuss this particular event with her on February 6?

A. Yes, but the only explanation I got was Mark Williams' brother.

Q. She never discussed that this was possibly the fact the sheets had not been cleaned properly or recently?

A. No.

Q. And the children wet the bed.

A. That was not their dirt.

page 73 } Q. You never discussed that with her?

A. No. I know the difference. I know what a child's sheet looks like because I take care of them in my home. That was not the same thing at all.

Q. But she denied that anything happened in there?

A. She denied she was there. She said it was Mark Williams' brother and his girl friend.

Q. Exactly what did you see on the sheet?

A. How much of a description do you want?

Q. Well, you are the one testifying. You reached this conclusion. I want to know how you reached this conclusion.

A. Want a full description?

The Court: Tell what it looked like.

A. Looked like there were sperm all over the sheets from sexual relations.

Q. Was it dry or wet?

A. It was dry.

Q. In both beds or what?

A. Yes, sir, that's right.

Q. Did you take the sheets and have them examined by anybody else?

A. No, I did not.

Q. Or have any tests or anything of this sort made?

A. No, I did not.

Q. How did you reach this conclusion?

page 74 } A. From my observation. I have been married for four years.

Donald Lewis Struminger

Q. Mr. Struminger, this detective agency you have hired, would you mind telling us what it costs you?

Mr. Lavenstein: What was the question?

The Court: How much did it cost.

Mr. Pollard: What the cost of this detective agency has been.

Mr. Lavenstein: If it please the Court, I fail to see the relevancy of what the service costs.

The Court: I think it's an admissible question to show the interest in the case. Go ahead.

A. Over \$3,000.00.

Q. Over \$3,000.00?

A. That's right.

Q. Now, have you since July 20, 1965 had any dates at all?

A. Have I had any dates?

Q. Uh huh.

A. Since July 20, 1965? Yes, I have.

Q. Gone to any dances?

A. Yes, I have.

Q. Have you brought any girls by your house?

A. No.

Q. You have not?

page 75 } A. I did on one occasion, I stopped off at the house with a girl. As a matter of fact, the maid was there. We just came in. I went after the children that weekend. There was a dance at the Synagogue and I took this young lady to the dance, and after the dance we came to check on the children. The maid was there, and then we went out to have some coffee with some friends.

Q. Then you too have been out with other women since this separation?

Mr. Lavenstein: What do you mean other women, Your Honor?

Mr. Pollard: Other than his wife.

Mr. Lavenstein: But, the inference is something different. We don't object—

By The Court:

Q. Have you had dates with anyone other than your wife? I'm not letting other women—

Donald Lewis Struminger

Mr. Lavenstein: You see, Your Honor, we are not objecting to Mrs. Struminger having dates with other gentlemen, that's not what we objected to.

The Court: Go ahead.

By Mr. Pollard: (Continued)

Q. Have you had dates with other women?

page 76 } By The Court:

Q. The Court is interpreting this to mean have you had dates with women other than your wife? Of course, you said you haven't had any with her since July.

A. Since she left.

By Mr. Pollard (Continued)

Q. Now, have you been dating any women since this time?

A. Have I gone out with other women? Yes, I have.

Q. You say you had on at least one occasion women to your house, or a young lady to your house.

A. For about five minutes.

Q. When your children there?

A. For about five minutes.

The Court: He said the children and the maid.

A. The maid was there. We walked in to see how the children were. Everything was okay and we left.

Q. The first time you saw Mark Williams in the presence of your wife was there any attempt made to hide the fact that he was there or play this down?

A. There was on one occasion, not the first time.

Q. When was that?

A. It was one occasion I came to her house. I was in Richmond and it was back in September just about a month and half to two months after she had moved out, and I was in Richmond, and I guess it was about 9:00 or page 77 } 9:30 at night, something like that. I thought I would stop off at the house.

In other words, where we were able to talk to each other, able to communicate, and I stopped off at the house, and I saw a Volvo which was parked in front, which I found out, I noticed it to be Mark Williams' car, and I went up and I rang the doorbell, and Amy answered the door. She had on a nightgown and a housecoat.

Donald Lewis Struminger

By The Court:

Q. What time was this?

A. It was somewhere about 9:00 or 9:30 at night. And I asked her if I could come in. I asked her who was there. She said it was Mark Williams. I said I wanted to come in, I want to talk to you. She didn't exactly want me to come in, but she agreed, okay, come on in.

I didn't see Mark Williams, however, in the house. I asked where is he? She said he's sitting out on the back steps because you and I argue when you come here and he doesn't want to listen to it.

By Mr. Pollard: (Continued)

Q. As soon as you asked who was there, she told you it was Mark Williams?

A. That's right.

Q. Didn't she bring Mark William on one occasion to Petersburg to get the children?

A. That's right.

Q. She didn't deny the fact, didn't keep anything
page 78 } secret?

A. I asked her what he was doing there at 9:00 or 9:30 and why she was in her nightgown. She said it's nothing, she said he's 18 years old, he's a high school boy, don't be suspicious.

Q. When you first saw him wasn't he helping redo the apartment?

A. Right. Which I felt was fine, I thought it was a very good idea.

Q. You know for a fact that he did help her redo this apartment?

A. Yes, sir, I certainly do.

Q. Have you ever met his mother?

A. Yes, I have.

Q. You know that your wife is a friend of his mother's?

A. I know she met them both at the same time, about a few days before she actually moved into the apartment.

Q. How did she meet him, do you know?

A. She wanted to show me the apartment in Richmond. She said she had found an apartment in Richmond and she wanted me to look at it, and I didn't think it was the right place for children to live, it was down near RPI and in a rather I felt was not an adequate neighborhood for the children, and I told her I didn't like the apart-

Donald Lewis Struminger

page 79 } ment, I wasn't going to let her take the children
 over there, live in that apartment. So she said let's
 find another one, and she had an address of another one she
 had looked at. She wanted to show it to me, and we stopped
 there and asked directions of how to get to the location,
 and it was an accident that occurred, and we were there and
 I had stopped to ask directions of Mark Williams' brother,
 and so during the course of events he asked us to come into
 their house and use the telephone, see if we could find out
 where this place was I was supposed to be taking her. That
 was the first time she met Mark Williams and his mother
 and his brother.

Q. You met them all at the same time?

A. Yes. As a matter of fact I can even give you the date.

Q. Not one before the other.

A. It was the 21st of July.

Q. When did you start keeping this book, Mr. Struminger?

A. That's my habit in the course of business. So that I
 know where I am, for instance, if I go some place or some-
 thing, some special event happens I keep notes of things
 because these various questions come up in the course of busi-
 ness and I always keep notes so I can refer to them.

Q. When you went to check on the apartment you wrote
 that number down because you thought it might
 page 80 } help you in your business?

A. Well, I don't carry it in my pocket. When I
 get back to my office either right then or the next day I make
 notes of these things.

Q. How does this help you in your business?

A. Well, from the time she told me she was leaving I
 started entering that into my notes. This was after that.
 Then every event that happened thereafter.

Q. You say she called you on this particular day to see
 the apartment, she wanted you to see whether you would
 approve the apartment before she took it?

A. Right.

Q. Mr. Struminger, you have testified that on this date of
 October 16 you reached the conclusion there was something
 going on between your wife and a man, other men, which
 you did not like and you didn't think it was a good atmos-
 phere for the children, is that correct?

A. That's correct.

Q. That was October 16, 1965.

Donald Lewis Struminger

Mr. Lavenstein: Excuse me. His testimony was he objected to her seeing Mark Williams, not other men. I think it ought to be pinpointed because he identified Mark Williams as being there.

Q. I say him or other men.

Mr. Lavenstein: I'm sorry.

page 81 } Q. And your answer was yes?

A. Ask the question again.

Q. After what you have testified to that you heard and saw on October 16, 1965 you testified you had reached the conclusion that she was seeing this boy and something was going on that you didn't approve of.

A. That's correct.

Q. You finally felt like it was an improper atmosphere for your children, is that correct?

A. That's correct.

Q. You also testified after that occurrence that you hired the detective agency?

A. That's correct.

Q. You thereafter had weekly reports from the detective agency, is that correct?

A. That's correct.

Q. Why then did you permit the children, if you didn't approve of this situation, to stay there from October 16, 1965 until February 6, 1966?

Mr. Lavenstein: May it please the Court, at this point I think I have a right to say that, as Your Honor is well aware, in a charge such as we originally brought here there must be corroboration of testimony in any matter, and he started to say several times, if you will, when he page 82 } was testifying he talked to his lawyers and I said you can't tell us what you said. I think it's only fair at this time to let him, if this is what Mr. Pollard is asking, to let him testify to what his lawyers advised him and why he did that. If that's what Mr. Pollard wants I think he is ready to tell Your Honor what his lawyers advised.

Mr. Pollard: If he wants to say he was acting on advice of counsel, all right. I think he should answer why he left the children there.

John Lawrence Locarni

The Court: I'm going to let him answer. What he lets in, of course, you will be bound by it, sir.

Q. All right, sir, go ahead.

A. At the time I found this out I wanted to take the children away from Amy right then and there, and on advice of counsel, and they explained the law to me; that if I did she could take them right back, that there was no way I could really keep them unless there was enough evidence that she was not a fit mother, and that if I wanted to get the children and that if I wanted to be able to keep them then we had to get such evidence as to be able to prove our case.

Q. But you felt at that time that something was going on?

A. I wanted to remove them right then and there. I didn't want her to keep them another minute.

Q. But you allowed them to stay there?

page 83 } A. I was there until 9:15, and I was getting ready to leave the house, go back to Petersburg if she hadn't shown up in the next couple of minutes. That's exactly what I was going to do.

* * * * *

JOHN LAWRENCE LOCARNI, first being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Gray:

Q. Mr. Locarni, will you please state your name and spell it out for the court reporter.

A. John Lawrence Locarni, L-o-c-a-r-n-i.

Q. Your address.

A. 3970 Suitland Road, Suitland, Maryland.

Q. How old are you, Mr. Locarni?

A. 30.

Q. What is your occupation?

A. I'm presently employed in the Naval Communications Technical Support Center in Suitland, Maryland.

page 84 } Q. How long have you been so employed?

A. With the Navy for the past 13 years, with the military.

Q. Do you also participate in private investigation?

A. Yes, sir. I'm retained by Mr. Bradford of Bradford

John Lawrence Locarni

Investigations at 18 18th Street, Northwest, Washington, D. C. on a part-time basis.

Q. Mr. Locarni, do you know a lady by the name of Amy Struminger?

A. Yes, sir.

Q. Do you see her at this time?

A. Yes, sir. She's the lady sitting over here.

Mr. Gray: Let the record show he indicates she is sitting at the defense table.

Q. Would you state to the Court the circumstances under which you first became acquainted with this lady and relate what took place at that time.

A. Yes, sir. It was the 29th of January of this year. I was called by T. W. Bradford, my employer, part-time employer, and informed to join a Mr. Ware, another employee of Bradford, at the Fairfax Hotel in Washington, D. C., Northwest.

It was approximately 2:45 p.m. that afternoon when I joined Mr. Ware who has since deceased.

Mr. Ware observed Mrs. Struminger—

Mr. Pollard: I object to what Mr. Ware ob-
page 85 } served, Your Honor.

The Court: Objection sustained.

Mr. Pollard: He has to stick to his own observations.

The Court: Limit it to what you observed yourself.

A. Yes, sir. Mr. Ware retained Room 715. I met Mr. Ware in Room 715.

By The Court:

Q. Where is this Fairfax Hotel located?

A. Right now the street, I can't recall the street, sir. It's in Northwest Washington, D. C. At 2:45 I met Mr. Ware in the room at Fairfax Hotel. I stayed in the room watching the passageways to Room 715 on the seventh floor. I watched the passageway observing Room 722 and 723, the two rooms that Mrs. Struminger and Mr. Williams and his mother, Mrs. Williams, had retained. These two rooms.

At 5:45 I observed Mrs. Struminger, Mr. Williams and his mother returning from some place or another in town. Mrs.

John Lawrence Locarni

Williams and Mrs. Struminger entered Room 722. Mr. Struminger entered Room 723.

By The Court:

Q. Mr. Struminger wasn't there, sir.
page 86 } A. I'm sorry, I beg your pardon, sir. Mr. Williams entered Room 723.

Immediately thereafter, within the next five minutes or so, the entire party came out of their separate rooms and proceeded to the elevator. At this time I proceeded into the elevator with them and down to the lobby, whereas they were talking about going to eat, so forth. I went down to the lobby and walked into the *boy* directly myself, followed by Mrs. Struminger and Mrs. Williams, whereas I sat at the bar and Mr. Williams and Mrs. Williams and Mrs. Struminger sat at the bar also.

Ordered a drink. I take that back. Let me start over a little bit. I was followed into the bar by Mrs. Struminger and Mrs. Williams where they both ordered a drink. I take that back again. Mrs. Struminger and Mrs. Williams and Mr. Williams went to the lobby, inquired about a taxicab at the lobby. I immediately—

By The Court:

Q. Who ordered the drinks first? You said Mrs. Struminger and Mr. Williams. Now you—

A. No, no. I got it twisted in my mind. Mrs. Struminger and Mrs. Williams went into the bar.

By Mr. Gray: (Continued)

page 87 } Q. The two ladies went to the bar?

A. Yes, sir.

Q. Then what happened?

A. Went to try to get a taxicab.

Mr. Pollard: May I ask what the witness is testifying from? Is he testifying from a memorized statement and if so who prepared the statement?

A. Yes, sir. The statement was prepared by—It wasn't memorized. It was prepared by myself and Mr. Ware.

Mr. Lavenstein: We'll be happy to introduce it. We didn't think it was proper evidence.

Mr. Pollard: I object to the introduction of such a statement made by Mr. Ware. It's obvious the witness is not

John Lawrence Locarni

familiar with these notes. I submit he should testify from his own memory, not from what Mr. Ware wrote.

The Court: You testify from what you saw yourself, not what Mr. Ware wrote up then you memorized. Just testify what you saw and what you remember.

A. That's exactly what I'm doing, sir. At that time immediately thereafter Mr. Williams came into the bar area, and they all three had a drink at the bar. Immediately thereafter the bellhop took all the coats back up to the room, left the bar area with the coats.

I called up on the telephone to Room 715 where page 88 } Mr. Ware was, informed him that I was coming up. I came up right after the bellhop to find out where the coats went.

I seen the bellhop put the coats in Room 723.

I then returned to the bar and I tried to overhear the conversation. I couldn't hear too much pertinent of the conversation at that time.

About 6:45 they sat down to dinner in the bar area. Came in directly in front of the bar.

About 7:00 or about 8:00—about 8:00 p.m. Mrs. Struminger and Mr. Ware ran out of the bar area holding hands—

Q. Mr. Ware wasn't there.

A. I'm sorry. No, Mrs. Struminger and Mr. Williams ran out of the bar area holding hands. She appeared to be pale.

Q. Appeared to be what?

A. Pale. I immediately called Mr. Ware in Room 715 to keep an eye out. I proceeded up in the next elevator. When I got up to the seventh floor Mr. Ware told me—

Mr. Pollard: I object.

A. When I got to the seventh floor I conversed with Mr. Ware for a minute, then I went directly to 722 where I heard a male and female voice in Room 722. I overheard a female voice say I can't understand why I got sick.

Mr. Pollard: Your Honor, we have been listening to five minutes of this testimony, I have yet to see where page 89 } the fact this girl took a seat or the fact Mrs. Williams took a seat, the fact they were in a bar, I don't see what that has to do with this case. If he's got something to tell, let him tell it, but I object to this whole

John Lawrence Locarni

line of testimony in narrative form. Most of it so far hasn't been material to the case.

The Court: I agree with you so far, but he has a right to testify.

A. Well, the reason I was saying that—

The Court: Go ahead.

A. (Continued) The reason I was going along like this, I was asked the circumstances of becoming acquainted with Mrs. Struminger.

I then went down to the bar, upon suggestion of Mr. Ware, to see if I could overhear any of the conversation, to find out what they were doing in the Fairfax Hotel, their plans and so forth.

I returned to the bar. This was about 10:00, 10:00 p.m., after 9:00.

Struck up a conversation with Mrs. Williams at the bar area. I purchased a drink for Mrs. Williams at the bar. At that time she—we got in a general conversation about—

Q. You have no right to say anything that Mrs. Williams said to you. You have no right to say that. Un-
page 90 } less Mrs. Struminger was there and heard it.

A. Okay, I'm sorry. Then the conversation I can't repeat because Mrs. Struminger was not there during the course of the conversation. Sat at the bar. A few minutes later I was joined again by Mr. Williams at the bar and we had a few drinks together, the three of us, and Mr. Williams appeared—Well, I can't testify to that either.

About 10:45 they all left the bar area and proceeded to the elevator. I rode up in the elevator with the people to the seventh floor.

At this time I observed Mr. Williams entering Room 722 and Mrs. Williams entering Room 723, 722 being the room that the voices were heard in earlier in the night, the male and female.

At this time we marked the door 722 so we could tell when it was opened. We done this by placing a match stick on it so we could see who was entering or leaving that room.

We also watched that room from that time until approximately 8:00 the following morning. No activity. The door was not opened.

At 8:40 we sat down—we were set back quite a bit because

John Lawrence Locarni

Mr. Williams came out of Room 723, thereby indicating the rooms had connecting doors on the back. About 11:00—On this, I later verified through the maid in the hotel the rooms were connected.

page 91 } Now, about 11:00 that day they all came down in the hotel, was going out to find the car. Found the car, left from the parking lot going some place.

About, oh I'd say roughly 4:00 they walked back in the hotel again and went up to their room, hotel, same room, all 722.

Q. All three?

A. All three, yes, sir.

And a little after 4:00 Mr. Williams came down and proceeded to check out of the hotel. Thereupon me and Mr. Ware took a position in front of the hotel to see where they went from there.

Also, Mr. Williams told me that I'll go to purchase a pack of cigarettes.

Mr. Williams told me at that time they were staying with friends that night because they could not drive back to Richmond because of the weather. It was during the snow storm.

He walked about four blocks up the street. Took a taxicab out to 17th Street and I imagine—still don't know what happened there.

They stopped in the heart of the slum area there. Got out of the cab and proceeded on foot—

Mr. Pollard: Judge, I'm going to object one more time. I just can't see where this is material.

page 92 } Mr. Pollard: It's not material to the case.

The Court: Go ahead.

By Mr. Gray: (Continued)

Q. Mr. Locarni, do I understand that the two rooms adjoin, Room 722 and Room 723, and that Mr. Williams and his mother and Mrs. Struminger were occupying those two rooms?

A. Yes, sir.

Q. Did you at any time in the course of the evening ascertain whether a man and woman were in the same room together?

A. Yes, sir. At the time when she was sick.

John Lawrence Locarni

By The Court:

Q. At the time the woman was sick, you wouldn't think anything was going on that would be wrong?

A. No.

By Mr. Gray: (Continued)

Q. She could have been drunk?

A. I don't think, I don't think she was under the influence either. I think the major portion of this—I'm not allowed to do this. Mr. Ware passed away.

Q. Don't go into what Mr. Ware did. We want to know what you observed, what you know about it. Your inference from what you saw, not from what he told you.

Did she at any time in the course of the evening page 93 } after, as I understand, she was sick then come
back down to the bar later, did she come back down
later?

A. Yes, she came down much later.

Q. Then they went back into their respective rooms upstairs?

A. That's right.

Q. Did you at any time in the course of the evening then determine they were in the same room together?

A. When they came back upstairs Mr. Williams entered Room 722 and Mrs. Williams entered room 723, 722 being the room that Mrs. Struminger was in earlier in the evening.

Q. Did you listen at the door?

A. We heard male and female voices in Room 720—722.

Q. Did you recognize the voices?

A. Male and female voices.

Q. You heard male or female voices together later?

A. Immediately after Mrs. Williams—

Q. What time was that?

A. This was about 11:00, sir. Also again about 11:30 when he checked the hall.

By The Court:

Q. Mr. Locarni, there was no time you went page 94 } there that the three weren't together in the two
rooms—Mr. Williams, Mrs. Struminger and Mrs.
Williams?

A. Yes, sir, there was a time.

Q. Except the time that she was sick?

A. As far as I can absolutely pinpoint because the rooms are connected. I could not say definitely.

John Lawrence Locarni

By Mr. Gray: (Continued)

Q. Did you see Mrs. Struminger take a drink in the course of the evening?

Mr. Pollard: I object to that, Your Honor. What purpose would this serve if she had a drink?

A. None, no.

The Court: None, but I'll—

A. Yes, she had a drink of some sort.

Mr. Pollard: It's not material to this proceeding, Your Honor.

Mr. Gray: Answer Mr. Pollard.

CROSS EXAMINATION

By Mr. Pollard:

Q. You say at the time you did hear male and female voices. You couldn't establish whose voices they were, could you?

A. No. You hear voices behind a door you page 95 } couldn't say whose.

Q. It could have been Mark Williams' mother, for all you know?

A. No, sir, because I was at the door right immediately after they were in there.

Q. You don't know whether the door was open between the two rooms, you don't know any of the circumstances inside?

A. No.

Mr. Pollard: I believe that's all.

RE-DIRECT EXAMINATION

By Mr. Gray:

Q. You are being paid for coming down here and testifying, is that correct, sir?

A. Yes, sir.

* * * * *

William L. Penny

WILLIAM L. PENNY, first being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lavenstein:

page 96 } Q. Will you please state your name, your age
and your residence.

A. William L. Penny, 35 years old, 2602 4th Avenue, Richmond.

Q. Will you speak loud enough so this lady can hear you and so the Court can hear you?

A. William L. Penny, 35, 2602 4th Avenue, Richmond.

Q. Mr. Penny, what is your occupation?

A. Private investigator.

Q. That is your sole occupation?

A. No.

Q. What is it?

A. Part-time.

Q. What other?

A. Sir?

Q. You say that's part-time. What is your regular job?

A. Henrico County Police Department.

Q. How long have you been with the Henrico County Police Department?

A. Almost 13 years.

Q. 13 years?

A. That's right.

Q. Did you at any time make any observations concerning a Mrs. Amy Struminger?

page 97 } A. Yes, I did.

Q. Do you see her in the courtroom?

A. Yes, sir.

Q. Where is she?

A. Right over there.

Mr. Lavenstein: May I have the record show he identified Mrs. Struminger.

The Court: Yes, sir.

Q. As a private investigator and working in the Struminger case, under whose orders were you acting?

A. Mr. John Withers. He is the president of the agency I work for.

William L. Penny

Q. Of the agency you work for?

A. That's right.

Q. May I make this statement. It covers something Mr. Pollard brought up. When I ask you questions and you don't have that information in your hand and you desire to refer to any document that you have prepared please let me know.

A. Yes, sir.

Q. Then I'll ask the Court if he'll permit you to look at it to refresh your memory.

A. Yes, sir.

Q. Do you recall when you started working on this case or approximately when?

A. It was about around the middle of October page 98 } '65. I think the first investigation I went on was the 22nd of October.

Q. You think it was the 22nd of October?

A. Yes.

Q. What did that work consist of, what was the general nature of what you did?

A. Well, most of it was surveillance work. Watching the subject's home and the co-subject's home and their activities.

Q. Doing what?

A. And their activities, you know.

Q. Her activities?

A. Yes.

Q. Who are you referring to as co-subject?

A. Mark Williams.

Q. Then you have seen Mark Williams, have you?

A. Yes, sir.

Q. You know who he is?

A. Yes, sir.

Mr. Lavenstein: May it please the Court, if I'm out of order I hope you will stop me and I'm sure Mr. Pollard will. As has already been indicated there are a number of reports that were filed. I do not propose to save the time of the

Court, I do say a number of these reports simply page 99 } show nothing reflecting on Mrs. Struminger. We are prepared to go through every one of them if they desire, but I'm going to try to confine mine to reports that we think do have some bearing on the issue.

Again, I want the Court to understand we are not trying to withhold anything. I'm perfectly willing to go down the list, and if my friend wants me to we'll do that.

William L. Penny

The Court: You may ask him on cross examination.

Mr. Lavenstein: Yes, sir. We are not trying to withhold anything whatsoever. I just want it clear.

Q. Mr. Penny, you say you started on October 22?

A. Yes, sir.

Q. Do you know when your next observation took place?

A. No, I don't recall the exact date but it was from time to time between October 22 and sometime in March of this year.

Q. Do you have copies of those reports?

A. Yes, sir, I have copies of most of them.

Q. Would those reports show the dates that you carried out the observations?

A. Yes, sir.

Mr. Lavenstein: May it please the Court, even though I'm not asking to introduce them, I would like page 100 } for him to use them to refresh his memory in order to show how frequently these observations were made.

By The Court:

Q. Did you make the reports?

A. Yes, sir.

By Mr. Lavenstein: (Continued)

Q. Will you kindly look at your report and see if this is the first date, October 22 the first date?

A. I believe that's the first date.

Q. When was the next date?

A. October 22nd, 23rd, 24th and 27th of October, 29th of October, 30th of October. November 3, November 5, November 12, November 19th and December 21st was the next one. And December 23rd.

The Court: You said December 25th then you came back to the 23rd.

The Witness: Well, maybe. It was the 21st.

The Court: Then the 23rd.

Q. Was there anything between the 21st and—

A. 21st and then 23rd is it.

Q. All right, sir.

William L. Penny

A. Then January 15, '66. January 16, and then March 26, March 27. And that's it.

page 101 } Q. Now, going back to October 29, can you tell us what your investigation disclosed without referring to your report or would you have to refresh your memory by looking at the report?

A. I would have to refresh my memory by looking at the report.

Mr. Lavenstein: May I ask he be permitted to look at his October 29 report.

The Court: (Indicating in the affirmative).

Q. Read it because I want to ask you some questions.

A. Read the report?

Q. Read it to yourself. Whatever you want to do. You can't read it out loud.

A. October 29th?

Q. Yes, sir. That's the date I'm asking you about.

The Court: You ask him the question, he'll know what to look for.

Q. Well, my question was what occurred on that day. Then he said he would have to look at his report. Your Honor knows he made a lot of reports.

The Court: I thought you had a particular thing in mind.

Mr. Lavenstein: No, I'm asking him specifically about that day.

page 102 } A. Your first question.

Q. Have you read the report?

A. Not the whole thing, no, sir.

Q. Well, read it, because I'm going to ask you some questions and I want to see if you can answer the questions.

A. (Reading report to himself).

Q. Mr. Penny, would you tell us what you observed on that particular night?

A. I was instructed to proceed to the subject's resident on Forest Hill Avenue and be there by 6:30. I arrived there at 6:25.

I observed her car parked in front of her apartment. The lights were on on the front porch and in her apartment.

William L. Penny

There was also a Volvo car, license I got the number registered to this Williams, parked right directly behind the subject's car.

Q. Let's use names in here, Mr. Penny.

A. Well, Mrs. Struminger. Her car and the Williams car was parked there.

Shortly after that I observed Mrs. Struminger and this party come out of her apartment. They got in the Volvo car and before they left they seemed to be embracing each other, or what I call loving or smooching. This went on for two or three minutes.

He was driving. He cranked up and they left.
page 103 } They drove over town to an alleyway just off Lombardy Street and parked between two alleys and two buildings. They got out of the car and walked up the alley and went into the back of one of those houses. I think it was the 1600 block of Hanover Avenue, but I didn't see which house they went into.

Soon after that, another man working with me came and he assisted me, so we waited to see what was going to happen. I think it was about 7:45 we saw Mrs. Struminger and Williams come back to the Volvo car and they also had another lady, young lady, with them. They got back into the car and at this time we were out of our car parked about a block away, so they went out the end of the alley, the west end of the alley. And by the time we got back to our car to try to follow them they had gotten away.

So after that we went back—I went back over to Mrs. Struminger's home on Forest Hill Avenue and parked, and when I got there it was about 12:00 midnight. I noticed the Volvo had gotten back there. Had parked behind her car.

The porch light at this time was off but the lights were still on in her apartment. So I called in for further instructions and was told—

Q. Don't tell us what you were told, just tell us what you did.

A. I positioned myself in the position where I could watch both cars and Mrs. Struminger's apartment.
page 104 } Around 1:00 or 1:30 all the lights went out except one small dim light. It appeared to be in the middle of the apartment, from the street. That's all I could see, one small light.

And about 2:30, between 2:00 and 2:30, I made another

William L. Penny

check around back and I couldn't see any lights. No lights whatsoever in the apartment. I made several checks.

By The Court:

Q. What night was this?

A. This was October 29th.

Q. October 29th?

Mr. Lavenstein: Well, it goes into the 30th. I mean, after midnight. He started on the 29th.

A. (Continued) So all the lights were out between 2:00 and 2:30; and I stayed until 3:30 and I discontinued my investigation at that date.

Q. When you left at 3:30, was the Volvo still there?

A. The Volvo was still there. So was Mrs. Struminger's still there, the Corvaire, and no lights could be seen in the apartment when I left.

The Court: All right, sir.

By Mr. Lavenstein: (Continued)

Q. Do you know or can you check your records to see if you carried out the same type of work on Friday, page 105 } November 12, 1965?

A. May I look at this?

Q. Yes. You have a right to look and see if you did on that night.

A. November 12?

Q. Yes, sir. Did you?

A. Yes, sir.

Q. Can you tell us without looking at that what happened, or would you have to refresh your memory?

A. I'm afraid not.

Mr. Lavenstein: May he read the report to refresh his memory.

Q. Read the report.

A. (Doing so).

Q. You have read it?

A. Yes, sir.

Q. Will you please tell us what your surveillance disclosed on that particular occasion?

William L. Penny

A. On this date I arrived at Mrs. Struminger's apartment about 6:00. The lights were on on the porch, front porch, and in the apartment. At about five minutes to 7:00 this sports car pulled up. I don't recall the name of it, but I got it, the license number and so on. I have it, too.

This car was registered to a Valentine. Valentine. Owned and operated by a young looking boy.
 page 106 } He went into Mrs. Struminger's apartment, and shortly after he came back to the car, but I couldn't tell what he got out of the car, and went back in her apartment.

I think about 8:00, around 8:00, this Valentine, I assumed it was Valentine since the car was registered to a Valentine, and Mrs. Struminger came out and got into his car and they left, but I lost them.

And after that I came back over to her apartment and waited until they returned—until they returned, and I believe it was about 11:45 or 11:30, this same car and this boy and Mrs. Struminger returned to her apartment.

They both went back in and all the lights stayed on, and it was at 1:15, I believe, between 1:15 and 1:30 this boy left, and about five minutes after he left her apartment all the lights went out and I discontinued my investigation.

Q. On that occasion do you know whether or not there was anyone else in that apartment?

A. Oh, yes. Before—I left out something. Before they left home this lady or a young girl, I observed go up on her porch and go in.

She did not come in the car. It was thought that she had come from the house next door, but not sure. So I assumed that was the babysitter, I didn't know, because after they left there they left all the lights on in the apartment. When they returned shortly after, they returned to Mrs.
 page 107 } Struminger's apartment, I saw this girl or a young girl come out, and it appeared that she went into the house on the corner next door, and I just assumed that it was the babysitter. I didn't know.

Q. This lady whom you thought was the babysitter, when she left was this gentleman still in the apartment, he stayed there?

A. He was there, yes. They came back and went in, and shortly after they went in this young lady left.

Q. Would you kindly look at your records and see whether or not you carried out a surveillance on November 24th?

William L. Penny

The Court: The last one was November 23rd?

Mr. Lavenstein: The one he just testified to was—This is it.

A. This is the 24th, you say?

Mr. Lavenstein: The one he just testified to was November 12.

A. No, I don't have that.

Q. You did not?

A. No, sir. My next was November 19.

Q. November 19th?

A. Yes, sir.

Q. Did you make one on November 25th?

A. No, sir.

page 108 } Q. How about December 21?

A. December, yes, sir.

Q. Did you make one that day?

A. Yes, sir.

Q. Do you want to look at it?

A. Yes, sir. I prefer to (observing report).

Q. Have you read it?

A. Yes, sir.

Q. Will you please state what occurred on that particular occasion. You did have a surveillance that night?

A. Yes, sir.

Q. Or date. Will you please state what occurred.

A. About 9:30 I arrived over at Mrs. Struminger's apartment, parked in the vicinity, and about 10:30 I saw this young man that appeared to be Williams. I couldn't tell for sure because of the darkness. He came out with the maid and one child and got into Mrs. Struminger's Corvair. The maid and this child and Williams, I assume. He was driving, and they drove over town, and I lost them at 3rd and Grace Streets in Richmond. I don't know where he was going, but I figured that he was going to take the maid home.

At that time I returned to Mrs. Struminger's apartment and parked and waited for him to return. He returned by himself on her car.

page 109 } Q. You say he returned. Did you recognize him then?

A. No, sir. Because of the darkness I could just tell it was a male subject. I couldn't tell for sure who it was.

William L. Penny

He got back about 11:05, I believe, and went in and—let's see—(pause) Could I refer to my notes as to what happened after that? (Referring to notes). At 12:02 a.m. after he had returned to her apartment all the lights went out in the apartment that I could see. I could not see any lights. And then about 2:15 I saw this young man, thought to be Williams, I'm not sure, come out and get back into Mrs. Struminger's car and drive off, and I assume he went home. I did not follow him. And I knocked off at 3:30 that night and he left between 2:15 and 2:30.

Q. So that, as I understand it, when this party returned somewhere around 11:00 after apparently taking this maid, whoever it was, somewhere, that the lights went off around 12:00 and this gentleman, whoever he was, left the house around 2 something?

A. Around 2:15, that's right. And I stayed until around 3:00.

Q. When you say a maid, was it a colored woman or white woman?

A. The woman that left there with this boy or young man was a colored woman. Kind of stout.

page 110 } Q. This child you say that was with her, was that one of the Struminger children?

A. I could not tell. It was a real small child. I could not tell if it was colored or white.

Q. You couldn't even tell that?

A. No, sir, it was too dark.

By The Court:

Q. You could tell the color of the car, you could tell the color of the woman.

A. Well, I don't know—well, the child was too small. I could see the child walking with the colored woman. He was so small. I could see her.

By Mr. Lavenstein: (Continued)

Q. I think this gentleman came back by himself, you don't think the child came back?

A. That's right. He came back by himself.

Q. Did you carry out an investigation on January 14?

A. Let me see, sir. January 14?

Q. January 14.

A. I got it on January 15th.

Q. What surveillance did you carry out that night?

William L. Penny

A. I have to refer to my notes.

page 111 } Q. One minute. Maybe I'll try to save some
time here. During the course of your investigation other than the dates you have given us did you on other occasions see Mr. Williams go into Mrs. Struminger's apartment or did you see Mrs. Struminger at Mr. Williams' home?

A. I saw Williams go to her apartment on numerous occasions and I saw Mrs. Struminger go to his home on numerous occasions.

Q. Do you know whether the children were with her when you saw her on these occasions?

A. Sometimes and sometimes not.

Mr. Lavenstein: Will you take the witness.

A. I don't think. Could I say something else?

Q. Pardon me.

A. Could I say something else?

Q. Certainly, go ahead.

A. I don't recall ever seeing her go to his home with the children.

Q. Seeing her home with the children?

A. With the children, yes. The only time that I observed her going to his home I think she was alone or either with him.

Mr. Lavenstein: Now, you answer Mr. Pollard.

CROSS EXAMINATION

page 112 } By Mr. Pollard:

Q. Mr. Penny, give me the dates you saw her other than the ones you have testified you saw Mr. Williams go to her apartment.

A. I have to look at my report.

Q. All right, sir, go right ahead.

A. On January 15 I—This is when she was over at his home. Her car was there and his car was there.

By The Court:

Q. On January 15 she was over at his home?

A. That's when I started my investigation. On January 16, Mrs. Struminger's car was over at his home on Hanover Avenue and so was his car, on January 16. This was during

William L. Penny

the daytime. I followed Mrs. Struminger from her home over to Williams residence on Hanover Avenue.

By Mr. Pollard: (Continued)

Q. You followed her where?

A. Over to his home. After stopping on the way to her home that day, she stopped by a grocery store up from her home about four or five blocks, and picked up a package, when she came out she had a package, got back into her car, went on over to his home, and when she got there that day there was a Pontiac convertible parked out in front of Mr. Williams' home, and there were two boys out wiping off the car, cleaning it, when she arrived.

When she parked her car and got out she stopped for a matter of seconds and chatted with these two boys before she went inside his home, inside his house, and shortly after that she was still there. These two boys got in this Pontiac and left that day.

And from that day I discontinued at noontime and I don't have anything after that.

Now, is there any other thing you want?

Q. No. You said there were numerous other times you had seen her.

A. I said there were numerous.

Q. I asked for the dates, so you gave me three that she went to the Williams boy's house.

A. I said there were numerous times I saw her go to his home and he go to her home, during the whole investigation. I didn't say after that.

Q. I understood Mr. Lavenstein to ask you were there other times you saw the Williams boy go to her apartment. I understand your answer to be numerous times.

A. Well, I meant—I must have misunderstood the question.

Q. I asked you the dates. You have given three days that she possibly went to the Williams home, is that page 114 } correct?

A. During my investigation between October and March I observed Mrs. Struminger go to his home on numerous occasions and I observed Williams go to her home on numerous occasions during this length of time.

Q. Do you know on January 15, 16 and 26, the days you saw her go to Williams' home, do you know who she went to see in Williams' home?

William L. Penny

A. No, I don't.

Q. You don't know whether Mrs. Williams was there or anything else, do you?

A. No, I don't.

Q. Now, you say you have been with the Henrico Police Department for thirteen years?

A. As a dispatcher, yes, sir.

Q. You are not a policeman?

A. No, sir, I'm a dispatcher. Almost thirteen years.

Q. On October 29, the day you saw them go to this place on Lombardy Street, or park on Lombardy Street and go into a house on Hanover Avenue and you observed the car later on at her apartment, you don't know who she was in the apartment with, do you?

A. In Mrs. Struminger's apartment?

Q. Uh huh.

page 115 } A. No. I saw her leaving there with this boy.

Q. You had also seen her leaving with other girls or woman, you say?

A. Left the Hanover address.

Q. But you did not see her again that night, did you?

A. Beg your pardon.

Q. You didn't see Mrs. Struminger again after you saw her leaving the Hanover Avenue address, did you?

A. We lost her after they left there.

Q. But you never saw her again, you just saw the car outside of her apartment?

A. Oh, yes. We returned to her place and waited for her to return.

Q. You testified that at 12:00 you returned and the Volvo was there and the light was out on the porch and it was on inside.

A. When we got back over to her apartment there were two of us. The Volvo was back there parked behind her car.

Q. Was the Volvo the car she had been riding in?

A. Yes, that was the car she—

Q. So my point is she had already returned to the apartment—

A. That's right.

Q. —when you got there?

page 116 } A. No.

Q. How do you know who went in the apartment with her?

A. I don't. I didn't see her go back in the apartment.

Robert A. Jordan

Q. You don't know whether it was the Williams boy or another couple with them or what, do you?

A. That's right.

By The Court:

Q. Well, that was the 29th. You testified that you went back after 3:00 and found the lights went off and didn't come back on, and you left about 3:30, and the car was still there?

A. That is right. I don't remember the date but that Volvo was still there when I left.

Q. At 3:30 in the morning?

A. That's right, yes, sir. I did not stay.

By Mr. Pollard: (Continued)

Q. This was the same night you had seen—the last you saw Mrs. Struminger was with the Williams boy and another woman?

A. That's right.

Mr. Pollard: I don't have any further ques-
page 117 } tions.

RE-DIRECT EXAMINATION

By Mr. Lavenstein:

Q. In view of Mr. Pollard's questions, Mr. Penny, will you refer to December 31st and see if you made a report on that date, if you made a surveillance.

A. December 31st?

Q. Yes, sir. You haven't testified on that one up to this point. See if you did make that one.

A. No, sir. My last report in December was the 23rd.

* * * * *

page 118 } ROBERT A. JORDAN, first being duly sworn,
testified as follows:

DIRECT EXAMINATION

By Mr. Gray:

Q. Would you state your name, please.

A. Robert A. Jordan.

Q. Your age and address, please.

Robert A. Jordan

A. I'm 22 years old. I live at 402 Kramer Drive, Highland Springs.

Q. Where is Highland Springs?

A. Just on the other side of Richmond, sir.

Q. What is your occupation?

A. I'm a radio operator for Henrico County Police, and at the present time on active duty.

Q. Active duty with the Armed Forces?

A. That's right.

Q. Do you also engage in private investigation work on a part-time basis?

A. Yes, sir.

Q. Were you called upon to participate in an investigation concerning Mrs. Amy Struminger?

A. That's right, sir.

Q. Did you make certain reports with respect to her?

page 119 } A. Pardon?

Q. Did you make any reports concerning an investigation?

A. Yes, sir.

Q. Do you have copies of those reports?

A. Not on my person, no, sir.

Q. Could you tell us the date of your first investigation that you made?

A. No, I couldn't give you any dates.

Q. How many dates or how many different times did you make surveillances concerning this matter?

A. Well, I was with another investigator several times picking up the different points in the case and surveiling, and I imagine it's been about four or five times.

Q. I call your attention to the date of December 21, 1965 and ask you if you recall whether or not you made an investigation on that occasion.

A. I couldn't tell you unless I knew the information you had there to refresh my memory.

Q. Well, first of all, do you know the address of the subject, or Mrs. Struminger?

A. I know where it's located.

Q. Where is it located?

A. Forest Hill Avenue about a block down from the church.

page 120 } Q. Was there ever any occasion when you kept this place under surveillance when there were

Robert A. Jordan

any gentlemen who called at that address?

A. Yes, there was.

Q. Would you relate what took place on those occasions?

A. Well, one occasion when I arrived and relieved—

Q. Excuse me. Would you talk so the Judge can hear you, too?

A. One time that I arrived to relieve one of the other agents who had already followed the subject—

Q. Don't say what he did unless you know of your own knowledge what he had done.

A. That is of my own knowledge. The person was supposed to have been in the house at the time and had not come out.

Mr. Pollard: I object to that, Your Honor, what is supposed to have been, what apparently was told him.

By The Court:

Q. Did you see the person there?

A. No, I didn't. You couldn't see through the door.

Q. Well, that information was told you?

page 121 } A. That's right.

The Court: Objection sustained.

The Witness: They had not seen him come out.

Mr. Pollard: I object to that, Your Honor.

By Mr. Gray: (Continued)

Q. Mr. Jordan, we have other witnesses here who will testify to all the facts and circumstances that are in their knowledge. We don't want to know from you anything they told you. We want to know what you know. Do you understand that?

A. Yes, sir.

Q. Now, on the occasion which you are trying to relate to us when you were observing this place, tell us what you did and what you saw.

A. Well, I kept the place under surveillance until about—

Q. What time of—

The Court: We should have a date in there, Mr. Gray.

Mr. Gray: I hope to get it, Your Honor, as soon as he gives me enough facts that I can pin down what date he is talking about, I'll get to it.

Robert A. Jordan

Q. What time did you begin?

A. I must have started somewhere around 12:00.

page 122 } By The Court:

Q. Is that day or night?

A. It's at night, sir. Relieved the agent that was already working.

By Mr. Gray: (Continued)

Q. Who did you relieve?

A. I believe that's going to be Penny on that date.

Q. Did you relieve Mr. Penny?

A. Yes, sir. And I kept the house under surveillance until approximately 2:00, 2:15 when the people left the apartment, the house.

Q. Who left?

A. Well, that I couldn't tell you that. I was watching the car more or less, and that hour from the distance in which I was watching you couldn't see because of trees and so forth between.

Q. What kind of car was it?

A. It was a Corvair, white. I believe it was white.

Q. Who came out of the apartment?

A. I couldn't tell you that. I couldn't see from where I was at.

page 123 } Q. Was there one person or more than one?

A. Like I say, I couldn't tell from where I was watching.

Q. You say someone came out and then at least one person came out, got in the car and drove away?

A. Like I said, I didn't see anyone come out, but I saw the car drive away and apparently it was someone driving it.

Q. Did you make a report on this investigation?

A. Yes, sir.

Q. I show you this and ask you if this is the report you made concerning it and does it contain the informatoin in your report?

A. (Observing report).

Q. This last paragraph is your report?

A. Yes.

By Mr. Pollard:

Q. How about the first paragraph? I don't know who has done this. How many reports are on this sheet, who prepared it?

A. T. Norton

A. Well, that—there is broken up—

Q. Well, is the last part of this your report that you made, is that correct?

A. That should be.

page 124 } Q. Well, should be, is it or isn't it?

A. Well, the way it starts out it's mine.

Q. Does it end up the way yours did?

A. Well, see, it is submitted by several different people and excerpts from our records.

Mr. Pollard: I object to it.

The Court: Objection sustained.

By Mr. Gray: (Continued)

Q. Did you make a report of this incident that you related?

A. That's right.

Q. You don't have a memorandum of it at all?

A. I may have out there in the car, I'm not sure.

Q. In the car here?

A. I believe so.

Q. Outside?

A. (Indicating in the affirmative). That particular incident I might not have.

Q. Did you have any reports—

A. Well, there was another incident where we—

The Court: If you have got a report, you had better get it. In order for it to be evidence I think it's going to have to be specific, not just generalities.

page 125 } Mr. Gray: I think it would be well if we stand him aside and put on another witness. We'll let him get his report and it will save time.

* * * * *

A. T. NORTON, first being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Gray:

Q. State your name.

A. A. T. Norton.

Q. Mr. Norton, what is your address?

A. 201 Knight Drive, Richmond, Virginia.

A. T. Norton

Q. What kind of drive?

A. Knight, K-n-i-g-h-t.

Q. And your age?

A. 36 years.

Q. What is your occupation?

A. Police officer.

Q. By whom are you employed?

page 126 } A. Henrico County.

Q. Do you engage in any other activities employment-wise?

A. I have done some part-time work with Mercury International Detective Agency.

Q. In connection with this part-time work did you participate in any investigation concerning a Mrs. Amy Struminger?

A. Yes, I did.

Q. Did you come to recognize her?

A. From sight, yes, sir.

Q. Do you now see her?

A. Yes, sir.

Q. Is she seated at counsel table in the courtroom?

A. Pardon?

Q. Is she seated here in the courtroom at counsel table?

A. Yes, sir.

Q. Did you keep or make records of reports of your surveillance?

A. Yes, sir, I did.

Q. Do you have those reports with you?

A. Yes, sir. I have copies of them.

By The Court:

page 127 } Q. Did you make the report yourself, Mr. Norton?

A. Not these. I—

The Court: Can't use them.

Q. Well, Mr. Norton, the reports which you have there, are they typed copies of reports that you made?

A. Yes, sir. My reports were written. I turned them in to Mr. Withers. He in turn retyped them and gave them—gave me this copy.

Q. Have you read these typed copies?

A. Yes, sir.

A. T. Norton

Q. Do they correctly reflect what you had in your handwriting?

A. Yes, sir.

Mr. Pollard: Judge, I would like for you to ask does he have the notes he took himself.

By The Court:

Q. Do you have the notes?

A. No, sir, I do not have them.

The Court: I think you are supposed to have them. Objection sustained.

Mr. Gray: If he has reproductions—

By The Court:

Q. Where are your original notes?
page 128 } A. Where are they?

Q. Yes, sir.

A. They were torn up after these were written over, sir.

Q. Did you compare them?

A. Compare the two?

Q. Yes, sir.

A. Only from memory. No, sir, I didn't.

Mr. Pollard: Object to it.

By Mr. Gray: (Continued)

Q. Did you read these reports, these typed reports when they were prepared?

A. Yes, sir. These notes that I have which were typed over is exactly the same as the notes that I had written. Of course, in taking notes now I leave out words and these so forth, so forth. These words I put in.

Mr. Pollard: I object to that.

Q. Is the substance of what is in these reports the substance of what you observed?

A. Yes, sir, would be the same.

Q. By reference to these reports could you refresh your memory as to the actual facts that you observed?

A. Yes, sir, I did.

A. T. Norton

Mr. Gray: Judge, I think he has a right to page 129 } refer to these notes.

Mr. Pollard: I object to it.

The Court: I'm going to sustain you, Mr. Pollard. I think he can tell what he saw in person, but he said himself that words were added in which he did not put in himself.

Mr. Gray: Your Honor, we are not asking to introduce the reports into evidence.

The Court: No, sir, but nevertheless he would be refreshing himself on something he didn't make himself.

Mr. Gray: The substance of what is in the reports is the same. He has said certain words were added in the reports because the reports were being made to someone else. They obviously could not read the same way.

The Court: I'll let him tell what he saw, what he observed, not what's in those reports.

Mr. Gray: Obviously, Your Honor, he can testify to what he saw, what he observed. The purpose of referring to them would be only to—

The Court: It's not a report that he has made, and it's not a report which he has verified. He said the substance of it. He said himself there are words that had been added to it and may not have been.

page 130 } Mr. Gray: I don't want to persist in my objection.

The Court: That's all right. I have plenty of time and a lot of patience.

Mr. Gray: My main purpose for reference to the memorandum—

The Court: The reason I asked him if he had notes was because I was going to let him, since we are coming back tomorrow, if he had them, he could get them and read them.

Mr. Gray: The main purpose of the notes would be merely to correlate the dates with the facts.

By Mr. Gray: (Continued)

Q. Mr. Norton, have you examined these reports to ascertain whether the dates on them are correct and are the same dates on which certain events took place? In other words are the dates on these reports the same that you showed on your memorandum?

A. Yes, sir, as far as I know. These reports were taken exactly from my notes as I submitted them.

A. T. Norton

By Mr. Pollard:

Q. You mean you think they were?

A. I didn't see it done.

page 131 } Mr. Gray: I suggest, Your Honor, he can refer to these memoranda so as to establish the dates on which the facts took place.

The Court: I sustain any objection along that line. I'm going to exclude it.

Mr. Gray: Note an exception.

Q. Do you have any recollection of the number of times that you conducted a surveillance of these places?

A. Approximately 12 to 14 times.

Q. Over what period of time did you conduct surveillances?

A. From along the first of November until just before Christmas.

Q. Of what year?

A. 1965.

Q. All of the surveillances which you conducted were from the first of November '65 to before Christmas of 1965, is that correct?

A. Yes, sir.

Q. Would you relate from memory as best you can the substance of what you observed in the course of these surveillances?

A. Pardon?

Q. I will break it down for you. During the course of your investigation did you also investigate or keep page 132 } under surveillance any other person or persons?

A. Yes, sir, the persons that were associated with the lady at the time.

Q. Who were those persons?

A. One individual as I remember drove a green Porsche automobile. The vehicle was registered to a subject by the name of Valentine, which I believe was registered to Lock Lane in the City of Richmond.

Another of those subjects which visited with the lady quite frequently was a Mr.—vehicle was registered to a Mr. Currin—

By The Court:

Q. Who?

A. Currin.

A. T. Norton

By Mr. Gray: (Continued)

Q. Do you know how to spell that?

A. C-u-r-r-i-n, I believe.

Q. All right, sir.

Q. That subject lives on Buford Road, Chesterfield County. Another subject by the name of Williams which lives, I believe it was Hanover Avenue—

page 133 } By The Court:

Q. Have you got his first name?

A. In the City of Richmond, sir. Mark, I believe.

By Mr. Gray: (Continued)

Q. Mark Williams?

A. I'm not sure.

Q. Would you relate to the Court whether or not Mark Williams visited the apartment of Mrs. Struminger on any occasion during the time you had the apartment under your surveillance?

A. Several times.

Q. Were these instances in the daytime or at night?

A. Daytime and at nights. Part of the time I worked was the Saturday afternoons which he was there, and I'm not sure of the exact date but one time in particular as I arrived on the scene, as I began my surveillance, the subject driving Mr. Williams' automobile, which was I assumed at all times to be him, came from the home, and the lady with her two children took him out to Willow Lawn, Henrico County, to catch apparently a school bus, I believe it was, to Blue Ridge School. I don't know where it's located. He left on the bus at that time and she and the children proceeded back home.

Q. Any other occasions?

A. Seems like on different occasions that he
page 134 } was at the home somewhere between one to three
three-thirty in the morning that he would leave
the home.

Q. Insofar as you know was Mrs. Struminger at the home at that time?

A. Yes, sir. The home was observed during this time and at different times you could see one or two of the parties through the window.

Q. Did you observe any other parties in the home?

A. One night in particular that I was observing the home there was apparently a party, in which approximately—I

A. T. Norton

believe this was a Saturday night also. There were two vehicles there this particular night registered to Currin, which I assume was he and his wife's. Man and woman got out of the vehicles. Both vehicles registered to Currin at the time on Buford Road.

It was also an elderly couple driving a black Fairlane Ford, which I believe lived on Park Avenue in the City of Richmond. Approximately a dozen to sixteen people attended the party, which as they left later that night around between twelve and 1:00 the parties appeared to be unsteady on their feet as they came off the porch and on the street to get into the automobiles.

Q. During this period of your surveillance did you on any occasion see Mrs. Struminger at the home of Mr. Williams?

page 135 } A. Yes. At least on two occasions I followed her to the residence on Hanover Avenue.

By The Court:

Q. All these things you observed you say, I believe, that the lights were on?

A. Some part of the lights. Usually directly after dark while the lady was by herself the front porch light was on. This lit up the whole front porch until company arrived, and different room lights as they moved about the house would be on.

There were some occasions when it appeared as though all of the lights were out except possibly one small bathroom light, or I do not know the layout of the house but it was the center light on the—would have been the north side of the house, a dim light which kept burning there. The center window I'm speaking of in the house on the north side.

Q. You were speaking about people being unsteady on their feet. Did you observe Mrs. Struminger in that condition?

A. No, sir. One time in particular there seemed to be a discussion between her, the subject Williams and another lady on the front porch, a heated discussion. What it was all about I was not in hearing distance and I do not know at this time. From the distance I was observing, page 136 } Mr. Williams particularly appeared to be intoxicated.

Q. But she—

A. I did not see her unsteady on her feet.

Edward M. McReynolds

Mr. Gray: All right, sir, you may answer Mr. Pollard's questions.

CROSS EXAMINATION

By Mr. Pollard:

Q. You say you are with the Henrico Police Department?

A. Yes, sir.

Q. What rank do you hold?

A. Patrolman.

Q. Patrolman?

A. Yes, sir.

Q. How long have you been with them?

A. Approximately ten years, sir.

Q. Now, on the two occasions you saw Mrs. Struminger go to Williams' home on Hanover do you know who was in the Williams home?

A. No, sir, I do not.

Q. You have no idea as to that?

A. No, sir.

* * * * *

page 137 }

* * * * *

EDWARD M. MCREYNOLDS, first being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Will you please state your name, residence and age?

A. Edward M. McReynolds, 4801 Subrenda Drive, Sandston. 26.

Q. What is your occupation, Mr. McReynolds, your regular occupation, do you have one?

A. I'm a detective with the Henrico County Police Department.

Q. How long have you been with them?

A. Five years, sir.

Q. Did you carry out any surveillance work on Mrs. Amy Struminger?

Edward M. McReynolds

A. Yes, sir.

Q. Do you recognize her in this courtroom?

A. Yes, sir.

Q. Where is she?

page 138 } A. Sitting between the two gentlemen at the
other table.

Q. At the counsel table?

A. Correct, sir.

Q. Do you have a report of what date you carried out your surveillance?

A. Yes.

Q. Would you please tell us what dates they were.

A. November 20, 1965, periodically through January 22, 1966.

Mr. Pollard: November what, sir?

The Witness: 20th.

Q: November 20th?

A. '65 through January 22, '66.

Q. You mean they were various surveillances you carried on during this period?

A. Correct, sir, periodically.

Q. Do you know where Mrs. Struminger lives?

A. Yes, sir.

Q. Where?

A. I don't have the number and I don't remember. It's on Forest Hill Avenue. 4300 block, I believe.

Q. Is that in Richmond?

A. Yes, sir.

Q. Did you know a Mr. Mark Williams?

page 139 } A. Yes, sir, know of him.

Q. Know of him?

A. Yes, sir.

Q. Would you know him if you saw him?

A. Yes, sir.

Q. During the period of your surveillance did you ever see Mr. Mark Williams go into Mrs. Struminger's apartment?

A. Yes, sir.

Q. Can you tell us how many times you would be able to recollect that?

A. I would say seven or eight.

Q. Seven or eight times?

A. If I could go through here and tell you that.

Edward M. McReynolds

Q. Could you from your memory without refreshing your memory or from any report or whatever you have in your hand there, state what hours or what is the latest hour you have ever seen Mr. Mark Williams come out of Mrs. Struminger's apartment?

A. Approximately 4:00 a.m.

Q. You have seen him come out?

A. Come out. Correct, sir.

Q. Anybody with him when he came out?

A. She would come out with him to the porch, at this one time I'm referring to, and they stood on the porch a few minutes and he left.

page 140 } Q. And he left?

A. Yes, sir.

Q. All right, sir, you mentioned one around 4:00 a.m. Was there any other late hour or early morning hours you have seen him leave? After midnight, I'll use that as a guideline.

A. Not leave, no, sir.

Q. What *to* you mean by that?

A. Not to my knowledge. To the best of my memory I have seen him go in the earlier hours and I would be instructed to leave at one, 2:00 a.m., and he would still—to the best of my knowledge be there.

Q. He was there still?

A. Yes, sir.

Q. Have you ever seen Mrs. Struminger—Do you know where Mr. Mark Williams lives?

A. Yes, sir.

Q. Have you ever seen Mrs. Struminger go to his home?

A. Yes, sir.

Q. Have you any idea about how many times?

A. About three, maybe four times.

Q. Do you know who was in Mr. Williams' home at the time she went there?

A. Apparently—

page 141 } Q. Now, let's not use the word apparently. Do you know of your own knowledge who if anybody was in the house when she went there?

A. It was a lady and at times a young man. Who, to my knowledge, I don't know who they were.

Q. Was a lady there then there was a young man there?

A. At times.

Q. You are not referring to Mark Williams when you say a young man?

Edward M. McReynolds

A. No, sir.

By The Court:

Q. Was the lady there on all occasions?

A. Sometimes she would leave. Shortly after they would get there.

Q. How old was this young man?

A. He appeared to be 19 or 20.

Mr. Lavenstein: Now, Mr. McReynolds, will you answer Mr. Pollard's questions.

CROSS EXAMINATION

By Mr. Pollard:

Q. Do you know whether or not the lady at this house you saw has a son about 19?

page 142 } A. Just from what I have seen—I have heard she has two sons.

Q. You don't know whether this young man you saw was her son?

A. It was my assumption that it was.

Q. Now, this time you saw him come out or saw someone come out at 4:00 a.m., what day was that?

Mr. Lavenstein: I object to the way the question is framed. Not someone he saw, he saw Mark Williams come out.

Q. Whoever he saw, what date was it?

A. November 25, sir, 1965.

Q. Now, I believe I may have missed it at first. Mr. Lavenstein asked you who you are employed by. You said Henrico County Police. He said did you conduct a surveillance. Did you conduct this surveillance as Henrico County Policeman?

A. No, sir.

Q. In what capacity did you conduct this surveillance?

A. Off-duty part-time employment with Mercury International Detective Agency.

Q. Are you paid to do this work?

A. Yes, sir.

Q. Are you paid to testify here today?

A. I hope so.

Mr. Pollard: No further questions.

N. K. Newsom

page 143 } By The Court:

Q. Let me ask you a question now. You said you saw this boy, Mr. Williams, and woman come out on the porch with him. Did anything appear improper to you such as drinking or anything of that type?

A. Apparently during the evening, Your Honor, there had been a party with several people, say maybe eight or ten people. They left at different intervals. I could give the time of each one of them left approximately 4:30 a.m. No, I'm sorry, 3:20 a.m. Williams and the lady came out on the porch and he was staggering. He stood around a couple of minutes then he grabbed her and apparently attempted to kiss her. She was shaking her head no, or shaking her head horizontally, and then he left.

* * * * *

N. K. NEWSOM, first being duly sworn, testified as follows:

page 144 } DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Will you please state your name, residence and your age?

A. Norwood K. Newsom, 4901 North Crestwood. I'm 27.

Q. Do you have a regular occupation?

A. I'm a student.

Q. Where?

A. Richmond Professional Institute.

Q. Are you employed anywhere or were you employed anywhere in the year 1965 as a regular employment?

A. Yes, sir, I was.

Q. Did you do any investigation work for the Mercury Investigation Service?

A. Yes, sir, I did.

Q. Other than for them have you had any other source of employment?

A. Yes, sir. I was a police officer up until September 1965.

Q. Where were you a police officer?

A. Henrico County.

Q. How long were you on their force?

A. Four years.

Q. Sir?

N. K. Newsom

page 145 } A. Four years.

Q. Four years?

A. Yes, sir.

Q. Did you carry on any surveillance work concerning a Mrs. Amy Struminger?

A. Yes, sir, I did.

Q. Do you see her in the courtroom here?

A. Yes, sir.

Q. Where is she?

A. Sitting right over here.

Mr. Lavenstein: Let the record indicate that he identified her sitting at her counsel table.

Q. Do you know of your own knowledge when or what period of time you carried on the surveillance?

A. Yes, sir. I believe it was March 25, 26, and 27.

Q. March of this year?

A. Yes, sir. I believe that they were the three days. Friday, Saturday and Sunday.

Q. By the way, do you know a man by the name of Mark Williams?

A. Yes, sir.

Q. Have you seen him in the courtroom or around the courthouse today?

A. No, sir, I haven't.

page 146 } Q. Have you ever seen Mr. Williams at the home of Mrs. Struminger? Do you know where she lives?

A. Yes, sir. She lives at Forest Hill Avenue.

Q. Have you ever seen Mark Williams at her home on any of your surveillances?

A. Yes, sir.

Q. Would you state what time if you recollect he left there?

A. That he left the home?

Q. You said you saw him there. Do you recall what time he got there on these occasions and what time approximately he left there?

A. On the—

The Court: What date too, if you know?

A. Well, the only night I saw him at her home was on Sunday night. I believe this would be the 27th, and I saw

N. K. Newsom

him leave his home on Hanover Avenue and drive to Forest Hill Avenue. That was approximately ten minutes to ten, I reckon. He left there about twenty minutes later, about ten minutes after ten.

Q. He stayed at her home approximately how long?

A. 20 minutes.

Q. Have you ever seen Mrs. Struminger at the home of Mr. Mark Williams?

A. Yes, sir, I have.

page 147 } Q. How many times?

By The Court:

Q. When was that, now?

A. When did I first see her at his home?

Q. Yes.

A. That was the night before that I saw her there. Which was a Saturday night. I was parked in front of the home. I saw her come to the window and close the curtain, and I also observed her leave the home on Hanover Avenue and drive to Byrd Airport, and followed her from Byrd Airport back to her home.

By Mr. Lavenstein: (Continued)

Q. You followed who to Byrd Airport?

A. Mrs. Struminger.

By The Court:

Q. Was she by herself?

A. She was by herself when she left the home. She picked up Mr. Williams at the airport and drove back to his home.

By Mr. Lavenstein: (Continued)

Q. She picked him up at the airport?

A. Yes; sir.

page 148 } Q. And drove back to his home?

A. Yes, sir.

Mr. Lavenstein: Will you answer their questions.

CROSS EXAMINATION

By Mr. Pollard:

Q. Mr. Newsom, when she picked him up at the airport what address did she go to take the Williams boy?

N. K. Newsom

A. 1903 Hanover Avenue, I believe.

Q. Are you certain, did they go in that house?

A. Yes, sir.

Q. You are sure they didn't go in the house across the street?

A. Positive. They parked across the street, if I'm not mistaken they parked right in front of Lt. Governor Pollard's home. His automobile was parked in front of that house. They parked there and stayed in the car approximately five minutes, got out, went in the house across the street at 1903.

Q. Mr. Newsom, on the Sunday night you are speaking of, you say Mr. Williams came to the house, and was there about twenty minutes—

A. Yes, sir.

Q. —what time of day was this?

A. What time of night?

Q. What time of day was that?

page 149 } A. This was at night. It was about 10 minutes
to ten that night.

Q. 10 minutes to ten?

A. Yes, sir.

Q. Did he go in the house or stay on the porch?

A. He went in the house.

Q. When he came out was he by himself or with someone?

A. He went in and came out by himself.

Q. He didn't have anybody else with him?

A. No, sir.

Q. Do you know who else was in the house at this time?

A. No, sir, I don't.

Q. You know that there is a double apartment there, do you not? The front porch serves both apartments?

A. Yes, sir.

Q. You go in the door, you have to go in separate doors to get into her room?

A. I don't know about that. I know there was one front door. He went in it.

Q. You don't know whether he went into her apartment?

A. No, sir, I don't.

Q. So you don't know whether he walked in and talked to somebody at the door and left or not, do you?

page 150 } A. He went inside the door.

Q. He went in the common entrance to the two apartments?

A. That's correct, sir.

N. K. Newsom

Q. You don't know whether he went in her apartment or not, do you?

A. No, sir.

Mr. Pollard: No further questions.

RE-DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Mr. Newsom.

A. Yes, sir.

Q. On these nights you refer to, testified she met him at the airport, or rather she went out by herself and brought him back to 1903 Hanover Avenue, didn't she go out later that night, or did they go out later that night?

A. Yes, sir, they did.

Q. Will you please tell us what occurred.

A. They left the house about an hour or ten or fifteen minutes after they had gotten back from the airport, and I followed them out into Chesterfield County. There wasn't very much traffic on the road. It was only their automobile and mine, basically speaking. I was behind them and I noticed that they kept looking in the rear view mirror and looking back. I felt they knew I was there, and they turned left off Buford Road onto a road I don't know the name of. I thought I would go down to the next break and try to catch up with them. There was no place for me to turn onto, so I turned around, came back, tried to find them. I couldn't.

Q. So you lost them?

A. Yes, sir.

Q. Did you check to locate them either at Williams' home or at the home on Forest Hill Avenue, did you make any attempt to locate her car or Williams' car?

A. Yes, sir, I did.

Q. Did you locate either car?

A. No, sir, I didn't.

Q. About what time did you discontinue your attempt to discover the car?

A. About 12:30 a.m.

Mr. Lavenstein: That's all.

Mattie Williams

By The Court:

Q. Mr. Newsom, in all this observing you did, did you observe anything improper between them?

A. No, sir, I didn't.

* * * * *

page 152 } The Court: How about that witness Jordan?

Mr. Gray: I have ascertained from Mr. Jordan, Your Honor, that he does not have individual notes that he made. For that reason we are not going to try to call him.

The Court: All right. Who is your next witness?

Mr. Lavenstein: We rest, Your Honor.

MATTIE WILLIAMS, first being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Pollard:

Q. Mattie, will you please tell the Judge your full name.

A. Mattie B. Williams.

Q. What is your address?

A. 714 Bollingbrook Street, Petersburg.

Q. Do you know Donald Lewis Struminger and Amy Baird Struminger, do you know these people?

A. Yes, sir.

Q. Have you ever worked for them?

A. Worked for them three years.

page 153 } Q. Where did you work for them?

A. Over on Walnut Hill.

Q. In Petersburg?

A. Petersburg.

The Court: What years did you work for them?

Q. When did you work for them, what years?

A. I forgot.

Q. When did you stop working for them, do you know, was it this year?

A. Yes.

Q. You worked for them three years prior to the time that you stopped?

A. That's right.

Mattie Williams

Q. Did you work there after Mrs. Struminger left in July of 1965?

A. Yes, I worked along.

Q. You continued to work there?

A. Days.

Q. After that time?

A. Days, days.

Q. Now, were the children at the home during the years that you worked there, the two children, Bruce and Alex?

A. Yes.

Q. Were they in the home when you were there?

A. Yes, sir.

page 154 } Q. Did you help take care of these children?

A. Yes, I did.

Q. What else did you do?

A. Well, I did light housework and fixed meals and tended to the children.

Q. Did general housework?

A. That's right.

Q. Were these children to your knowledge healthy when you were there?

A. Yes.

Q. Did they appear to be happy?

A. Be what?

Q. Happy?

A. Yes.

Q. Were they properly clothed and so forth?

A. Sure.

Q. Were they kept clean?

A. Yes.

Q. Do you know of any occasion when either of the children was permitted to run out in the street?

A. No.

Q. Or anything of that sort?

A. Put them in the yard.

Q. Was Mrs. Struminger home most of the time when you worked there? I mean, before she left in July.

page 155 } A. Yes. That's when she went to school.

Q. Did she go to school often?

A. Or downtown.

Q. Was she most of the time in the home?

A. She was most of the time at home.

Q. Did she take much interest in the children?

A. Why sure. She loved her children.

Mattie Williams

Q. Did she take care of these children?

A. Yes, indeed.

Q. Is there anything she did during the time you knew her that would indicate that she didn't love these children?

A. No.

Q. Now, you continued to work there after she left in July. Were you working there in February of this year when Mr. Struminger would not take the children back to Richmond, or do you remember this occasion?

A. Well, I was working the days that he had them over there, you know.

Q. Do you recall any period of time when they were there for two weeks?

A. Right after Christmas.

Q. What do you remember right after Christmas, that is, were the children there for a long time or what?

A. Yes, yes.

Q. How long were they there, do you know?

page 156 } A. Well, I don't know exactly.

Q. Did the children appear to be getting along all right then?

A. Yes, they were getting along all right but they was often asking for their mother.

Q. That was when they were there for a week or so?

A. For a long time, good while, yes.

Q. In the three years you have known Mrs. Struminger, in your opinion, is she a fit person to raise these two children?

A. Yes.

Mr. Lavenstein: If Your Honor please, I'm not so satisfied she's qualified to answer that question. She's not an expert in any way, shape or form. I object to the question.

Mr. Pollard: I say, if Your Honor please, in her opinion.

Mr. Lavenstein: I object to that.

Mr. Pollard: It would be taken that way, of course. It goes to the weight of it.

The Court: Let me ask a question.

By The Court:

page 157 } Q. During the whole three years you were there did she raise the children in the way you think children ought to be raised?

A. Yes, sir.

Mr. Pollard: That's all.

Mattie Williams

CROSS EXAMINATION

By Mr. Lavenstein:

Q. Mrs. Williams, Mr. Struminger loves his children too, doesn't he?

A. Yes.

Q. He showed it, didn't he?

A. Yes, he did.

Q. Now, when you were working there, you worked five days a week. I talked to you yesterday afternoon, didn't I?

A. Yes.

Q. That was the first time ever I had talked to you, at least as far as I remember, is that right?

A. That's right.

Q. When you went to work there or while you were working there, wasn't Mrs. Struminger going to school?

A. Yes.

Q. How often did she go to school, was it every day that she went to school?

A. Well, some periods she did and some she
page 158 } would go every other day, and different times
like that. I didn't keep time.

Q. What time did you leave the house, when were you supposed to leave your work and go home?

A. I supposed to leave at 5:00 or 5:30, and she took me home.

Q. Was she always home at 5:00 or 5:30 to take you home?

A. Pretty near.

Q. Was there a time she was not there on time?

A. Pretty near. She was mostly there on time, and lots of time before, before 5:00.

Q. Were there time when she was not there on time?

A. Well, it might have been 5:30 or something like that.

Q. You were supposed to leave between 5:00 and 5:30?

A. 5:00 and 5:30.

Q. Now, when Mrs. Struminger went to school, the days she went to school, did you know where she was?

A. Yes. She said she went to school in Richmond.

Q. I mean—

A. Before she left in the morning.

Q. Before she left in the morning. When she left in the
page 159 } morning, when she left and went to school, I'm
asking you again what time did she come back
to the house? On those days she went to school
I'm talking about.

Mattie Williams

A. She'd get back about 4:00, 4:30, different times, you know.

Q. What time did you come to work in the morning?

A. 11:00. Mrs. Struminger would pick me up, and if the children wasn't dressed or anything she'd call me a cab. I came home, came up to her house in the morning on a cab, or else she picked me up.

Q. When she picked you up she had the children with her?

A. Yes.

Q. When she brought you to the house, you were supposed to be there at 11:00, you were supposed to come to work?

A. Yes.

Q. Is that when she would go on the days she went to school, is that when she immediately went to school?

A. She would get to school about 1:00.

Q. Sometimes she wouldn't go to school until 1:00?

A. She would go to school about 1:00. Sometimes she left as soon as she took me to the house.

Q. Do you know of any other places she was going to, or was school the only place you know she was supposed to be going?

page 160 } A. Well, school was the only place unless she was going downtown. She would tell me if she was going downtown. Sometimes she would take the child, take the largest boy with her.

Q. Mr. Struminger kept you on after Mrs. Struminger left.

The record shows Mrs. Struminger moved out around the first of August of last year—

The Court: July 20.

Q. (Continued)—around the last of July of last year.

A. Uh huh.

Q. You continued to work for Mr. Struminger all the time after that?

A. Well, you see, when he gets the children and brings them over he will call me and I'll work, and then he gives me two days to clean up, you know, Mondays and Thursdays.

Q. Now, on the occasion when you say the children were there after Christmas, and you didn't know the exact date but you said they were there a long time, am I right or wrong?

A. Uh huh.

Q. Were you there every day then?

Mattie Williams

A. Yes.

Q. Were you there every day?

A. I come over every day.

page 161 } Mr. Lavenstein: All right, that's all.

RE-DIRECT EXAMINATION

By Mr. Pollard:

Q. When did you stop working there, Mattie?

A. It was—When I stopped working for Mr. Struminger?

Q. Yes.

A. After Mrs. Amy left?

Q. When did you stop working there?

A. Last month, I guess it was.

Q. Last month?

A. Or March or June or something like that, I don't know. Stopped working my days, you mean?

Q. Yes.

A. Yes.

RE-CROSS EXAMINATION

By Mr. Lavenstein:

Q. Mattie, let's go back one minute. I want to be sure you understand. I don't know whether it was the Judge who asked you or Mr. Pollard. I think Mr. Pollard asked you the question. Are you sure that for the two weeks that those children were there in the house, I'm talking not about at Christmas time but this was in February, now, listen to me,

page 162 } of this year, are you sure you were working there that entire two weeks?

A. February?

Q. Of this year.

A. That was after Christmas.

Q. After Christmas. Not at Christmas time when the children were there. I know you were there at Christmas. But after Christmas. Not January, but in February. There were two weeks—

A. When he kept them over a long time?

Q. When he kept them there for two weeks.

A. Yes, I think I was.

Q. You worked?

A. I think I was with them then.

Dorothy Puller

Q. You are sure of that?

A. Yes.

* * * * *

DOROTHY PULLER, first being duly sworn, testified as follows:

page 163 } DIRECT EXAMINATION

By Mr. Pollard:

Q. Tell the Judge your name, please.

A. Dorothy Puller.

Q. What is your address? Where do you live?

A. 3302 Garland Avenue.

Q. Is that in Richmond, Virginia?

A. Yes, sir.

Q. Dorothy, do you work for Mrs. Struminger?

A. Yes, I do.

Q. How long have you worked for her?

A. Almost a year now.

Q. Do you know when she first came to Richmond?

A. When she first came?

Q. Yes.

A. I don't know when she first came to Richmond.

Q. You don't know whether you started with her in July or August?

A. I started working for her in August.

By The Court:

Q. What year?

A. Last year, '55.

By Mr. Pollard: (Continued)

page 164 } Q. '65.

A. '65, I meant to say.

Q. Are you working for her at the present time?

A. Yes.

Q. How many days a week do you normally work for her?

A. Five days a week.

Q. Five days a week?

A. Yes, sir.

Q. Where does she live in Richmond, Forest Hill Avenue?

A. Forest Hill, 4202 Forest Hill Avenue.

Dorothy Puller

Q. Do you do general housework or look after the children or both or what?

A. I do both.

Q. And the children are over there during the week most every week?

A. Yes, sir.

Q. Does Mrs. Struminger go to school?

A. Yes.

Q. What days does she go to school?

A. She goes Monday, goes most every day—no, she has three days—two days off.

Q. What hours does she go?

A. In the afternoons.

page 165 } Q. She goes three days in the afternoon?

A. Yes, sir.

Q. How many hours is she gone from the home?

A. She has lunch with us then she gets back at 5:00.

Q. In other words, three days a week she leaves after lunch and comes in at 5:00?

A. Yes, sir.

Q. Does she take you home from work? How do you get back home?

A. I ride the bus. Sometimes afternoons she takes me, she and the children.

Q. Now, in the ten months you have worked there, have you had occasion to observe these two children, her two children? You have seen them during the ten months you have worked there?

A. Yes, sir. They are with me, always.

Q. They appear to be properly cared for to you?

Mr. Gray: I object.

The Court: Objection sustained.

Mr. Gray: Leading the witness.

Q. Do the children appear to be clean?

A. Yes.

Mr. Gray: Same objection.

page 166 } The Court: Just go ahead and tell how the children are cared for.

A. I think they are, myself.

Q. In other words, describe the children.

Dorothy Puller

By The Court:

Q. Describe the kind of condition they are in, so forth.

A. They seem to be very well raised children, well-mannered. I don't have any trouble with them.

By Mr. Pollard: (Continued)

Q. Mrs. Struminger's actions during the last two years, does it indicate—

Mr. Gray: Objection before he finishes. Leading the witness.

The Court: I'm going to sustain the objection because you said the last two years. She's only worked there for the last ten months.

Q. Would you describe Mrs. Struminger's affection for her children, let's put it that way.

A. Oh, she's a very loving mother with her children. Takes extra patience with them all the time.

Q. Have you seen anything during the past ten months that would indicate otherwise?

A. No.

page 167 } Mr. Pollard: Answer Mr. Lavenstein's questions.

CROSS EXAMINATION

By Mr. Gray:

Q. What days does Mrs. Struminger go to school?

A. What days?

Q. Uh huh.

A. She goes Mondays, Tuesdays, and Thursday in the day.

Q. Monday, Tuesday, and Thursday?

A. Yes, sir.

Q. You say she has lunch with you all?

A. Yes, sir.

Q. Then she goes to school?

A. Breakfast and lunch.

Q. Beg your pardon?

A. She has lunch and breakfast with us.

Q. What time do you come to work?

A. I get to work at 9:30.

Q. You get to work at 9:30 in the morning?

A. Uh huh.

Dorothy Puller

Q. Do you prepare breakfast?

A. Yes, sir.

Q. For all of you?

A. Yes.

page 168 } Q. You have breakfast with the family there?

A. Yes, sir.

Q. You and the two children and Mrs. Struminger have breakfast?

A. Yes.

Q. Do you prepare all the meals?

A. No, just lunch with her and breakfast.

Q. You fix lunch and breakfast?

A. (No answer).

Q. You fix breakfast and lunch?

A. (Indicating in the affirmative).

Q. What time do you leave?

A. 5:00.

Q. You leave at 5:00. You work every Monday through Friday?

A. Monday through Friday, yes, sir.

Q. You don't work on the weekend—Saturday and Sunday?

A. No, sir.

Q. Do you ever work at night?

A. I have stayed Wednesday nights with the children.

Q. Beg your pardon.

The Court: She said she has stayed Wednesday nights with the children.

page 169 } Q. (Continued) Do you stay regularly on Wednesday nights with the children?

A. Not every Wednesday night.

Q. How often?

A. Let me see how many Wednesdays. Quite a few. I can't exactly give you all of them.

Q. State—

A. More than one, more than twice.

Q. Do you stay a couple times a month?

A. No, sir. Just a couple of times on Wednesday nights.

Q. You have stayed a couple times on Wednesday nights?

A. Yes, sir.

Q. Have you ever stayed any other nights?

A. No, sir.

Q. Do you know why you were called upon to stay those two Wednesday nights you did stay?

Dorothy Puller

A. So she could go to classes.

Q. She went to class on Wednesday night?

A. Yes, sir.

Q. She goes to class every Wednesday night?

A. Every Wednesday.

Q. She goes to classes every Wednesday night?

A. Yes, sir.

Q. Are the children dressed when you arrive
page 170 } there or do you dress the children?

A. I dress them.

Q. You dress the children when you arrive?

A. Sometimes she have them dressed, but I also dress
them.

Q. Most mornings you dress the children?

A. (Indicating in the affirmative).

Q. How much do you make a week?

A. \$28.00.

Q. How much?

A. \$28.00.

Q. \$28.00?

A. Yes, sir.

Q. How much are you paid when you act as a babysitter
in the evenings when you stay?

A. She gives me a couple dollars over extra.

Q. Couple dollars extra when you stay as babysitter. You
say you travel by bus?

A. Yes, sir.

Q. Do you pay your own bus fare or do you get paid bus
fare extra?

A. I pays half and she pays half.

Q. How much is your bus fare each week?

A. It's about two dollars and what now—two dollars, I
think. Two dollars—two something a week. I
page 171 } don't know exactly.

Q. Is that your part or is that the whole?

A. No. A dollar my part and dollar something her.

Q. Dollar some few cents your part and dollar some few
cents her part?

A. Right.

By The Court:

Q. Fare?

A. No, I just pay the far twenty cents straight fare.

Dorothy Puller

By Mr. Gray: (Continued)

Q. Have any gentlemen ever visited in the home while you were there?

A. Any gentlemen?

Q. Yes, sir.

A. No, sir. I haven't seen any.

Q. In the whole ten months you were there no gentleman has ever been in the house?

A. When I first went there there was a gentleman that was there working.

Q. What was he doing?

A. Painting.

Q. Who was that?

page 172 } A. Mr. Williams, I think.

Q. Mr. Mark Williams?

A. I think that's his first name.

Q. Was that when you first went to work there?

A. Yes, sir.

Q. When was the last time you saw him?

A. I saw him once today somewhere around out in the yard.

Q. Saw him here today?

A. Yes, sir.

Q. When is the last time you saw him at Mrs. Struminger's residence?

A. At her residence?

Q. Uh huh.

A. Let me see. (Pause) Christmas. I say it was Christmas.

Q. He was there at Christmas time. How many times did you see him?

A. School vacation, I think. I don't know.

Q. How many times would you say you have seen Mr. Williams there when you were working?

A. While I was working, he worked until he finished. That was a couple of days, until he finished painting.

Q. Did he come by any more after that?

A. Come any after I got there?

page 173 } Q. Did he come in?

A. Back and forth.

Q. Back and forth after you went to work there?

A. To paint.

Q. After he finished painting did he come back after that?

A. No. I didn't see him.

Q. You didn't never see him after that until Christmas?

Dorothy Puller

A. I didn't see him any more, no, sir.

Q. Did you ever see any other gentlemen there?

A. Nobody but Mr. Struminger.

Q. But who?

A. Mr. Struminger.

Q. Mr. Struminger?

A. Yes, sir.

Q. No one else?

By The Court:

Q. Did you ever see anything improper going on between Mrs. Struminger and Mr. Williams?

A. No, sir, I never have.

By Mr. Gray: (Continued)

Q. Do you have children?

page 174 } A. Yes, sir.

Q. Did you ever bring your children to work

with you?

A. I brought my little girl Lisa.

Q. Did you bring her often—

A. Just twice.

Q. Do you happen to know when those two times were?

A. Yes. I brought her, let's see—one week—recently. Last week—week before last, I believe it was.

Q. Before that you had brought her one time?

A. That's right.

Q. When was that, do you know?

A. On a Saturday.

Q. It was on a Saturday?

A. Yes, sir.

Q. But you don't usually work on Saturday, do you?

A. No, sir.

Q. You worked this Saturday specifically?

A. Yes, sir.

By The Court:

Q. Was it in the daytime or nighttime?

A. In the daytime.

page 175 } By Mr. Gray: (Continued)

Q. Did you leave in the daytime or did you leave at night?

A. I left at night but I came to work—

Dorothy Puller

Q. Was it after dark when you came there?

A. Yes, sir.

Q. How did you leave that night, did you ride the bus that night?

A. No, sir.

Q. How did you get home that night?

A. She took me home.

Q. She took you home?

A. Yes, sir.

Q. You are sure she took you home?

A. She took me home.

Q. Wasn't there some gentleman who was there?

A. No. She took—one night she took me home, she and the two boys, the first time.

Q. She and her two sons?

A. Yes.

Q. Took you and your daughter home?

A. Yes.

Q. That's the only two times?

A. And the next time I went in a cab.

Q. The next time you went home in a cab?

page 176 } A. Yellow cab.

Q. That was the one week or so ago?

A. That was—first time went in a cab. Next time she took me home.

Q. I'm sorry. I'm afraid you misunderstood me. Just about a week or something, about three weeks ago, you said you had your little girl along.

A. Yes.

Q. How did you get home that time?

A. They took me home.

Q. They took you home that time. Then the time before that, which was sometime ago, you went home in a cab?

A. Yes, sir.

Q. There never was a time that you were there when some gentleman took you home?

By The Court:

Q. Did Mr. Williams ever take you home?

A. Yes, he has taken me home.

By Mr. Gray: (Continued)

Q. How often, how many times did he take you home?

Dorothy Puller

By The Court:

page 177 } Q. What did you say?

A. He didn't take me home when I told him I went in a cab.

By Mr. Gray: (Continued)

Q. He didn't take you home when you had the little girl with you?

A. No, sir.

Q. He never did take you home when you had the little girl with you?

A. No.

Q. But he has taken you home?

A. Yes. I went to his mother's house. He took me home.

Q. Did he ever take you home from Mrs. Struminger's house?

A. No, sir.

Q. He never took you home from Mrs. Struminger's house?

A. No, sir.

Q. You worked for his mother, too?

A. Yes, sir.

Q. How long have you worked for Mrs. Williams?

A. I'd say a couple of days for Mrs. Williams.

Q. Just a couple of times?

page 178 } A. Yes, sir.

Q. You don't work for her regularly?

A. No.

Q. How often did you work on Saturdays for Mrs. Struminger?

A. Just twice.

Q. Just those two times?

A. Just those times.

Q. Have you worked for her on Sundays?

A. No, sir.

Q. Never worked for her on Sundays?

A. I have to do my own work on Sunday. I have my husband and two children to clean up and cook for.

Q. Mrs. Puller, when you worked for Mrs. Williams, were you taking care of Mrs. Struminger's children?

A. When I was working at Mrs. Williams' house was I? Not when I was working for Mrs. Williams.

Q. Did you work for Mrs. Struminger at times that you were taking care of Mrs. Williams' house?

A. Yes, sir. We had to go there on account of the heat was bad in the apartment.

Dorothy Puller

Q. The heat was bad and you went over to Mrs. Williams' house?

A. With the children.

Q. Carried Mrs. Struminger's children over there?

A. Yes.

page 179 } Q. Did you ever miss any time from work?

A. Miss any time from work?

Q. Yes, sir.

A. Yes, sir, I have.

Q. How much time have you missed from work?

A. Almost three weeks.

Q. You missed about three weeks from work because you were ill?

A. During the snow I did.

Q. You were out sick missing days from work?

A. Yes, sir.

Mr. Gray: All right, no further questions.

By The Court:

Q. You are just human, you just have to miss a little time?

A. Sir?

Q. I said you are just human, you have to miss a little time?

A. Well, I don't do it unless I have to.

* * * * *

page 181 } June 16, 1966.
Thursday, 12:20 p.m.

**SECOND DAY OF TRIAL
APPEARANCES SAME AS HEREINBEFORE
INDICATED.**

The Court: All right, gentlemen. This situation is going to be in the courts. I understand that divorce papers, I presume, will still go through on desertion as of July 20. So in the meantime, I would like for the papers to be submitted on the custody, and I will give Mrs. Struminger custody for the first six months. I'm going to let you take them out to your father's home, Mr. Baird. I think for about two months. I expect them to be back in that length of time. Don't go

out there and play around with me because I'm not one to play around with. I'm easy-going until I get crossed. When it is time to come back I mean to be back and not stay out there a long time or you will get in trouble.

Now, in the next six months your husband will have the children. You all have worked out an agreement, and I'm going to let you go along on that alone. I think it was recommended that instead of taking them each week that taking them every other week for two days would be more satisfactory, and we'll see how things work out.

page 182 } As far as school, I'll not make any decision at this time on that. I'm hoping that as time passes this thing will ease off a little bit and the animosities will die down, in case there are any.

This is one thing that I recommend, Mrs. Struminger, if you have any parties. It's all right to have parties but there is one thing I want you to do. I want the Williams boy out of your place. I don't want him over there any more at your house. If you want somebody to date don't get somebody 18 years old. There's nothing wrong with your having dates, and regardless of whether anything went on or not, I'm not passing on that question, I'm telling you I don't want anything to happen that will reflect on your's and Mr. Struminger's children. If you didn't want to have dates I would think there was something wrong with both of you. Both of you are young and you have your lives ahead of you.

As I stated before I'm mainly interested in the children. I know both of you are, so we are going to try it on a six-month basis. If we can't work out something by the time the children go to school then we'll come back and I'll render a decision then.

Mr. Lavenstein: In other words, until the
page 183 } further order of the Court this is going to be the decree?

The Court: This is the sort of thing that dies with the judge. What I mean is the thing never fades out as far as the children are concerned. It continues on and never ends.

* * * * *

page 2 }

PROCEEDINGS

The Court: We only have one question, this is the custody of the children.

* * * * *

Amy Baird Struminger (Lundeen)

Mr. Gray: Before we take the testimony I would like to be clear in my own mind as to the state of the record in the prior proceedings. Counsel for Mrs. Lundeen has agreed that it is understood between us that all of the records and prior hearings in this matter and all of the evidence heard by the Court are before this Court in connection with the consideration of the custody hearing.

AMY BAIRD STRUMINGER (LUNDEEN) being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Gray:

Q. In order that the record may be clear, will you state your present full name?

A. Amy Baird Lundeen.

page 3 } Q. You are the mother of Alex and Bruce Struminger about whom these proceedings are being conducted and formerly were Mrs. Donald Struminger and named as such as party in this proceeding, named as such at the time this matter commenced?

A. Yes, sir.

Q. Mrs. Lundeen, where are you now living?

A. 8901 Floyd Avenue.

Q. Would you describe the living quarters?

A. We live in a large building, it was the first home built on the block and it is a red and gray stone building and you come in the steps and there is an inside entrance hall. There is one other family living in the building, and ourselves. Now do you want me to describe my home?

Q. How many rooms?

A. We have a kitchen, Kitchenette, dining room, *bedroom*, two bathrooms and living room and study and entrance, back porch and a backyard.

Q. Will you describe generally the neighborhood in which you live?

A. We live a block from Monroe Park and a half a block from RPI, Richmond Professional Institute.

Q. What is the traffic situation in this area?

A. The front of the house, there is very little traffic there in the front unless the children are leaving school.

page 4 } It is about average of any neighborhood.

Q. Are there any playgrounds specifically for children?

Amy Baird Struminger (Lundeen)

A. Yes, the park has sand boxes, teeter-totters, and we belong to a tennis club, that is where the children spend most of their time.

Q. Where is that?

A. That is near.

Q. How much yard?

A. Not terribly big, about as big as this room, not much bigger.

The Court: Is that park the one open to the public or is it private? Is it a Catholic project? One is Jewish and one is Catholic?

A. No.

The Court: I want to keep that out as far as possible, what I said before. If they are Jewish boys I expect them to be raised as Jewish boys.

The Witness: You will change your mind, I hope.

The Court: You will change yours unless you do what I say.

By Mr. Gray:

Q. Your back yard is about as wide as this room? You mean in width or depth?

page 5 } A. It is wider, it is bigger. I am not positive.

The children have taken swimming lessons at the tennis club. One of the children has been at my mother's where he has been to Disneyland.

Q. I don't want to cut you off. When did you *remarry*?

A. The 2nd of June.

Q. Where were you married?

A. I was married in the Unitarian Church on the corner by—

Q. I meant the city?

A. Richmond.

Q. Mrs. Lundeen, under the previous Order of the Court, as I understand, each of the parties were to have a period of six months custody of the children. When did your period of custody commence?

A. I believe it began the 16th of June, but Donald wanted to keep them through that week end. I don't know whether we did or not.

Q. In the middle of June was the time when you were to get the six months period of custody in 1967 we are talking about?

Amy Baird Struminger (Lundeen)

A. That is right.

Q. Will you estimate for me, since the middle of June—

I am not trying to be technical, the 6th or 8th or
page 6 } what, but when you did get these children begin-
ning your six months period of custody will you
estimate for me how many nights you have had those children
in your home with you from 6:00 in the evening until morning
the whole summer?

A. Alex went to Oregon the 22nd of July for weeks, but
when I went out there to check with Bruce he said he wanted
to stay with his grandmother. Dr. Lundeen and I thought
that would be better for him. He was very high strung, having
a lot of trouble with his hay fever. Bruce has been with me
except for the week I went on a race which lasted one night
and we also went on our honeymoon which we postponed
because this was supposed to be coming up. We let the
whole summer go.

The Court: You know why it was put off, don't you? It was
your fault. So many times they slap these things on the
Judge.

The Witness: I am saying our summer was confused. We
didn't make definite arrangements. We had to stay in town.

By Mr. Gray:

Q. You are saying, as far as Bruce was concerned, except
for one night you went to a race?

A. We had a maid, we had a housekeeper, he was at the
Nebletts one week end and they—then we came
page 7 } back and spent two or three days with him because
we didn't want to stay more than six days. We
were gone six days to St. Thomas.

Q. You were gone six days to St. Thomas, you didn't take
the boy with you?

A. No.

Q. Let's talk about Alex, that is the one that spent—where
is he now?

A. I know, shall I tell him?

Mr. Laughlin: Sure.

A. I didn't want him drug in here and subpoenaed. He
is at the Lake's.

Amy Baird Struminger (Lundeen)

Mr. Laughlin: I asked her to bring the children to the area.

The Court: We don't want any children that age in court.

By Mr. Gray:

Q. Would you explain why they were trying to get him?

A. My husband had called my father in Portland, I don't know how many times, five times at least, either to harass my father to ask him if the child was coming. I told him the child was coming. He came to our home on Saturday to see if the child was there. He knew he couldn't see the child because the child—

page 8 } Q. Why could he not see the child?

A. He wanted to come over, he didn't ask to see the child, he only asked where the child was.

Q. How often has he seen this child since you took the child in June?

A. Every week end he was supposed to.

Q. Have you seen the child since July?

A. I couldn't see him if he was in Oregon.

Q. Did you?

A. I had to use my own judgment, I left him in Oregon. If I had gone to Europe I would have had to take him. Donald explained to me that he was going to be in Camp from the 6th of August on.

Q. When did the child come back to Richmond?

A. This week end, Friday.

Q. What date was it?

A. The 8th.

The Court: The 8th?

By Mr. Gray:

Q. You say he got back on Friday?

The Court: Let me ask a question. These people in here are mostly character witnesses. I don't want to keep them cooped up in here. If this is going to be a long witness, I don't want to keep them in uncomfortable quarters.

page 9 } Mr. Gray: I hope it won't be long.

The Court: On the other hand, I think the Court owes them some consideration. We don't have very good quarters in here.

Mr. Gray: I will do it as rapidly as I can.

Amy Baird Struminger (Lundeen)

The Court: I don't think there is any heat back there.

By Mr. Gray:

Q. Have you ever told anyone that Alex suffered badly from separation from you?

Mr. Laughlin: May it please the Court, I don't know what he is referring to but I doubt if she can answer the question.

The Court: If you read the record, she said he was suffering from something psychosomatic.

Mr. Laughlin: If that is the point, I think we could ask the witness.

By Mr. Laughlin:

Q. Is that what counsel is talking about, because I don't know?

A. Do you mean "do you feel that the child needed to be with his mother?"

(The Court read certain testimony from a transcript page 10 } script of previous proceedings.)

A. I guess I will have to say that I have said this.

By Mr. Gray:

Q. In spite of that fact, then, that you were concerned with trauma that the child was suffering from separation from you, you sent the child to California and Oregon to spend the summer?

A. I feel that his grandmother is a different situation than being away from me. The child asked when his grandmother called if he could go out there. He was there Christmas and in the summer. He is very fond of my parents. I sent the child to the best places I thought he should go.

Q. How old is the child?

A. Five and a half years old.

Q. How did this child get to Oregon?

A. Dr. Lundeen and I took him to Dulles Airport and with four or five other children he traveled with a stewardess.

Q. How many changes did he make?

A. The steward takes good care of them. He had one change to make, he thought it was wonderful.

Q. How much time since June, when you took these two children, have you spent time together, from the middle of June to the middle of July they were separated?

Amy Baird Struminger (Lundeen)

page 11 } A. That is right. I felt that the youngest child
needed the concentrated attention they both had
been needing for a long time in my feelings.

Q. Where?

A. In the previous situation they were in.

Q. Are you now working?

A. No, I am not.

Q. Are you a student?

A. No, I am not.

Q. You are not?

A. No.

Q. When did you stop taking classes?

A. I stopped classes the first of June. I was in the final week when I got married.

Q. And you have taken no classes since then? Are you painting now?

A. No, I am not. It is very hard to paint when you have all of these things going on.

Q. Are you a professional painter, have you been?

A. My work is in three museums. I don't think I am considered a professional painter; that is a commercial art profession.

Q. Have you sold any of them?

A. Yes, sir, that is the only way I could pay my rent.

page 12 } The Court: Do you know why? It was your mis-
behavior that brought on this divorce. You be
careful what you say to me, be very careful because the
reason I am telling you that is that your mother kept calling
me on the telephone.

The Witness: My mother?

The Court: Your mother and brother, and that is the reason I am telling you. I didn't want to embarrass the mother. The law in Virginia does not allow any money to a wrongful party. The reason I know is I was reversed on that point, that is the reason I allowed you the children.

The Witness: Could I say one thing? I asked for a divorce two years before I left my husband. We had a very unhappy marriage. I was not misbehaving when I left my husband and he left on the grounds of desertion. I did not ask for any money. I have never misbehaved.

The Court: It was at the request of the Court that this thing was reduced to misbehavior.

Mr. Laughlin: I think the witness' point is that the mis-

Amy Baird Struminger (Lundeen)

behavior occurred after she and her husband were separated.

The Court: They weren't divorced, what the Court asked; you don't like to go back and that is the reason
page 13 } I am trying to say that because her family was calling me on the telephone, her mother calling me from Oregon. They wanted to know and I didn't tell them.

Mr. Laughlin: I appreciate the Court doing that. I don't think the witness understood the point. I think in the eyes of a layman what occurred did not occur while she was living with her husband.

The Witness: I did not ask for any money when I asked. He would not let me leave if I asked for any money.

The Court: On the evidence presented.

The Witness: I didn't ask for it, I really didn't, Your Honor.

The Court: All right, go ahead.

By Mr. Gray:

Q. How often have you taken these children to church with you?

A. The Judge told me that the children were not to have religious instruction on either side until he decided custody and they have asked me to go to church.

The Court: The boys told me they were Jewish and I wanted them to go to a *Synagog*.

The Witness: Honest to goodness, you didn't tell me that.

page 14 } The Court: I don't want any argument. They were to go to the *Synagog*, that was one point that was stressed.

The Witness: Could I say one thing?

The Court: It depends on what you say.

The Witness: We were in your Chambers, the children were both males and you said they should be raised to be Jewish, and you said, "What are their names?" I said "Alex and Bruce."

The Court: That is the reason I brought it out, if they were girls I wouldn't have. These are boys.

The Witness: And it is a Christian world.

The Court: What church do you belong to now?

The Witness: I am a Catholic. I was a Presbyterian and became a Catholic. I think they have enough against them right now if they were allowed to go to church.

Amy Baird Struminger (Lundeen)

The Court: Go ahead.

By Mr. Gray:

Q. How many paintings did you sell?

A. I have one—

The Court: There is no real connection.

Mr. Gray: It has to do with the report that was filed. If you will indulge me for a while.

page 15 } The Witness: If the father doesn't believe in God why do they have to be raised as Jewish?

By Mr. Gray:

Q. Would you tell me if you can, and as many as you can, of those persons you have used as baby sitters since June?

Mr. Laughlin: May it please the Court, I fail to see the relevancy of that.

The Court: Go along, I will go along with you. As long as they were reputable.

Mr. Laughlin: If you have some figure in mind—

Mr. Gray: How much time this mother has spent with these children herself.

The Court: She told us that the one that went to Oregon wasn't here at all, the other one was here for the races and one night before they went on their honeymoon.

By Mr. Gray:

Q. Where were they during that time?

A. Bruce was with Pauline, they are very nice people.

Q. That is the only extended period of time Bruce wasn't with you? Did Bruce stay with Dr. Lundeen some?

A. Yes, three days.

Q. Has he spent any nights with Mrs. Williams?

A. No.

page 16 } Q. He has not?

A. No.

Q. Has she done some baby sitting for you?

A. No, we have been there. One day he fell asleep in the chair while she was having a French Tea. I went downtown.

Q. Was Mark visiting?

A. The child was very fond of Mark.

The Court: Has Mark been over there at all?

Amy Baird Struminger (Lundeen)

The Witness: He lives with his mother.

The Court: It was my instruction that Mark wasn't to be around.

The Witness: Yes, he has.

The Court: Why didn't you obey my instruction?

The Witness: I thought your instruction included a romance between me and Mark. He cleaned some windows for me one day. There was a maid there. There has been no romance between myself and Mark. Since you talked to me I didn't think of it that way.

The Court: You don't think of anything except what you want to.

The Witness: It sounds that way.

The Court: You didn't ask the Court about sending that child to Oregon.

page 17 } The Witness: Why would I ask? He was only going for two weeks.

Mr. Laughlin: I don't think the witness appreciated the significance of that one way or the other.

The Court: You weren't in this, Mr. Laughlin. I gave this to Mrs. Lundeen, but the testimony in this case was terrible and I ordered her not to leave the State.

Mr. Laughlin: I am certain the witness did not mean to disobey the Court.

The Court: That brings up the custody of her children, if she is capable. I am not coming to any conclusion here but if Mrs. Lundeen, what she says about different things—she has this space age viewpoint.

Mr. Laughlin: I disagree with the Court very strongly, I don't think the record shows it.

The Court: I am talking about the statement she just made, that she could do what she wanted to.

Mr. Laughlin: She didn't understand that she wasn't supposed to take the child to Oregon. She didn't try to disobey the Court. It wasn't with any intention of disobeying the Court. If the Court orders what to do with these children, she will do it or she will have a new lawyer but
page 18 } you have a layman on your hands and there is a great difference in my mind. I mean, their knowing what to do and doing it out of ignorance.

The Court: She knew she wasn't supposed to see this Williams boy.

The Witness: And I didn't until I got married.

Mr. Laughlin: One of the closest friends of her family was

Amy Baird Struminger (Lundeen)

his mother. If the boy comes into the home with his mother, this happens. If you want the boy never to come into the house, this can be done.

The Court: That is what I have ordered her to do.

Mr. Laughlin: I am not certain I understand that.

The Court: By Golly, the testimony was so abundant and if it hadn't been for the real smallness of these children, I would have taken Mrs. Struminger—

Mr. Laughlin: In the prior hearing? I don't believe this has been written up. I imagine it would be quite expensive.

Mr. Gray: I have no further questions.

CROSS EXAMINATION

By Mr. Laughlin:

Q. Mrs. Struminger, you picked up these children for the visit that was to last some six months, the middle page 19 } of this June; do you recall that occasion when you went to get these children in Petersburg?

A. Yes.

Q. Would you tell the Court what happened on that occasion?

A. I called Donald and asked him, he knew I was going to get the children. He didn't want me to come that week end, I can't remember why. He said, "You can keep them through Sunday," he wouldn't bring them over, that is what it was. I said, "I have a lot of trouble driving on the freeway by myself and Bruce is out of town." He said, "That is too bad, you will have to come anyway." I went to Ed and Jean Coleman's home and spent the night.

Q. Was this in Petersburg?

A. Yes.

Q. What happened the next day?

A. I went by at 10:00 o'clock with the Coleman children, just to check and see if he would remember to have them ready because it takes a while to get there. Donald came out and was very unpleasant, came out into the street and yelled and screamed. He was having a barbecue with his parents and he didn't want me to disturb him and his family. He said when he was ready he would have the children ready, they would be at the Coleman's. He said if I got page 20 } the children he was going to disinherit them and I might as well know that, that Dr. Lundeen had

Amy Baird Struminger (Lundeen)

nothing to offer, he was just a doctor. I said "I think he has lots to offer, he has a sailboat and knows how to do all sorts of things that little boys are interested in, and I think that is enough."

Q. Young Bruce has had a birthday during the Summer?

A. The 17th of August.

Q. Did he spend some time with his father?

A. He went to Oregon and he had his birthday with his grandparents and his grandfather said he had a lot of presents. He told the child he would have a lot of birthday presents, that I should take him right that minute.

Q. Did you later take him?

A. The next week end I let him go to Petersburg to let him get his presents. They brought him back screaming and yelling and extremely nervous, instead of leaving him there. The minute they left he said, "I just want my boat and marbles."

Q. Were these the presents?

A. They had said they would take him to Richmond but they weren't going to leave him there. He believed them and he—

Mr. Gray: I have got to object to a great deal
page 21 } of hearsay. I think she is going too far.

Mr. Laughlin: I have no further questions at
this time.

The Court: How old are you?

The Witness: 30.

The Court: How old are you, Mr. Struminger?

A. I will be 31 in March.

RE-DIRECT EXAMINATION

By Mr. Gray:

Q. You said you didn't recall why, when the time came to deliver them, you don't recall why he didn't do it? Did he tell you the children were registered in a "learn to swim" program?

A. He knew I had them registered, he knew they were supposed to come to me.

Q. Did you tell him to write and give you a letter?

A. I told him that he could keep the children to finish their lessons, he said it was something like three days. The next time he said seven days. They were anxious to come over here, and that won't work.

Donald L. Struminger

Q. He did write and tell you?

A. He gave me the wrong time, a couple of days difference.
 With a child, they don't understand time. They
 page 22 } were looking forward to coming over to be with
 me.

Q. Did you agree to let him keep them?

A. For a couple of days, not seven days.

(The witness stood aside.)

DONALD L. STRUMINGER, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Beginning in 1966 when we had the hearing here, the children were with Mrs. Amy Struminger, they were in Richmond?

A. That is correct.

Q. And under that Court Order you were entitled to pick up the children every other week and have them back Sunday night?

A. That is correct.

Q. Did you or did you not pick them up and work out an arrangement with her and pick up the children and pick out a place to return them and it worked out satisfactorily?

A. That is correct.

Q. During the time they were there did you contact the children, other than picking them up?
 page 23 } A. Yes.

Q. When was that?

A. I spoke to them twice a week on the telephone.

Q. Now we come to December 16, you were supposed to have the children yourself for a six months period and at that time Mrs. Struminger, who was then Mrs. Donald Struminger, she did give you the children and you took them for a period that was to run until June, 1967?

A. That is correct.

Q. During the period December 6, 1966 until on or about June, 1967 did Mrs. Struminger, who was then Mrs. Struminger during that entire period, did she come over and get the children under the Court Order?

A. She missed a period of about three or four weeks straight. This happened several weeks straight.

Donald L. Struminger

Q. You knew the reason for it?

A. Yes.

Q. For some reason she couldn't?

Mr. Lavenstein: I hope Mrs. Struminger realizes, I apologize if I am calling you Mrs. Struminger.

By Mr. Lavenstein:

Q. Mr. Struminger, you have since remarried?

A. Yes.

Q. When?

page 24 } A. January 22, 1967.

Q. Where?

A. Rio Grande Valley, Texas.

Q. Your wife was a divorcee?

A. Yes.

Q. Did she have a family?

A. A little boy five years old.

Q. Subsequent to your marriage did you move back to Petersburg?

The Court: I don't mean to cut you short but all of that is incorporated and that will be part of the record for the Court.

Q. When you moved back to Petersburg the children lived with you, did Mrs. Struminger continue to pick up the children every other week end?

A. She did up until about a month before she got married.

Q. I notice you have two books, did you keep a written record of the times you picked up the children, when you picked them up and brought them back?

A. Yes.

Q. Will you begin when she was supposed to get the children on June 16 or close thereabouts and tell the Court what occurrence took place, the time you delivered the
page 25 } children back to her? She was supposed to get
them June 16?

A. That is correct.

Q. Were those entries made at the time? Just read the pertinent facts.

The Court: Do you want to read them?

Mr. Lavenstein: All I want is for him to show me. You can put anything in there you want to. Do it the fastest way.

Donald L. Struminger

By Mr. Lavenstein:

Q. Did you have any conversation with her prior to December 16?

A. Yes. Several days prior I told her I would like to give the boy swimming lessons and would like to keep them until about the 31st of June. She said she would think about it and let me know and we spoke to each other later that day and she said it was o.k. and that we could keep them until the 31st of June, she would pick them up every other week in between this time. She asked me to write her a letter. Here is a copy.

Mr. Laughlin: We offer that in evidence. Is that a copy of that letter?

The Witness: Yes. I wrote that letter on June 15 and sent it special delivery to Amy.

(The said letter was marked and filed as Plain-page 26 } tiff's Exhibit No. 1.)

A. (Continuing) The following day she called me to tell me that she had changed her mind, that she would let me keep Alex for the swimming lessons but that she would pick Bruce up and Bruce would stay with her. She knew I did not believe in splitting up the boys. They weren't used to being apart and I didn't feel this was the way it should be done. There were several 'phone conversations and finally she said she would definitely let me have Alex, and I said, "Then I think Alex should go back to Richmond with Bruce." I didn't think she should split them up, and I said, "I would like to keep them until June, which was the 18th." She said she would call me and let me know. I didn't hear from her all week end. Friday afternoon at 10:00 p.m. there was a ring at the door, answered by my wife. She called me and said—

Q. Don't tell me what she said.

The Court: Was it relevant?

Mr. Lavenstein: I don't think we need to go into that.

By Mr. Lavenstein:

Q. Mrs. Lundeen was out in the car?

A. She was out in the car and this boy had come and said the children were to be picked up at 6:00 o'clock and she was

Donald L. Struminger

in there and said "Have the boys ready at 6:00
page 27 } o'clock," and I said, "I will not."

Q. When did she pick up the boys?

A. Finally at 7:45.

Q. What date?

A. The 18th of June. On Tuesday, June 20th I called to speak to the boys because the boys were going to Richmond it was my intention to speak to the boys.

Q. Did you know she was married at that time?

A. Yes, she told me she was going to be married on June 2nd. She was going to pick up the boys at that time and she hadn't called. On Tuesday, June 20th, I called her and asked to speak to the boys. I spoke to Mrs. Lundeen and she said the boys had been sent to Bruce Lundeen's house at Newport News. She said the boys had met once before and she thought they should get to know each other. In several days they were not back and so I checked with the operator. I found out where the Lundeens were located in Newport News and I called on June 23rd and spoke to Mrs. Lundeen.

Q. Don't tell us what was said.

A. I spoke to Alex and Bruce.

Q. When was your next contact with the children in Richmond?

A. I spoke to them that week end, on June 24th in *Rich-*
mmond. On Thursday, June 29th I called to speak
page 28 } to the boys and Amy said she would not talk to me
and any conversation I had would have to be with
Dr. Lundeen and she hung up the telephone and I called back
and the phone would not be answered and I decided I would
call Dr. Lundeen and find out what he had on his mind, and
I called.

Q. You called him?

A. I did.

Q. What date?

A. Thursday, June 29th.

Q. Did you make the arrangements to pick up the children through him?

A. I said that I wanted to make arrangements through him, that he was now married to Amy but I intended to make arrangements with her and I would appreciate it if he would call her so I could discuss the arrangements with her and I did and talked to her and made arrangements that week end.

Q. You picked up the children?

A. Yes, on Friday, June 21.—

Donald L. Struminger

Q. Continue.

A. There wasn't anyone at home. I was met at the door by a baby sitter.

Q. What date?

A. June 21. The baby sitter said that Amy was going sailing and we would make arrangements to meet page 29 } at some point half way where we had met before.

Q. Do you know the name of that baby sitter?

A. Christine Curran. Saturday the boys were in Petersburg, that was July 1; July 2 I did not hear from Amy, that was the 4th of July week end, I thought she would let me keep them through the 4th. I called her and there was no answer. I continued and called again at 1:00 o'clock. I tried, beginning in the afternoon, no answer, and we got the boys dressed, and we got them packed and waited until about 8:10 that evening. I still didn't hear anything and they were ready to go to bed and I placed a person to person call and he said Amy wasn't there and he proceeded to quote me a Court Order telling me what I was supposed to do and not supposed to do. I said, "It is now 8:00 o'clock, the boys are in bed, I would like to keep them through the 4th." He said "Fine." and I kept the boys.

Q. You kept them?

A. I did.

Q. When did you return to Richmond?

A. I called Amy on Monday, so I kept the children until Wednesday morning.

Q. What time?

A. 10:30. I also found out that the hearing scheduled for July 1st was going to be canceled and when I got page 30 } to Richmond I called Amy and asked whether she had spoken to her lawyer and whether he had told her about this. She said no, it was a surprise to her. She said she had made plans to make a trip, that the doctor was supposed to make a trip to San Francisco and she wanted to know if I would be willing to take the children for August if she would keep them for the week ends left in July. I said I would take them for the week ends I was supposed to in July. She said "Fine," and she said she would check with the doctor and find out the date of the seminar and find out what arrangements were to be made. I told her to confirm this. I called them again on Tuesday, July 11 and Amy said she was going to the beach on Thursday but she was going to the beach alone but was not going to take the boys. I

Donald L. Struminger

said, "If you are going to the beach and not taking the boys, I will be happy to have them." She said, "You will probably hold it against me." I said, "I probably would," because I liked the boys. When I picked them up she did not have very clean clothes for the children. She said the maid did not come in. I did not check the suitcase but when I got home, when we actually opened the suitcase we found that the amount of clothes were not there because they would be there from Wednesday to Sunday. I asked her to—

Q. You kept them when?

A. The 13th, 14th, 15th and 16th.

page 31 } Q. All right, continue.

A. At the time that I picked up the boys at Amy's she said she was going to the beach and did not know her plans. I said, "Call me and let me know." We did not hear from her all week end. Finally, Sunday, and Sunday was a bad day and we stayed home mostly all day, and we called and there was no answer. Finally that evening about 6:00 p.m. I called Amy and she was home. She wanted to know why I didn't have the boys there. I said I waited all week end for her to call and she did not. I said that if she would meet me at the half way point I would. She said her husband had been out sick all day and was tired. She had several disagreements about this, the doctor did not feel we should meet at the half way point, that I should pick them up. The doctor called me back after I talked to Amy and he said that I should pick them up in Richmond. I said, "I will not, I will meet at the half way point."

Q. What did you do?

A. We agreed we would meet at the Howard Johnson's Restaurant which is a half way point. I arrived there and waited about fifteen minutes. Generally, I was a little late. I had gotten the boys some crew cuts over the week end. The reason was that the middle son had a crew cut and the boys thought they would like to have a crew cut. They had not

had a hair cut since she had been in Richmond.
page 32 } Someone said Amy had been doing some drinking.

The Parkers used to be close neighbors but we got to Howard Johnson's and she called me every name she could think of and said I couldn't see them again. I spoke to Alex and Bruce on the 18th and to Amy. She said she changed her mind, that I could not have the children in August. I said I did not want her to send them to her parents, they did a lot of drinking. Her father had had a drinking problem

Donald L. Struminger

for some time. I disagreed with it and did not want her to do it. She said it was too bad, she said that her parents raised her and if they were good enough to raise her they were good enough to raise the children. I wanted to know what to do in August. I had arranged everything so I could have the children in August.

When she first brought up the subject about my having the children in August I said I was going to Expo '67 and to Chicago, and would she have any objection if I took the boys with me and she said, "I don't give a damn whether you take them?" We had made this schedule and she said the Seminar began in August and she was planning to go to San Francisco and the 19th it was all off and she was sending them to Oregon, so I rearranged my schedule and told her I was going to leave on the 20th of July and that I would be back on the 5th or 6th of August. I left Thursday afternoon at 3:00 p.m. I called Alex and Bruce, I didn't tell them where I was going because I knew they would feel bad.

I left at 3:00 p.m. on the 20th of July for the three
page 33 } weeks trip. On Wednesday, July 26th, I called
the boys in Richmond. She said Bruce had been
sent to Portland and, therefore, I figured I would have to
call Portland and I called Portland and spoke to Alex. On
Thursday, July 27, while I was at Expo '67 I received word
that my uncle had died and I had to go back.

The Court: I don't want to cut you off, I don't see where this has any relevance.

By Mr. Lavenstein:

Q. Did you get in touch with Amy back in Richmond again?

A. When I arrived in Petersburg for the funeral I called Amy and was told it was an unlisted 'phone number and that cut me off. I then called Alex in Portland, found he was not there but had been sent to Cupertino, California to Amy's sister.

Q. When did you get back to Petersburg?

A. August 22, Wednesday.

Q. Did you attempt to get in touch with Amy?

A. I said I was the father of the sons, I spoke to operators and they said they were not giving 'phone numbers. I arrived Wednesday evening; on Thursday morning I sent a letter to Amy.

Donald L. Struminger

Q. Do you have a copy of that letter? Was the page 34 } original returned to you?

A. "I think you can imagine my surprise when I called your home and found you have an unlisted number which cannot be given to me and they cannot call—(reading).

Mr. Laughlin: Would you like to file that letter? Is that a response? File that too.

(The said letter and response were filed as Plaintiff's Exhibit No. 2.)

By Mr. Lavenstein:

Q. Did you get a response to that?

A. This was sent Thursday, special delivery. On Sunday morning at 9:00 a.m. I received a response from San Francisco.

Q. Let's save some time. You said you got one telegram that was garbled, read the other one.

A. "Don, our 'phone is now unlisted and we will conduct business by mail. . ." (Reading)

Q. Would you like to file that? The original, not the garbled version?

(The said telegram was marked and filed as Plaintiff's Exhibit No. 3.)

By Mr. Lavenstein:

Q. What is the next contact? It said in that contact you were to get in touch with Dr. Lundeen's office. page 35 } Did you hear from Mrs. Lundeen when she returned to Richmond?

A. On August 14 I called Alex. He was supposedly at Cupertino; he was not there. She said he was at Disneyland.

Q. That telegram said for all future contacts you were to get in touch with Dr. Lundeen's office? Did you try?

A. I called Dr. Lundeen's office and was told he would be out until August 13.

Q. What did you do?

A. I contacted Alex and Bruce, spoke to them at least twice a week from that point on.

Q. Did you ever speak to Dr. Lundeen?

A. I was never able to contact him, I left my name with the nurses.

Donald L. Struminger

Q. What were their names?

A. Mrs. Roland, on Friday, August 18; Mrs. Grimm, Thursday, August 24.

Q. Were you ever advised by Dr. of Mrs. Lundeen that they had returned to Richmond and brought the children with them?

A. No, I did not and I sent a series of telegrams.

Q. When did you first find out they were with the children?

A. I called Friday, August 18 and talked to Miss. Roland. She said the Doctor had been off sailing all day
page 36 } and was not available. She said would I leave
a message. I did not hear anything. Saturday
morning I decided to go to Amy's, also accepted the Court
Order that I was to pick the children up on Saturday morn-
ing. I thought they would conform to that. I arrived at the
Lundeens on August 19th at 9:15. The door was answered
by Lucile Lee. She said she was staying with Bruce over-
night and I played with Bruce until about 10:10. Bruce told
me—

Q. You cannot quote Bruce.

A. He told me he had been at the Nebletts the previous several evenings. I asked Lucile Lee to have Mrs. Lundeen to call me when they came home. His birthday had passed and I said, "When they get home please ask them to call me," and we waited and heard nothing.

Q. During this time did you send Mrs. Lundeen a check for your support money?

A. Up to this point I had not. If the 'phone was disconnected, I did not. All I knew was she was traveling. I knew she was in town that Saturday. I sent her a registered letter with the check for \$400.00 covering four weeks that had not been paid.

Q. With a request for a return receipt?

A. Yes, the letter sat in the Post office ten days.

Q. Does the receipt show when it was signed for?
page 37 } A. Signed August 31st.

Q. Do you want to file that?

(The said letter was marked and filed as Plaintiff's Exhibit No. 4.)

Q. When was the next time you had any contact? You were there on the 19th, did you ever—did they ever call you?

A. I did not receive a reply to the registered letter, I received a telegram to be delivered at 10:30, that they would

Donald L. Struminger

be home. The boys would have to be asleep at that time. The telegram was sent August 22 and it was a personal telegram but not picked up. They were not home and it was not picked up for several days.

Q. They were returned to you?

A. No, they were maintained in Richmond but I was informed that the telegrams were not picked up. I have a copy of the telegram and a response.

Mr. Lavenstein: Would you like to file that?

(The letter with check enclosed, addressed to Amy from Donald, was marked and filed as Plaintiff's Exhibit No. 4.)

(The above referred to telegram was marked and filed as Plaintiff's Exhibit No. 5, the telegram in response marked as Plaintiff's Exhibit No. 5.)

page 38 } Q. When was the first time you heard from them?
A. I never heard anything. I continued to call St. Mary's Hospital. The following Saturday, August 26, I went to the home. There was no one there. On Monday, August 28, I again called the hospital and was informed he would not be back until Wednesday. In the meantime I sent another telegram, on August 24th, I sent it identical to the other telegram, to Amy and Bruce at the hospital. This was not picked up, either.

Q. When did you receive any contact?

A. On August 30th I received a telegram from Amy. That was Wednesday, August 30th, I received in the afternoon at 1:17 p.m. It says, "Donald, you may pick up Bruce on Friday, the 1st of September..." (Reading)

Mr. Lavenstein: We would like to file that.

(The said telegram was marked and filed as Plaintiff's Exhibit No. 6.)

Q. Pursuant to that telegram what did you do?

A. I sent her another one.

Q. What was your response?

A. My response was, "In spite of your telegram would appreciate being able to pick up Bruce on Friday, September 12,..." (Reading)

Donald L. Struminger

And I sent another check for \$200.00 by certified mail, and I checked at the Post Office and that letter to this date has not been picked up.

page 39 } (The said telegram and certified letter were
marked and filed as Plaintiff's Exhibits No. 9 and
10, respectively.)

Q. You picked up the child that week end?

A. On Friday, and returned him on Monday. He was extremely upset.

Q. Mrs. Lundeen spoke of an occurrence at that time?

A. That was the first time I had seen my son in over a month. On the way over to Richmond he wanted to stay longer and I said that his mother had planned and he would have to stay with her. He said when he got to Richmond he would ask his mother. I felt I should speak to her. As soon as we got there he said, "I want to stay with Daddy." She said "No," and, of course, he got upset. Of course little boys can be *stuborn* but I have never seen him like this before. Amy and I talk about it I suggested we could do something. In the meantime Bruce ran out of the back of the house and ran out to the car where my wife was with Michael and got in the car and just hung onto Judy and he wouldn't get out and she grabbed him in the house. This went on for about twenty-five minutes. They refused to let me take him. There wasn't anything I could do. I told Bruce I would talk to him and see him in a few weeks. Amy took his arm away from me and she held him and he went in the house. The next morning—I never received a 'phone call that early—
page 40 } it was Bruce on the telephone. He said, "Mommy said I can come back." I said, "That is wonderful." He just kept saying, "Mommy said I can come back." The 'phone was hung up.

Q. Is that the last conversation?

A. The last conversation. That was on Monday. On Wednesday, September 6, I sent her a check by certified mail and to this date it has not been picked up. I have the letter here, do you want me to read it?

(The letter dated September 6, 1967 was read by the witness.)

I signed it "Don." While I was waiting for a 'phone call

Donald L. Struminger

as a result of this, I did not get one and sent another telegram Friday and said, "Two checks previously sent by certified mail, have not heard from you, please call tonight." I did not receive a reply to that.

(The said letter and receipt were marked as Plaintiff's Exhibit No. 12.)

A. (Continuing) I did not hear anything so I said maybe they are going by the Court Order. I went over on Saturday morning at 8:30, the door was answered by Bruce and Amy and Dr. Lundeen came to the door. I asked them why they had not answered the letters or telegrams. They said they never got them and I said, "I would like to have page 41 } Bruce and Alex." I said, "Where is he?" They said, "Tough," and closed the door in my face, then Sunday night—no, Friday night I spoke to Alex in Portland and asked him when he thought he was coming back and he said Monday or Tuesday and he asked his grandmother is that right and she said, "I will have to call your Mommy." Just before he hung up he said, "I will probably see you tomorrow," and on Sunday, after what happened Sunday, I called Alex in Portland. The telephone was answered by Mr. Baird, he sounded inebriated, the operator asked for Alex Struminger and he hung up the 'phone.

Q. And you never could get back?

A. No.

Q. You said Mr. and Mrs. Lundeen met you at the Doctor's? Did Dr. Lundeen or Amy Lundeen make any explanation to you why they had gotten an unlisted 'phone number?

A. When I took Bruce back I explained to him. She was yelling at me, saying it was my fault it had happened. I said, "This is the first time, that she should stop and think of what had happened." I said, "I have not been able to contact you because of the unlisted 'phone number." He said he had been bothered by a lot of crank telephone calls. I said, "Give it to me," and I said, "I am not a crank." He said, "No," but he could. I never heard anything further.

Mr. Lavenstein: That is all.

CROSS EXAMINATION

By Mr. Laughlin:

Q. Did your counsel tell you that I offered to

Donald L. Struminger

page 42 } have these people call you periodically each week
if you wanted?

A. I will repeat what my counsel told me—

The Court: Answer that yes or no.

A. No.

Q. During the month of August when you were so concerned, you had received this telegram saying the children would be out west until the end of August and you were aware of that?

A. I have found that what Amy tells me and what she does are two different matters.

Q. Did you do any more checking on it in the past year? Did you hire any more detectives?

A. No.

Q. You haven't had her followed in the past year?

A. Quite frankly, I can't afford it.

Q. Because you couldn't pay for it?

A. If I thought it would make me keep my records.

Q. Is that why you did it?

A. It is part of my procedure to keep a listing of all special events, of places I have been, going to be. I am an engineer.

Q. Did your counsel ask you to keep this?

A. I have kept it four or five years.

Q. Did your counsel ask you to?

page 43 } A. No, I have always done it.

Q. Did you keep one—

A. I sometimes run into questions about where I was at a certain time.

Q. Why did you meet Amy at Howard Johnson's on the 15th of July?

A. Because I told her I was not going to bring the children all the way back to Richmond because her husband had been traveling all week end, sailing. She moved all the way to the 800 block of Three Chopt Road west.

Q. She had to come out at night to meet you?

A. Yes, my wife went with me.

Q. That was in the best interest of the children to do it that way?

A. Is that a statement or a question?

Q. That is a question.

A. Quite frankly, no, it was late at night. I think the children should have stayed with me that evening. I had said, "If you let them stay with me tonight I will bring them back in August."

Donald L. Struminger

Q. I may want to look at these. (Indicating) When you brought Bruce back and he wanted to stay with you, when you brought Bruce back were his presents in Petersburg?

A. Yes.

page 44 } Q. Did he know that?

A. Yes.

Q. Was he told he could have them?

A. No.

Q. Why didn't you let him bring his presents home with him?

A. When Amy had had the boys and she then gave them to me on December 16th, she had not sent them over with any toys whatsoever. The clothes were very, very few, even though she had received something in the neighborhood of \$5,000.00 to take care of the children that year to see that they were properly clothed. In sending stuff back and forth they didn't come back; sometimes I would get a piece of something they had. This had been going on for two years, Alex' birthday.

Q. Was this the first time?

A. Oh, no, their toys were always maintained in Petersburg.

Q. Your practice was to give them the presents but not take them out of Petersburg?

A. I don't think there would be a house big enough. If they had a particular toy I would let them take it.

Q. Had the child wanted one?

A. No.

Q. One of them?

page 45 } The Defendant: Why was he sorry—

The Court: If you open your mouth one more time you are going to be sorry.

Mr. Laughlin: I was interested in what the witness was saying.

A. (Continuing) Generally, whatever we buy we have to buy in triplicate because when we have three boys and we all get along well together, it is difficult to get one thing without the other; when you have a special occasion—

Q. That is not my question. Why did the child understand he was coming back to Petersburg?

A. He said he wanted to come back and wanted to talk to his Mommy.

Donald L. Struminger

Q. Had you talked with him about the case?

A. Have I?

Q. Yes.

A. No.

Q. Not at all?

A. No.

Q. He doesn't know any of this from you?

A. He does know the Judge has to make a decision. We never discussed anything about what was going on. Last Summer when the children came back there or for the first time I saw the boys they started explaining to me.

page 46 } I have never discussed anything with the children.
Amy and I had an agreement. She did not stick to it as far as I am concerned.

Q. You are entitled to your opinion. You did not discuss it with your children?

A. No.

Q. So far as you know, no member of your family did?

A. That is right.

Q. But this child knew he was going back to Petersburg?

A. Yes.

Q. He didn't have any particular toy he wanted to bring?

A. He had a boat, one was a game.

Q. You were afraid to let him take his little boat and go back to Richmond?

A. If he had insisted I would have let him.

Q. You let him leave that in Petersburg?

A. It is in their drawer.

Q. In the records there is a report by a Rabbi, is he here today?

A. No.

Mr. Lavenstein: I did not have him come. I take full responsibility. If they want him, I can get him here in twenty minutes if you want him. They could sub-
page 47 } poena him.

The Court: I don't see where the Rabbi is going to help anything.

Mr. Laughlin: I am wondering how he formed that opinion.

Mr. Lavenstein: He can be here in twenty minutes.

The Court: I don't the Rabbi or preacher.

Mr. Lavenstein: Only for the sake of time we have about five witnesses brought here because we understood Mrs. Lundeen was going to charge that the reason she sent this

Mrs. Marilyn Fleischer

young boy to Oregon was because he was a problem child. We have seven witnesses to testify on that one point. If Your Honor thinks that is an issue, we are ready to put them on.

Mr. Laughlin: I can't see where that is an issue.

Mr. Lavenstein: If I misunderstood her—

Mr. Laughlin: The child wanted to go.

Mr. Lavenstein: I don't want to clutter the record, I have seven witnesses, that is why they are here.

The Court: If you want to get it in the record, put one on and give Mr. Laughlin a chance to cross examine.

Mr. Laughlin: I don't think it is an issue. We page 48 } don't contend he was sent to Oregon because he was a problem child.

(A short recess was taken.)

MRS. MARILYN FLEISCHER, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Lavenstein:

Q. Will you please state your name and residence?

A. Mrs. Fleischer, Mrs. Alan Fleischer.

Q. That is your husband's name?

A. I am his wife, my name is Marilyn Fleischer.

Q. And your residence?

A. 8806 Three Chopt West, Richmond.

Q. That is in Henrico County, isn't it?

A. Yes.

Q. How long have you been a resident of Henrico County, Mrs. Fleischer?

A. Since the latter part of November, maybe the 20th of November.

Q. Of 1966?

A. Of 1966.

Q. Then you did not reside in Richmond prior page 49 } to that date?

A. No.

Q. Where are you from? Where was your home just prior?

A. Just prior to that it was Vilas, Colorado.

Q. How long had you resided there?

A. Four or five years.

Mrs. Marilyn Fleischer

Q. I understand you came from Portland, Oregon?

A. Originally I was born and raised in Portland, Oregon.

Q. Did you know Mrs. Amy Lundeen prior to moving to Richmond?

A. No.

Q. When did you become acquainted with her, approximately?

A. Shortly after I moved?

Q. When you moved into Richmond is that when you married Mr. Fleischer?

A. We were married in Colorado and came back to Richmond.

Q. And you moved into this address on Three Chopt Road?

A. Right.

Q. And Mrs. Lundeen was living in there at that time?

A. Yes.

page 50 } Q. And that is how you met her, am I to assume?

A. Yes.

Q. Did you live in the same—I am not familiar with that area, is it the same building you live in?

A. An apartment complex, there are five or six buildings, we live in the same building.

Q. As I understand it you have no family at the present time?

A. No.

Q. During the time you were living there—you are still living there, of course, and at the time Mrs. Lundeen was living there until she moved to her present address, did you have occasion to baby sit for her?

A. Not baby sit.

Q. What do you call it?

A. I was willing to play with them but I never took care of them. They were always in my apartment.

Q. So you were never what we call a baby sitter?

A. No.

Q. Do you know anything about Mrs. Lundeen's status in the Richmond community prior to your coming to Richmond?

A. No, I didn't know her before, or of her.

page 51 } Q. Do you remember a Mrs. Dorothy L. Wilkin-son associated with the Department of Public Welfare of Henrico County?

A. I don't remember the name, I didn't speak to her.

Q. At that time she was Mrs. Struminger, she was Mrs.

Mrs. Marilyn Fleischer

Lundeen; did you tell her you knew her for a short period of time?

A. I told her how I found out about Amy living in the same apartment. It was at a party one evening, someone asked me where I was from and I said Portland and they said they knew another girl from Portland and it turned out we lived in the same building. As far as our mention of Portland, I told her I was originally from Portland and after getting to discuss our lives, Amy and myself, I found out she was ahead of me in school and went to a different school and Portland is a larger city than Richmond. We knew some of the same people but not each other.

Q. You didn't know any of her associates in Richmond? You didn't know any of her associates in Richmond prior to the time she came to Richmond?

A. No.

Q. So you know nothing prior to coming to Richmond about her life in Richmond?

A. Not prior.

Q. Or her life with her first husband? You page 52 } know nothing about that?

A. I do now.

Q. What was the date you came in November?

A. We were married November 1st and I couldn't be specific, the reason we returned to Richmond very shortly after our wedding, my husband had a trial so we didn't get a honeymoon right away, it was the latter—we were here for Thanksgiving.

Q. My point is that the children left their mother on December 16th, do you recall meeting them before December 16th?

A. The little boys? I had seen the two boys before I met Amy. I heard their cowboy boots when they went by because I like children.

Mr. Lavenstein: That is all.

CROSS EXAMINATION

By Mr. Laughlin:

Q. What does your husband do?

A. He is an attorney.

Q. How long has he been practicing law?

Thomas B. Neblett, Jr.

The Court: Does he practice by himself?

A. Hirschler, Fleischer & Sadler.

page 53 } By Mr. Laughlin:

Q. Mrs. Meredith, the social worker, who prepared this report, said, "Mrs. Marilyn Fleischer, a neighbor and wife, report that Mrs. Lundeen has a very good reputation, she has seen Mrs. Lundeen with the children and she feels she has good morals." Is that your feeling?

A. That is about it.

Q. Is that what you told Mrs. Meredith?

A. Yes.

Q. You felt that way then and do now?

A. And I do now.

Q. Do you think things that might be brought up in the past in the field of morals might change your mind?

The Court: What might affect her might not affect anyone.

A. I don't sit in judgment. I have heard a lot but I don't believe it until I see it.

By Mr. Laughlin:

Q. Have you seen her with her children?

The Court: When you are ahead of the game, you had better quit.

Mr. Laughlin: I wanted to know if she had seen her with her children. That is all.

(The witness stood aside.)

page 54 } THOMAS B. NEBLETT, JR., being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Gray:

Q. State your name?

A. Thomas B. Neblett, Jr.

Q. Where do you live?

A. In Richmond, 5506 Grove Avenue.

Q. Do you know Amy Lundeen?

A. I do.

Q. And her children?

Thomas B. Neblett, Jr.

A. I do.

Q. Have the children spent time in your home?

A. The two have visited for a short time, one has spent a week in my home.

Q. Which one?

A. Bruce.

Q. The other one—other than that occasion, when was that week?

A. If I had a calendar—

The Court: Was it while they were at St. Thomas?

A. Yes.

page 55 } By Mr. Gray:

Q. Are there other children in your home?

A. Six, ten, eleven and thirteen.

Q. Have either of the boys been in your home other than during that period?

A. Never had.

Q. Have they been there in the evenings often or frequently? Do you all baby sit for the children?

A. My wife would stay with them during the days at times. I would say three or four times.

Q. Three or four times since last June?

Mr. Gray: That is all.

CROSS EXAMINATION

By Mr. Laughlin:

Q. I believe you are married and how old are you?

A. 34.

Q. Where are you presently employed?

A. IBM.

Q. How long have you been in Richmond?

A. Since 1958.

Q. Have you and your wife established a social relationship with Mrs. Lundeen?

A. Yes.

page 56 } Q. Have you ever seen anything to show she would not be a proper mother for her children?

A. I have not.

Q. How about to indicate she would make a good mother?

A. Certainly.

Lucille Lee

Q. Have the children exhibited any affection for their mother?

A. Yes.

Q. They seem to be happy?

A. Yes.

Mr. Laughlin: That is all.

(The witness stood aside.)

LUCILLE LEE, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Your name is Lucille Lee?

A. Yes.

Q. You live in Richmond?

A. Yes.

Q. Where are you employed?

page 57 } A. Right now at Sunlight Laundry and Dry Cleaning.

Q. Are you employed at the residence of Dr. Lundeen?

A. I have done some baby sitting.

Q. You did act as a baby sitter?

A. Yes.

Q. How many times have you acted as baby sitter for them? Do you have any idea?

A. I don't remember.

Q. You don't remember how many times?

A. No.

Q. A right good many times?

A. Yes.

Q. Both at night and in the daytime?

A. Some nights and day.

Q. On those occasions do you know where Mrs. Lundeen has been?

A. She would tell me where I could get in touch with her.

Q. Do you know if she was at school or away on trips or anything like that?

A. I don't really remember, you know.

Q. How many times would you say you have spent the whole night at the house?

Mrs. Nell Rose Meredith

A. I remember one occasion recently I stayed
page 58 } overnight.

Q. One occasion? Only one time? Did you spend
all night?

A. More than once.

Q. How many times would you say it has been?

A. I wouldn't say exactly.

Q. Do you have any idea?

A. No.

Q. Do you remember the last time?

A. I remember the last time, it was a few weeks ago and
I stayed overnight there.

Q. Do you know where Dr. and Mrs. Lundeen were at that
time?

A. I don't remember exactly, you know, they went off on a
trip and I stayed.

Q. As I understand it, you have baby sat at night a number
of times?

A. Yes.

(The witness stood aside.)

MRS. NELL ROSE MERDITH, being first duly sworn,
testified as follows:

page 59 } DIRECT EXAMINATION

By Mr. Gray:

Q. Would you state your full name and address, please?

A. I am Mrs. Nell Rose *Meredith*, from Henrico Welfare
Department.

Q. Would you give us your educational background?

A. An A.B. Degree from William and Mary, graduate work
at R.P.I., seventeen years in social work and eleven years
as Senior Social Worker.

Q. How long have you been working for the Welfare De-
partment?

A. Eleven years.

Q. You have filed with the Court here a report relative to
Donald Lewis Struminger and Amy Baird Struminger?

A. Yes.

Q. In making that report you investigated the circumstances
surrounding Mrs. Struminger?

A. Yes, sir. There was no return date on that request and

Mrs. Nell Rose Merdith

I thought the Judge wanted it for the July Court. Since the Judge was going on vacation I made the report and submitted it. I was not able to get in touch with Mrs. Lundeen during the Summer. I have made subsequent visits.

Q. You attempted to reach Mrs. Lundeen during page 60 } the Summer and didn't reach her?

The Court: What was the reason you couldn't reach her?

A. I don't know whether she just wasn't at home or I couldn't get in touch with her.

By Mr. Gray:

Q. Did you see the children and talk to them?

A. They were not at Mrs. Lundeen's on the first visit, I saw the youngest child on the last visit.

Q. You had not seen the children at the time you made this report?

A. No.

Q. When you say that Bruce is showing definite signs of emotional disturbance, from what did you draw that conclusion?

A. From his mother's statement.

Q. Mrs. Lundeen told you?

A. She stated—I have forgotten what she told me—She told me certain things he was doing that would indicate emotional disturbance.

Q. Did she tell you she believed this was due to separation from her?

A. Yes.

Q. Was this due to separation from Alex?

page 61 } A. This was my conclusion. Whenever you separate children from their mother there is an inevitable trauma.

Q. You think the separation would bring about a trauma in Alex as well as Bruce?

A. Bound to.

Q. What would be the effect of the separation of the boys from each other?

A. I think that would be a matter of security.

Q. If you coupled the separation from mother with separation from one another would that have an effect?

A. Yes, at the same time.

Q. Would that complicate things?

A. Yes, if they weren't together you would have a problem

Mrs. Nell Rose Merdith

unless they were children who had a great deal of feeling of security.

Q. In your report you stated that Alex had hay fever, this was—

Mr. Laughlin: The report shows on its face, it has all been reported.

The Court: It doesn't have anything to do with the separation. Go ahead. I think unless you have something you are trying to contradict in the report I would like to hear about the subsequent visits. She said she made some subsequent visits.

page 62 } A. I have visited with Mrs. Lundeen and observed Bruce and also talked with friends of Dr. Lundeen and friends of Mrs. Lundeen. Apparently, everything is favorable, it seems to me to have a very good chance of success. There have been some problems. according to Mrs. Lundeen.

The Court: What problems?

A. The children have been upset. Naturally, moving back and forth, the children are going to be upset.

The Court: Where did you get this information?

A. I observed Bruce, he stripped twice while I was in the home, very definitely trying to expose himself, trying to get attention. This was a pretty disturbed child. She handled it very beautifully, she stopped it very quickly. I thought he needed a lot of attention from a mother, which is also customary in children who are upset and who have been moved around a great deal. I think Mrs. Lundeen is a natural homemaker, she is a very dependent woman. I think she needs a strong man to direct her. I think Mr. Lundeen can do this. I am so old that I can remember when women did not take up for themselves. She is a normal, average, educated young woman.

Q. Did you say Victorian?

A. She concentrates totally on homemaking, children, cultural aspects. You don't meet this often today.

Q. Is this in conflict with what you say that she
page 63 } spends a lot of her time in painting?

Mrs. Nell Rose Merdith

A. No, this is her cultural outlet.

Q. Is this a normal homemaking aspect of a mother?

A. A cultural interest is what this woman has, either music or art or literature.

Q. Does this go with bedmaking sweeping?

A. And home management, raising children. This is textbook female.

Q. She is not interested in "men sort of things?"

A. She is not informed.

The Court: What do you mean, "She is not informed?"

A. She is impossibly naive and innocent. It seems that almost any girl growing up would learn to defend herself but she relies on Mr. Lundeen and her brother, so she is just a wife and cultural leader in the family and is an expert in those areas.

By Mr. Gray:

Q. You have indicated in your report, you indicate she has a good reputation and that you talked to Mrs. Fleischer concerning that?

A. I thought Mrs. Fleischer was a very good reference because she did not know her very well, she lives at the head of the steps. It was hard to—she had to pass Mrs. page 64 } Lundeen's apartment, I questioned her as to drinking, men, wild parties and anything else that she might know. She felt there was no irresponsible behavior whatsoever. She said she had seen Mrs. Lundeen at a few parties and she had supported herself with dignity and I felt that being pregnant was virtuous and looking down her nose at other women.

The Court: What?

A. There is a virtue with pregnant women, they are very quick to notice anything, at least the least bit out of line.

By Mr. Gray:

Q. How long has Mrs. Fleischer known Mrs. Struminger?

A. Since about November of 1966.

Q. With whom else had you discussed Mrs. Struminger's reputation.

A. I discussed her with two other friends that I felt I

Mrs. Nell Rose Merdith

didn't need to go further at this time because I didn't see any reason for her to be denied her children.

The Court: What church does Dr. Lundeen go to? He is an Episcopalian? You have given us answers on everything else; Mrs. Lundeen is a Catholic.

The Witness: I found Mrs. Lundeen has a very strong religious streak, she is not a verbal person, but deep.
page 65 } The Court: Any more questions?

By Mr. Gray:

Q. Where did you obtain the information that the present Mrs. Struminger is pregnant?

A. It all came from Mrs. Lundeen.

Q. Everything in this report came from Mrs. Lundeen or Dr. Lundeen except for Mrs. Fleischer?

The Court: She said she talked to other people.

By Mr. Gray:

Q. Everything in this report of June 18 came from Dr. or Mrs. Lundeen?

The Court: Since this report have you changed your viewpoint as to the report?

A. No, sir. I probably know a little more about the situation than I did at first. I think this woman is an expert mother and homemaker and I think she would do an expert job on her children.

Mr. Gray: Your Honor, could I confer with you and counsel in Chambers prior to asking a question?

The Court: Go ahead and ask the question.

Mr. Gray: I would much prefer to have you rule on it.

(Counsel approached the Bench.)

page 66 } By Mr. Gray:

Q. If you were advised that prior to her engagement to Dr. Lundeen, Mrs. Struminger, with the custody of these two children, had illicit relationships in the home where these children were, would this have an effect on your aspect?

A. I don't think so, I think she was feeling pretty des-

Mrs. Nell Rose Merdith

perate. She had failed in the one thing she knew anything about, making a marriage. I do not think she was a promiscuous woman.

Q. If I say that the affair with whom the affair was conducted, would this alter your feeling?

A. No, sir, because he was the only person who gave her any help or comfort at that time.

Q. Would this alter your opinion with respect to her reputation?

A. Well, I think a reputation is one of these things which holds that is perfectly permissible and I think she goes with the general feeling with the general generation that goes along with this. I don't think it is good but I do not think it means she is a promiscuous woman but anything but a very frightened, discouraged and defenseless person. I doubt if she looked at his age.

By Mr. Gray:

Q. I did want to impart your conclusion based page 67 } on the fact you drew an average conclusion that since Mr. Struminger was remarried and his new wife had one child and was pregnant and she had another child, this means young children that demand the attention of the mother, that this would be detrimental?

A. I think it would be a lot less detrimental, the child is all day long with the mother, not the father. The father comes home, the child is better off with stepparents.

Q. The point you made about the mother not having an opportunity to devote attention to four children and you could hardly conceive of the mother not devoting the major part of the time to her four children and not the stepchildren, would that be true of the father?

A. Yes, I think it would.

Q. In view of the fact that these children here are boys and Mrs. Lundeen does not understand boys' wishes, you don't think it might be better if they have their natural father who will devote his attention to them?

A. Right now they need a mother, they will need a father when they become adolescent. Dr. Lundeen may not be able to be as good a father. At that time different arrangements may have to be made but right now while they are little their mother-child relation is what is important. I think she probably understands men and boys, bringing them up, as well as any woman.

Mrs. Donald L. Struminger

page 68 } Q. How long did you talk with Mrs. Lundeen?

A. On the first one it was about two hours. I talked with her, I am sure it was a good hour, then Dr. Lundeen came over and we talked together.

By Mr. Laughlin:

Q. He asked about separating these boys. Do you think there would be a particular major trauma in sending one of these boys off?

The Court: She is not an expert.

Mr. Laughlin: You let me ask about the trauma of sending the boys away.

Mr. Gray: The mother said there would be a trauma.

Mr. Laughlin: One of the boys visiting his grandmother.

The Court: What is a trauma?

The Witness: That is an emotional hurt, scar.

(The witness stood aside.)

MRS. DONALD L. STRUMINGER, being first duly sworn, testified as follows:

Mr. Laughlin: May it please the Court, we will stipulate this woman is not an unfit mother in any way.

Mr. Lavenstein: We wanted to prove that she loves them, and if they had then in the house—

page 69 } Mr. Laughlin: If he asked that question you would say yes.

Mr. Lavenstein: Are you pregnant?

The Witness: No.

CROSS EXAMINATION

By Mr. Laughlin:

Q. In the report filed by the Welfare people in Petersburg they mentioned the fact that you were married before. How long were you married that time?

A. About two and a half years.

Q. How old was your son when you separated, Michael?

A. A year and a half.

Q. Where is your husband now?

A. Corpus Christi, Texas.

Q. Who obtained the divorce?

Mrs. Donald L. Struminger

A. I did.

Q. What grounds?

A. Mental cruelty.

RE-DIRECT EXAMINATION

By Mr. Lavenstein:

Q. Mrs. Struminger, when did you first meet page 70 } these children?

A. October, before we married, 1966.

Q. You came up on a visit to meet the family and saw the children and met them at that time?

A. Yes.

Q. When you were married and returned to Petersburg you brought your child back and you lived together, all the children, you and Mr. Struminger; what was the relationship between your child and Bruce and Alex?

A. They loved one another like brothers, they got along well.

Mr. Laughlin: You get along fine with these other two boys, don't you?

Mr. Gray: I appreciate counsel stipulating everything. I think it is rather material, Your Honor.

By Mr. Lavenstein:

Q. How did you get along with the children?

A. Very well, they seemed to fit in together with Michael beautifully and they seemed very happy and well adjusted, I hope, and I think we had a very nice relationship.

Q. Did they show any affection toward you?

A. Yes, sir, very affectionate.

Q. Do you have any outside interests at the present time besides your home?

page 71 } A. No, sir.

Q. Were you engaged in any occupation or profession before you married Mr. Struminger?

A. Yes, sir, I was a school teacher.

Q. What grade?

A. Third and Fourth, and pre-school youngsters and had a starter program.

Q. In Corpus Christi?

A. No, Dallas.

Mr. Lavenstein: That is our case, Your Honor.

* * * * *

page 76 }

* * * * *

The Court: I want to talk to Dr. Lundeen. I can't see where the case has been changed. In other words, her reputation is better this time than it was last time. I go along with what Mrs. Meredith says, every one of us makes mistakes. I would have to be more *niece* than what Mrs. Meredith said of Mrs. Lundeen, and there is no evidence that she is running around but I think it is a good idea because once you split one time you might want to try again. Yet they are not in what we call a public school.

I am going to let them stay with each one for six months, we will get reports. What is your desire about them going to the Jewish *Synagog*?

Mr. Struminger: I would like for them to.

The Court: That is what they will do. I am going to send them to the *Synagog*. I am asking her, if you don't send them they are coming with him. They are Jewish boys. They are too young to make up their minds. When they come of age, if they want to, as you have, change from page 77 } one religion to another, all right. In the meantime they are going to go with the parents to the *Synagog*.

Now I want these orders to specifically say she is not supposed to send them out of the State without the permission of the husband.

Mr. Laughlin: Could we make this run both ways?

The Court: All of this runs both ways, and if they are supposed to go beyond the time the other is supposed to see them.

Mr. Laughlin: If they want to take a trip, you say that is all right?

The Court: Provided it is not at the time the other is supposed to see them.

Mr. Laughlin: May I presume that the six months period applies, in view of the fact that they have been with Mrs. Struminger since June 16th; you are not starting over? One more point is the fact that he was not given the privilege of talking to them.

The Court: I want to bring Dr. Lundeen out here. If he doesn't agree, then the children will be turned over to him.

Mr. Laughlin: If we do what we have now, they will be in school for three months. What will they do
page 78 } after three months? I am talking about the older child, the oldest child starts in a regular school tomorrow.

The Court: Do you have semesters in there?

Mr. Laughlin: Yes, sir, we can keep them there a semester.

The Court: When does a semester end?

Mr. Laughlin: January 16th. .

The Court: Then he can have them and get that extra time. In other words, you would get the extra additional time she didn't have.

(At this time Dr. Lundeen appeared before the Court.)

The Court: Dr. Lundeen, do you have any objection to giving the telephone number to Mr. Struminger so he can reach his children twice a week?

Dr. Lundeen: 643-0589.

The Court: When Mr. Struminger gets the children on the week end we still have the same ruling on the week ends.

Mr. Struminger, when you get the children on the week ends you take them back on the week end; Mrs. Lundeen, you do the same. I don't want any of this secret stuff about where
page 79 } the children are. I think both parents have a right to know where the children are, they are still the mother and father. The children are not the ones that brought this about. I hope we can work out something. Are there any questions?

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk.

INDEX TO RECORD

Page

Appeal Awarded	1
Record	2
Order—March 3, 1966	2
Agreement—July 30, 1965	3
Order—August 24, 1966	6
Depositions:	
Donald Lewis Struminger	7
Harvey L. Goldstock	8
Decree—August 24, 1966	9
Order—May 16, 1967	11
Report of Department of Public Welfare, Petersburg, Virginia	12
Report of Department of Public Welfare, Henrico County, Virginia	20
Decree—November 20, 1967	23
Notice of Appeals and Assignments of Error	24
Witnesses:	
Donald Lewis Struminger	25, 29, 56, 136
Robert C. Vaughan, Jr.	28
Rabbi Solomon Jacobson	55
John Lawrence Locarni	68
William L. Penny	76
Robert A. Jordan	88
A. T. Norton	92
Edward M. McReynolds	99
N. K. Newsom	103
Mattie Williams	108
Dorothy Puller	114
Amy Baird Struminger Lundeen	125
Mrs. Marilyn Fleischer	151
Thomas B. Neblett, Jr.	154
Lucille Lee	156
Mrs. Nell Rose Merdith	157
Mrs. Donald L. Struminger	163
Proceedings	29, 67, 123, 165