215 Va. 344

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SUPREME COURT OF VIRGINIA
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IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 730754

DALE F. ROWAND
Appellant

V.

CASSANDRA N. ROWAND
Appellee

JOINT APPENDIX

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I. BILL OF COMPLAINT

1. The plaintiff, Cassandra N. Rowand, and the defendant, Dale F. Rowand, are white, sui juris, and are husband and wife, having been married on October 2, 1969, in Honolulu, Hawaii, U.S.A.

2. Both the plaintiff and the defendant are bona fide residents of and are domiciled in the State of Virginia and have been for more than one year next preceding the commencement of this suit, and both parties reside in and last cohabited in the City of Virginia Beach, Virginia.

3. One child has been born of the marriage of the parties, namely, Cassandra T. Rowand, age 19 months, who is in the care and custody of the plaintiff who is a fit, suitable and proper person to have the care, custody and control of said child.

4. For the past several months the defendant has been guilty of severe and serious misconduct, including extreme cruelty, comulative in nature and admitting of degrees, and has subjected the plaintiff to neglect, humiliation and anguish, embarrassment, annoyances, and insults in all the forms that notice can suggest, resulting in the enforced separation of the plaintiff from the marital home on September 5, 1972, said conduct on the part of the defendant amounting to cruelty tantamount to desertion on said date, the underlying purpose and effect of the defendant's conduct being the wilful and intentional abandonment and desertion of the plaintiff by the defendant without justification or excuse.

5. Said desertion continues without probability of reconciliation.

WHEREFORE, the plaintiff prays that the Court award her a divorce from bed and board for cruelty and desertion, custody, child support, alimony, attorneys fees and court costs, both temporary and permanent, and a final decree of divorce from the bonds of matrimony at the proper time, and such other relief as to equity may seem meet.

* * * * * * * * * *

II. DEPOSITIONS FILED ON BEHALF OF WIFE (APPELLEE)

A. VIVIAN S. NORSWORTHY

(The testimony appearing immediately below on pages 2A-56A of this Appendix is from pages 2-56 of the Depositions filed on behalf of wife (Appellee)

BY MR. WRIGHT:

Q. Will you state your name, please.

A. Mrs. Vivian S. Norsworthy.

Q. What is your address?

A 7709 Enfield Avenue, Apartment 102, Norfolk, 23505.

Q Are you related in any way to Cassandra N. Rowand?

A I am her mother.

Q Is she married?

A Yes.

Q What is her husband's name?

A Dale F. Rowand.

Q Are they both over twenty-one?

A Yes.

Q Do you know approximately when they got married?

A October 2, 1969.

Q Do you know where it was?

A In Hawaii.

Q Were any children born of their marriage?

A Yes.

Q How many?

A One.

Q What is that child's name and age?

A The child will be two years old and the name is Cassandra Tigner Rowand.

Q With whom is that child residing?

A With her mother.

Q And where does Cassandra Rowand live?

A 1948 Eastwood Villa Lane.

Q In what city?

A Virginia Beach.

Q Do you know where Dale Rowand lives?

A Yes.

Q Where?

A He lives at 736 Abbey Arch.

Q In what city?

A Virginia Beach.

Q In what state was your daughter born?

A Virginia.

Q Has she lived in Virginia most all of her life?

A All of her life.

Q Except for the period when she was in Hawaii?

A She just went there for the purpose of being married - ten days.

Q How long has she lived in Virginia continuously up to the present time?

A She is a native of Norfolk and lived here all of her life except for the time she went to Hawaii to get married.

Q That was over three years ago?

A Yes.

Q From the addresses you have given me, I gather that your daughter and Dale Rowand are not living together?

A That is right.

Q Do you know approximately when the separation occurred?

A The first part of September. I think it was about the 5th.

Q Of what year?

A 1972.

Q Where were they living at that time?

A At that time they were living at 736 Abbey Arch.

Q That is where Mr. Rowand is still living?

A That is right.

Q So I infer from that that your daughter left; is that right?

A That is right.

Q Can you tell me what you know about the circumstances that led up to the separation, say, for thirty days or so prior to the separation?

A Well, they were constantly quarreling about money. We recommended a marriage counselor or minister.

Q Who is we?

A My husband and I recommended a marriage counselor.

Q Do you know of any specific incident that occurred that led up to the separation?

A Our phone rang one night about 10:15.

Q Can you tell me with reference to the date of September 5th, which was the date of separation, what time frame we are talking about prior to that?

A It would have been about two weeks prior to that.

Q Your phone rang in the evening about 10:30?

A Yes.

Q All right.

A And my husband answered it and they came back to the den where I was and said that Dale had --

MR. SMITH: We object to anything Mr. Norsworthy told her.

BY MR. WRIGHT:

Q Don't tell what your husband said.

A He came back and told me who was on the phone. Is that all right?

Q All right.

A So I went to the phone and called and Dale answered the phone. I said, "What is going on down there?" And he said, "She will not tell me her weight." I made no answer to this. He said, "I know it sounds silly but she has been treating me with contempt and I am kicking her out." Kicking her out were his words. "And I want her to come to your place." And I asked if Cassandra was there and he said, "Yes." I asked to speak to her and she repeated what he had told

me, that she would not tell him her weight. So I said, "Well, why don't you just go on and tell him."

Q Well, did she indicate that she was coming to your home that evening?

A No. She said that in a very unhappy tone. The baby was sick. She was, of course, very miserable at the thought of having it out at that time of night with the baby and with no money.

Q So the baby was sick at that time?

A Uh-huh.

Q So she did not leave that night?

A No.

Q Now, that was two weeks before she did leave; is that correct?

A Yes.

Q Now, I believe you said that after that you recommended they see a marriage counselor?

A That is right; or a minister.

Q On September 5th, do you have any knowledge about the separation that day?

A Nothing; nothing directly. Only that she called around 10 and said, --

MR. SMITH: I object to anything that the daughter told her over the phone.

MR. WRIGHT: You can object.

BY MR. WRIGHT:

Q Was that at night, too?

A Yes.

Q She called you?

A No; my husband.

Q He answered the phone?

A He answered the phone.

Q Did you have any conversation with her?

A Not after that time.

Q Did she come to your house that day?

A Yes.

Q What did she tell you?

A She told us that he asked her for all of her money that she made while employed in the Commonwealth Attorney's office, and that she had refused to give him all of the money because there were clothes that she needed if she were going to work and also that the baby needed clothes. She had said that she would keep part of her money for that purpose, those purposes.

Q What else?

A And that he had asked her to leave if she were not going to give him all of her money.

Q So she told you that night, the night she came home, that he had again asked her to leave?

A Uh-huh.

Q Now, you were unwilling for her to come home before. Were you willing for her to come home on this occasion?

A Yes.

Q Now, subsequent to the separation, did you ever have any conversation with Mr. Rowand about whether or not he had asked her to leave?

A The only conversation as I recall that I had with him was Saturday when we went to pack up the things that he said she could have. I stayed out of the way as much as possible. I was sitting in the kitchen and he came and sat down at the table and said, "Mother, why is she doing this to me?" And I replied that she was accommodating him, that he had asked her to get out and had changed the lock on the door so that she could not get in.

Q Did he deny having asked her to leave?

A No.

Q Now, this occurred in what had been the marital home?

A Right.

Q I take it that the evening she left she didn't take anything with her; is that correct?

A She came in with very few things for herself and the child.

Q And the child. All right. So the occasion just referred to was an occasion on which you were helping her move

some of her things and the child's things?

A That Saturday, yes. They were the things that he decided she could have.

Q You say, to your knowledge, the arguments that she had prior to the separation related to the finances. Can you relate any conversations that you may have had with Mr. Rowand about finances and what the problem was or what his attitude was?

A Yes. After the first call that we had that he wanted to put her out, we called him and asked him -- my husband and I called him and asked him to go to lunch with us. Our idea was that we could see what we could say to try to smooth things over. We told him that she did not feel at all that he had the love or regard for her. And I told him that if he would just let up on the pressure a little on her that I felt she would be more cooperative.

Q Now, --

A Also on the night that he called to say that he wanted her to come home, he told me that he had given her five dollars a week before and then asked for another dollar and she refused to tell him what she did with the five dollars. It was given, as I understand it, for lunches and cigarettes.

Q With regard to whether or not she had any regard for him, do you know of anything that she has done throughout the marriage to assist his family?

A Yes. When they first bought their home, --

Q When was this?

A Let's see. This was in 1970 when he first came back from Viet Nam. They bought a home within about two weeks. And his invalid grandmother came to live with them. His mother was very ill in the hospital. Cassandra and he were to see to the invalid grandmother because his mother was not available to look after her. In a few months, when his mother reached the recuperative stage, she also came and Cassandra looked after her. She was ambulatory. Then they left, I think, some time -- that was from about the time in May, I believe, and they left after some time the first of July. The first part of September he brought his nephew, who is a senior in high school, in the home to stay until June until he finished his senior year.

Q Was your daughter pregnant at that time?

A Yes, she was.

Q Any argument about that?

A She did not want it. Now, I never heard any argument between the two about it.

Q Have you ever seen Mr. Rowand exhibit any physical force toward your daughter?

A Only one time and that was when we went to pack up the things on the Saturday when she was moving out.

MR. SMITH: Excuse me. That would have been after

the separation?

MR. WRIGHT: Yes.

MR. SMITH: I object to that.

MR. WRIGHT: I am not using that for the purpose of showing a ground of divorce after the separation. I am using it to show that he was capable of doing it and I am going to go into some other matters that would indicate his propensity toward violence.

BY MR. WRIGHT:

Q Now, he has objected and you have to put it in the record. Whether the Court will consider it or not, it is up to the Judge. Go ahead.

A And she went through a spice cabinet that his sister had given her for Christmas and started taking some of these spices out. He grabbed hold of them and said, "No, you don't. You don't get that." So I said, "Stop it. This can be settled later." And it was left like that.

Q Well, did he physically --

A Yes, he grabbed hold of her and pushed her to get her away from the cabinet.

Q Do you know of anything that he did while they were living together that indicated any violent temper on his part?

A Yes; smashing of the air conditioning. He She felt she should have objected to where she wanted it.

more because she was hot. She turned it and he smashed the air conditioning.

MR. SMITH: She didn't say whether she was present.

THE DEPONENT: I was not but I saw the evidence.

MR. SMITH: She can testify to that but I object to her evidence as to what she heard may have occurred.

BY MR. WRIGHT:

Q Did he indicate that he had done it?

A He didn't deny it. They came in the home, in our house, to see us. That was a Sunday. We were having them for a meal. They came in and Cassandra said she was not going back, that she was afraid. She told me he had done that.

MR. SMITH I object to that. unless it was said in his presence.

BY MR. WRIGHT:

Q Was he there when she said it?

A He was in the house. Now, wait a minute. No, he was in the living room, I believe.

Q Was he within hearing distance?

A I am sure he was because our apartment was not that -- I mean, we were not speaking in quiet tones particularly. And the only other evidence would be that I felt he was unduly --

MR. SMITH: We object to what she felt.

BY MR. WRIGHT:

Q What did you observe then?

A I observed his punishing the dog.

Q They had a dog?

A A great Dane. I thought he was all right. He was harsh.

Q Did your daughter ever tell you that he had struck her?

A Yes; once.

MR. SMITH: We object to that unless it was said in his presence.

MR. WRIGHT: I think that is all. Answer Mr. Smith.

CROSS-EXAMINATION

BY MR. SMITH:

Q Mrs. Norsworthy, I believe you testified that your daughter and your son-in-law had had previous difficulties about financial matters?

A Yes.

Q Did I understand that after he had called, I believe, and talked to your husband, --

A Right.

Q -- then you got on the telephone and talked to your daughter?

A I called back.

Q I see. You called back. And you think that was in the evening at approximately 10:30 or 10:15 and approximately two weeks prior to the separation. Now, did I understand that that is what resulted in the luncheon meeting or was it some other occasion?

A. It was prior to that that we had the luncheon meeting.

Q Do you remember about when that was, approximately?

A I am sorry.

Q Now, your husband at your request that Mr. Rowand meet with you at lunch was your good faith to attempt to help them?

A Indeed, yes.

Q What prompted that was their general disagreement on financial matters. Did it come to your attention at that luncheon engagement or in the conversation that led up to it that she had been or at least, according to Mr. Rowand, charging certain things or concealing certain charge accounts from him?

A He told us that prior to the luncheon.

Q Was that at your home?

A At our home.

Q Was Mrs. Rowand present at that time?

A Oh, yes.

Q And that was a fact that she had not been telling him all about her charge accounts?

A Of course, that I don't know. She did not answer.

Q She didn't say either way. Now, in the luncheon meeting with Mr. Rowand that, I believe was discussed, that is, whether she had concealed these charge accounts. And didn't you all at that time try to explain to Mr. Rowand why she did this?

A No, no, no. I don't think the fact that she had concealed charge accounts was mentioned at that luncheon. I don't recall that. I recall that we said that we had indulged her a great deal when it came to money matters.

Q In bringing her up and raising her?

A Yes. And that his -- these may not have been my words -- viewpoint of money was very far apart. But I considered this a quite natural thing in many marriages.

Q Do you recall mentioning that that had occurred in your marriage?

A Yes.

Q To Mr. Norsworthy. You mentioned that to Mr. Rowand that you and Mr. Norsworthy had that problem early in your marriage?

A Yes.

Q And you recommended that he let up on the pressure and that they see a marriage counselor or a minister?

A Yes. I don't think at that luncheon --

Q I see.

A -- that I mentioned the counselor. It was later.

Q It was later. But the gist of the luncheon was the discussion of the financial matters and your trying to explain to him or convince him that those things happen in marriage and suggested they would get along better if he would let up on the pressure?

A Yes.

Q Was he cooperative at that luncheon and indicated that he was willing to do that?

A I told him that I did not think that he loved her, that she did not believe that he loved her. And he said that he did. But I told him that he was going to have to convince her of that by his actions.

Q Now, in the conversation that you related where she called or he called and you called her back approximately two weeks prior to the separation, that again was about whether she would account to him for her earnings and financial problems?

A Yes; financial problems.

Q Do you know whether they ever went to see a

marriage counselor?

A I was told that they did together one time.

MR. SMITH: All right. I believe that is all.

MR. WRIGHT: With regard to Mr. Smith's objection to the depositions being taken today, on December 15th, which is almost thirty days ago, I gave him notice of this. I thought, rather than come here today with his client, who is present, and object to their being taken today, that he would have raised some objection to it within the ensuing thirty days.

I want to state for the record that the reason that these depositions were delayed was that Mrs. Norsworthy, who has just testified, has been in the hospital and was unable to comfortably come to any depositions before this time. That is why they had to be delayed this long.

B. JOHN T. NORSWORTHY

JOHN T. NORSWORTHY, having been first duly sworn by the Notary Public, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q Would you state your name.

A John T. Norsworthy.

Q What is your residence address?

A 7709 Enfield Avenue, Norfolk.

Q Are you related in any way to Cassandra N. Rowand and, if so, in what way?

A I am her father.

Q So you know Dale Rowand?

A Yes, sir.

Q Was your daughter born in Virginia?

A Yes.

Q Has she lived in Virginia continuously until the present time all of her life except for a short time in the fall of '69?

A Yes.

Q Where does she reside?

A Where?

Q What address? Your daughter, that is.

A She lives down off of Independence Boulevard.

Q Is that in Virginia Beach?

A Yes.

Q Who lives with her?

A Now, you mean?

Q Yes, sir.

A Oh, she lives at Eastwood Villa.

Q Is that in Virginia Beach?

A Yes.

Q And who lives with her, if anybody?

A Her daughter.

Q What is her daughter's name?

A Cassandra.

Q How old is she, approximately?

A Approximately two.

Q You mentioned off of Independence Boulevard. What address was that you were referring to?

A Oh, that was when she was living with her husband Dale.

Q Do you know that address?

A Not specifically, no.

Q Is it in Virginia Beach?

A Yes.

Q Does he live there?

A Yes.

Q That is where they last lived together?

A Right.

Q Do you know approximately when they separated?

A It was early in the spring.

Q When they last lived together is what I am asking you.

A I don't know exactly what the date was.

Q Well, let's get oriented here. Today is January

13th, 1973.

A Right.

Q Do you know how long they have been separated?

A About four or five months.

Q About four or five months. That would put it August or September. Is that your recollection?

A As I recall, yes. I am not entirely sure about these dates, sir.

Q All right. Well, since they separated, do you know whether or not the separation has been continuous without interruption?

A To the best of my knowledge, yes, it has been continuous.

Q Who left whom?

A My daughter left.

Q Do you know anything about the circumstances leading up to the separation, let's say, within two weeks to a month before the separation?

A Yes. One night I received a phone call from Mr. Rowand and he asked me if I had a place where Cassandra could sleep. I said, "Yes, I reckon I do." And I said, "Why?" He said, "I am kicking her out." And I said, "Why is this?" He said, "Because she won't tell me how much she weighs."

Q What time of night was this that you got this call?

A Oh, I don't know. Around eight or nine o'clock I guess.

Q How soon before she left did this happen?

A I don't know. I guess maybe two or three weeks; something like that. A month, roughly.

Q Was your wife at home when the call came that night?

A Yes, sir.

Q After Mr. Rowand told you this, did you ask to speak to your daughter?

A I talked to her for a few minutes

Q So she and Mr. Rowand were in the same house when the call came to you?

A That is correct.

Q Did your daughter confirm what he had said?

A Yes.

Q Did you relate this conversation to your wife?

A I did.

Q What did she do, if anything?

A She called down there and talked to my daughter. I think she talked to Mr. Rowand.

Q What did your wife advise your daughter to do?

A Well, my wife, of course, didn't want to see the thing break up. I think she told her to stay there that night.

Q Now, bring it forward to the time when your

daughter left, what happened that day or evening?

A Cassandra called and said she was coming home.

Q Did you answer the phone?

A Yes, I did.

Q Did she give you any reason?

A Well, she said that she was getting out because Dale had told her to get out again.

Q I see. Did she come to your home that evening?

A That is right. Yes.

Q Did she bring the child with her?

A Yes.

Q Now, what time of night was this when she got there?

A I think she got there around 10 o'clock; something like that.

Q Did she bring a whole lot of things with her that night?

A She didn't bring a whole lot with her at the time, no.

Q Mr. Rowand alleged in his answer that there were problems about finances. Do you have any personal knowledge from anything Mr. Rowand had said to you during the period when the parties lived together about the financial arguments?

A Not during the time that they were living together,

no.

Q You mean he said something to you since that time?

A Well, we came by the house one time and he said that he had to have this extra money that my daughter was earning to pay the bills.

Q Now, do you know of any times when they were living together that your daughter allowed any of Mr. Rowand's relatives to live with her?

A Yes.

Q Tell us about that.

A Well, his grandmother came over there and stayed for quite awhile. I don't know exactly how long. And then his mother stayed.

Q What was her condition, his grandmother's condition?

A Very, very bad health. Very, very feeble and unable to do anything for herself much.

Q Who took care of her during that time?

A Cassandra, my daughter.

Q Did this require a lot of unpleasant, menial duties on the part of your daughter?

MR. SMITH: I object to the question unless he was there.

MR. WRIGHT: He knows what her condition was.

MR. SMITH: He can testify to that.

BY MR. WRIGHT:

Q Go ahead.

A Yes. She had to look after her when she went to the bathroom and take care of her in that way almost like she was a little baby.

Q Any other of his relatives, come there to live?

A Yes. His mother stayed there for quite awhile. He also had a -- I don't know -- nephew or some young man come over there and stayed for quite awhile. And I think his younger brother came over and stayed.

Q Was your daughter pregnant during any of this time?

A She was during part of it.

MR. WRIGHT: I think that is all. Answer Mr. Smith's questions.

CROSS-EXAMINATION

BY MR. SMITH:

Q How did you and your wife, Mrs. Norsworthy, get along with Mr. Rowand?

A We got along with him reasonably well because we tried to get along with him.

Q Do you recall the occasion when your daughter and

Mr. Rowand came to your house some months prior to the separation to discuss some financial differences that they were having?

A Yes.

Q And do you --

A I remember that.

Q Do you recall in that conversation that Mr. Rowand said that your daughter had been carrying some charge accounts that she had not told him about and had been concealing from him some of the ways that she had been using the money?

A Yes. She said that.

Q She didn't deny that; did she?

A She didn't say anything at the time.

Q I believe, as a result of that conversation, you and Mrs. Norsworthy arranged to meet Mr. Rowand for lunch to discuss the situation?

A Yes.

Q I believe at that luncheon with Mr. Rowand that your wife explained to him or that you all explained to him that you may have over indulged your daughter in bringing her up which might explain her attitude toward financial matters?

A Yes. I think we did. We also explained to him that she was a person who had not been dominated and who had not been scrounged down by anybody in the family, that she had

been allowed to live her life within reason without us constantly and continually banging on her about this and that. I don't mean physically. I mean verbally. We explained that to him, too.

Q You all were doing what you all could to keep them together, to help?

A Within reason, yes.

Q And Mr. Rowand was cooperative and pleasant durigg that luncheon?

A Yes.

Q Did Mr. Rowand seek yours or Mrs. Norsworthy's assistance to try to become reconciled?

A Did what?

Q Did he seek your assistance in trying to help them become reconciled after they became separated?

A Not mine.

Q Do you know whether he got in touch with your wife or not?

A I am not sure about that. I'd rather not say definitely.

MR. SMITH: I believe that is all.

REDIRECT EXAMINATION

BY MR. WRIGHT:

Q Mr. Norsworthy, let me bring the picture of your

daughter's, as it has been referred, indulgence back into focus. Are you telling us that before she was married to Mr. Rowand that she sat around and was supported by you all and indulged by you all?

A No. She supported herself when she went to work.

Q How long had she been working?

A Well, she went after she graduated from high school two years to O.D.U., approximately two years, year and eighteen months; something like this. Then she decided that she wanted to go to work. So she quit school and went to work. She has been working ever since.

Q Ever since. How long has that been?

A Oh, quite a number of years. I can't recall exactly.

Q Where has she worked that you know?

A Well, she worked for Vandeventer, Black, Meredith & Martin. Then she worked -- she came down here to Virginia Beach and worked for Joe -- I can't think of the man's last name -- a lawyer here in Virginia Beach and in the Commonwealth Attorney's office. She worked there. Then I think she went, after he left the Commonwealth Attorney's office, to work for him for a while. After she was married she didn't work for a while, of course, and then she went to work for the people she is working for now.

Q At Mr. and Mrs. Coffman?

A Yes.

Q So except for the time when she was pregnant she has worked?

A Yes.

MR. WRIGHT: That is all.

As a matter of right, you have a right, after Mr. Burrows transcribes your testimony, to examine the transcript and to read it and to sign it but you may waive that right, if you like, which is customary, I might add. So would you like to waive that?

MR. JOHN T. NORSWORTHY: I think so, yes, sir.

MR. WRIGHT: I forgot to ask you this. I am sorry. After Mr. Burrows transcribes your testimony, you have a right to examine that transcript and to read it and to sign it but you can waive that right, if you like. It is customary to waive it. Would you waive it?

MRS. VIVIAN S. NORSWORTHY: I can waive it, then.

MR. WRIGHT: Thank you.

CASSANDRA N. ROWAND, having been first duly sworn by the Notary Public, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q State your name.

A Cassandra Rowand.

Q You are over twenty-one?

A Yes.

Q Are you married?

A Yes.

Q What is your husband's name?

A Dale Rowand.

Q He is over twenty-one?

A Yes.

Q You are both reasonably sane?

A I hope so.

Q Any children born of your marriage?

A Yes; one.

Q Name and age?

A Cassandra Tignor Rowand; two.

Q Where were you and Mr. Rowand married?

A In Honolulu, Hawaii.

Q When was that?

A It was October 2, '69.

Q Are you and he living together at this time?

A No, sir.

Q When did the separation occur?

A September 5, '72.

Q With whom does the child reside?

A Me.

Q Has the separation been continuous and without interruption since September 5, 1972?

A Certainly has.

Q Any likelihood or probability of a reconciliation?

A No, sir.

Q In what city did you and he last live together?

A Virginia Beach.

Q And both of you still continued to reside in Virginia Beach?

A Yes, sir.

Q What was the address at which you last lived together?

A 736 Abbey Arch, Virginia Beach.

Q What occurred on the day or evening of the separation? What time was it when you left, approximately?

A It was about nine.

Q Where did you go when you left?

A My parent's home in Norfolk.

Q Did you take your daughter with you?

A I certainly did.

Q What occurred that evening that resulted in your leaving?

A My husband again asked me to leave.

Q You say again. Had he asked you previously?

A Yes, he had.

Q When was that?

A That was the middle of August of '72; two or three weeks before.

Q What occurred on that day or evening?

A In August?

Q Yes.

A I had just gotten paid from the Commonwealth Attorney's office and I would not give him the check to put into the account because my daughter needed clothes, shoes and medicine. He had previously refused to buy them. So I told him I was not going to put my check in. He said, "Well, if you are not going to put your check in, then get out."

Q Did your parents have any knowledge of what happened that evening?

A He called them on the phone.

Q What did he tell them on the phone?

A He asked them if they had a bed for me to sleep

in, that he was kicking me out.

Q Why didn't you go that night?

A Because I talked to my mother and my mother said that I really should not go, that perhaps there was hope, and indicated that I could not come there. I had no place to go and my daughter had gone to bed with a very high temperature. I could not see waking her up and taking her out at 10 o'clock at night. So I gave him my check and stayed.

Q Let's talk a little bit about the financial situation. At that time did your husband have any bank accounts in his own name?

A Yes, he did.

Q How many?

A Two.

Q Were they in his name only?

A Yes.

Q What funds went into those accounts?

A One account was a savings at the Base, into which he had put his severance pay when he got out of the Navy. The other account was a private, personal account that he put money into that he received in checks from a job he had as a salesman for a while.

Q Did you have any right to draw on those accounts?

A No, sir.

Q Did you have a separate account of your own?

A No, sir.

Q Where was your moneys put?

A Into the joint checking account.

Q Now, did you work throughout your marriage?

A No, I didn't. I quit the job when he came home from Viet Nam at his request.

Q When was that?

A That was in March, the end of March of 1970. And I went back to work in April of '72 for the Commonwealth Attorney's office when they called and asked me to come back. I did work part time and I did some work at home at night.

Q So you worked for approximately the first six months of your marriage?

A I didn't work for approximately six months. I got married in October of '69. He was in Viet Nam.

Q You worked for the first six months?

A Yes.

Q When was your child born?

A January 21st of '71.

Q So you quit work around the first of April?

A Of '70.

Q Right. And about nine months later your daughter was born?

A Yes.

Q Now, he has alleged that unbeknown to him,

when you got married, you had some debts that you had incurred prior to the marriage. Were there any debts that you had? He said he found this out just before you separated, which would mean that these were debts that had been running for three years. Did you have any debts this fall that you had incurred prior to your marriage?

A Yes.

Q What?

A When we were married, I still had debts owing that were contracted prior to our marriage and I was still paying on them.

Q That is logical. You had some debts when you got married?

A Right. The only thing that could be considered still hanging on is the Master Charge. Everything else was paid for by June or prior to June of '71.

Q So there was a Master Charge?

A Right. And he also used the Master Charge.

Q The night that you left, did you call your parents to tell them that you were coming home?

A Yes, I did.

Q Were they at that time willing for you to come?

A Well, I think so. I really didn't give them much choice. I called my father and said, "I am leaving. Dale told me to get out again and I will be there in an hour."

Q All right. Now, did you take many things with you that evening?

A No. I took the bare necessities.

Q Did you go back later to pick up some things?

A Yes, sir, I did.

Q Did anybody help you?

A Yes.

Q Who?

A The girl down the street.

Q Was your mother there?

A When we moved out?

Q That is what I mean.

A The day that the movers came to move out my things, my mother was there, yes.

Q Did your mother have any conversation with him that day relative to his kicking you out?

A Yes, sir.

Q Did she accuse him of having done that?

A She just stated a fact.

Q Did he deny it?

A No, he didn't.

Q Now, during the time that you and he lived together, did he ever strike you?

A Yes, he did.

Q How many times?

A Once, as such. The night that he told me to get out in August, in the middle of August, he grabbed me by the arm and threw me toward the front door.

Q Was there a time prior to that?

A Yes; once before that.

Q Once before that. Was that when the air conditioning was smashed?

A No. That was before that.

Q Another occasion?

A Yes.

Q During the course of the marriage, did you ever have times when you had his family living with you?

A Yes. When we first bought our home and moved into it, his mother was in the hospital. No one, apparently, was able to take care of his invalid grandmother so she came in and moved in the house with us the very first day that we moved in.

Q How long did she stay?

A That was from May until about the week end of July 4th. And his mother came after she had gotten out of the hospital and been up in Richmond with his sister. She came down and stayed there for about three weeks.

Q Any other relatives?

A Yes. His nephew, who was going to school at Norfolk Catholic. He came to stay with us from September through

the school year but he left before Christmas.

Q Did you all have any words about the nephew coming?

A Yes, we certainly did. I didn't think it was fair. We had never been alone.

Q Were you pregnant at the time?

A Yes, I was.

Q What was his attitude about that?

A Well, he told me that he was coming and that was the end of that.

Q Any talk about any separation then?

A I don't believe so. He just said that Delbert was going to come, that it was his house and it was his nephew.

Q Did he give you any alternative if you didn't like it?

A He said it was his house.

Q Now, do you recall in this case when we had a temporary support hearing. Is your financial situation substantially the same as it was then?

A Yes, it is.

Q How about Mr. Rowand's - is his the same?

A I don't believe so. I understand -- well, I know that he has received a promotion at his job and I understand that a substantial raise went along with it.

MR. WRIGHT: I think that is all.

Answer Mr. Smith.

CROSS-EXAMINATION

BY MR. SMITH:

Q Mrs. Rowand, when did you first go to work - when you got out of high school?

A Yes, sir. It was in 1962.

Q What type work did you do?

A I was a legal secretary.

Q Whom was that for?

A Vandeventer, Black, Meredith & Martin.

Q How long were you with them?

A About eighteen months.

Q And then where did you go to work?

A I was offered -- Bob Simpson was the Commonwealth Attorney -- to do his work, Commonwealth Attorney's work, and I came down here in '63.

Q How long were you with him?

A Seven years.

Q Then where did you go to work from there?

A Well, I wasn't with Bob seven years. He went out of office in '68 and Andre Evans took over as Commonwealth. I worked for him for two years. Mr. Joe Lyle was Assistant

there and he opened his office down here at the Beach. It was three blocks from my house or from my apartment so I came to work for him.

Q You are, I believe, presently employed as a legal secretary with Coffman and Coffman?

A Yes.

Q So you have been working as a legal secretary, substantially,=continuously since about 1962?

A Uh-huh.

Q Now, how long did you and Mr. Rowand go together before you got married?

A Off and on about two years, eighteen months, two years.

Q I believe you told us that you all were married in Hawaii?

A Yes.

Q And he was in the Navy, I believe, then?

A Yes, he was.

Q I believe he was a lieutenant?

A Uh-huh.

Q After the marriage you returned here to Virginia Beach?

A My husband was stationed in Viet Nam or Dale was stationed in Viet Nam. He had a five-day R & R in Hawaii. That was the time I went out to stay with him, to marry him

and stay with him for the five days. I was born in Norfolk and have lived at Virginia Beach for ten years and have never lived anywhere else.

Q I see. So you all were married and he returned to Viet Nam?

A And I came back here immediately.

Q And he returned here, then, approximately six months later?

A Yes.

Q Did he get out of the Navy then?

A No, he didn't.

Q How much longer after that was he in the Navy?

A About a year and a couple of months.

Q And then he did get out of the Navy and I believe he had a couple of different jobs and now he is employed by the Boys Scouts?

A Yes. Right.

Q Is he making less money in the Boys Scouts than he was in the Navy?

A Certainly.

Q He is?

A Yes.

Q I believe you have testified that you did have certain accounts outstanding prior to the marriage that you had incurred, of course, while you were single?

A Right.

Q Now, you mentioned the Master Charge. Do you remember about how much that was?

A It was about $545.

Q How did you all handle your money right after you got married? Go up until the time that he returned here.

A It was all put in a joint account, including the money that I had when I was working, when I had been working.

Q Did I understand that you had not told him about the Master Charge account prior to your marriage?

A He knew there was a Master Charge when we were married.

Q And did he know the amount?

A Uh-huh; certainly did.

Q How were the payments made on that?

A Out of the joint checking account. At that particular time he was making payments himself.

Q Well, did you after the marriage, charge that account or create any other accounts without his knowledge?

A No. I did charge to that one.

Q You did?

A Yes.

Q Without his knowledge?

A Without his knowledge.

Q Did he later raise some question as to expenses and where the money was going and that type of thing?

A Uh-huh.

Q Did he discover that there were certain charges that he had not been told about?

A Yes, he did.

Q I believe you all had a discussion about that?

A That is right.

Q Did that sort of culminate in the conversation that your mother and father mentioned that took place at her house - at your mother's and father's house?

A Yes.

Q Of course, you were not at the luncheon they mentioned the next day, I believe, but I believe your husband later told you about it. Were you having difficulty living within your financial means?

A Yes. I believe everybody does and we did also.

Q Let me ask you this. You had been putting your earnings in the joint account?

A Yes, I had.

Q How long did that continue?

A That continued until the 30th of August, until I was paid on the 31st of August.

Q Was that the same time that you mentioned before that he wanted you to put your check into the joint account and

you refused to do it?

A That was on the 15th and that was the night that he called my parents and kicked me out, but I did not go. So I turned over that check to him, trying to go along with him and his wants and desires and try to make a go of it.

Q That happened about August 15th?

A Yes, sir.

Q And that is the time, of course, that you called your home and talked to your father and, I believe, your mother and your mother talked to Mr. Rowand. As I understand it, you, on the advice of your mother, decided to continue to try and put your check in and not to leave that night?

A Right.

Q You also mentioned that your baby was sick?

A Yes, she was.

Q And didn't want to take the baby out. You also mentioned that your mother said that you could not stay there?

A Yes.

Q Of course, would you have left if she said you could stay there?

A I don't really think so. I think I thought at the time that it was just so unbelievable and I figured that perhaps we could work things out.

Q That was about August the 15th. Now, what was the

next thing that happened about your financial matters? You mentioned something about August the 30th.

A I got my two checks from the Commonwealth Attorney's office and he wanted me to put them in the account and I told him that I needed clothes and I needed shoes and the baby needed medicine. The baby needed shoes. He said, "Well, we can't afford it." But yet he went out and bought a raincoat for himself and I had paid two of the bills. I told him that I was going to buy what was necessary for Cassandra and if I had any money left over I was going to buy some shoes for me and if there was any money left over there it would certainly go in the joint account. But he had refused to buy shoes for Cassandra. There had been a list on the table of dog food and medicine and for Cassandra and refilling a prescription for me. And all he came home with for three days was the dog food.

Q The list had been there for three days?

A Yes.

Q What was the type of medicine for the child?

A It was Dimetapp.

Q What is that?

A It is for congestion and for colds.

Q Did he absolutely refuse to get the medicine or just hadn't?

A He wouldn't do it. He bought dog food.

Q Did the child have any shoes?

A Yes, she had shoes but grewoout of them.

Q But she needed some more shoes?

A Right.

Q All right. Now, what happened after that between the 5th?

A I held onto my checks. I believe that we had some discussion again about going to a marriage counselor. There was not very much discussion at all about anything between either of us.

Q You all, I believe, had made an appointment to see the marriage counselor. Do you know about when that appointment was made?

A When the appointment was supposed to be?

Q When you called for it and all?

A About that time. I think we had to make it about a week in advance.

Q Who actually called to make those arrangements?

A My husband and I. But the one we actually went to was the one that he had called.

Q Had you previously arranged any appointments?

A I asked several times for him to go with me to a marriage counselor but he would not do it.

Q But you did agree to go on September the 5th?

A He agreed.

Q Both of you agreed is what I mean. And you did go to talk to the marriage counselor that day?

A Yes.

Q What marriage counselor was that?

A I believe her name was Barrett at 1100 First Colonial Road.

Q You both went and both talked with her?

A Yes.

Q Did she have any advice for you? I am saying for the both of you?

A Yes. I believe that her advice was that regardless of how we had been treated -- I did not feel that I was loved -- that the most important thing was that I feel that I was wanted and needed. And also financially, as far as the finances were concerned, she indicated very strongly that I would not have to account for every single penney that I ever put my hands on.

Q Did she recommend that you all work out a budget and work on your financial problems?

A Yes.

Q Do you remember about what time that appointment was?

A I remember exactly. It was 10 o'clock.

Q Did you go to work from there or did you all go home?

A I had been at work and left for the appointment and then went back to work, yes.

Q You and Mr. Rowand saw each other again that evening at home?

A Right.

Q Didn't he at that time ask you to sit down and work out a family budget based on both of your earnings?

A No. It wasn't until after Cassandra went to bed that he had anything to say at all.

Q What did he say?

A He said that he wanted to talk to me. So we sat down and we talked. The first thing he said was that he had been given his notice at work.

Q What was your response to that?

A I think my heart stopped. And then, finally, I got it out of him that he had been given his notice in the way of promotion, the offer of a promotion.

Q Did he ask that you all again put your earnings in a joint account and work out a budget?

A Yes, he did.

Q Were you willing to do that?

A I was perfectly willing to do that after I bought my daughter some clothes and some shoes and I had goteen a pair of shoes for myself.

Q In other words, you were willing to put in the joint

account whatever was left after you did these things?

A Right.

Q You had a right to sign checks on the joint account?

A Yes, I did - up to a point.

Q What do you mean by up to a point?

A Well, when this had come out in July, he had instructed me not to use the checkbook. So from July until the separation I never used the checkbook. That is why I did not put the money in because I didn't figure it would stay there and be available when Cassandra needed shoes and clothes.

Q So you, of course, told him that was your position?

A Yes.

Q What did he say to that?

A He said, "Well, if that is the way you are going to be about it, get out."

Q And that is when you called your parents?

A Yes.

Q And you got a few things together and the baby and left?

A Uh-huh.

Q You say that you didn't feel loved by your husband. Were you in love with him?

A Very much so.

Q Did that continue up to September 5, 1972 when you left?

A Yes.

Q Has he made attempts to become reconciled since September 5th?

A Yes, he has.

Q He has?

A Yes.

Q But you have been unwilling to do that?

A I have been unwilling for the simple reason that the exhibition from the 15th of August until he told me to get out again had been so horrible that I just do not feel at all that it would ever work.

Q I believe you all have had some meals together since you all separated?

A Yes.

Q Have they been at your place?

A Yes, they have.

Q Have you gone out to eat together anywhere?

A Never.

Q About the time that you left or immediately thereafter, I believe you wrote a check on the joint account for $400?

A Yes, I did.

Q Mrs. Rowand, did you feel like you had any problem

with handling money or keeping track of money or handling your financial affairs?

A No. I think everybody does.

Q The reason I ask is, you heard your mother testify in conversation that she had with Mr. Rowand that she was trying to explain how you might have some problems with money.

A I didn't hear my mother say that.

Q Your mother testified that in her conversation with Mr. Rowand she asked him to try to understand because they had indulged you. I think that was your mother's or father's word. Apparently they felt it was like you to have some problems with money. Do you feel like you had any problem with handling money?

A The indulgence was in that my parents did without so that my brother and I could have. And that is, apparently, something that my husband never thought of.

Q But your husband had accused you of charging things and not telling him about it?

A Uh-huh.

Q Had you done that and not told him that?

A Yes.

Q Why had you not told him about it?

A The charges, I think, can be proven that they were 95 per cent for clothes for my daughter.

Q But you didn't want to tell him about that?

A No. Because every time I bought a pair of shoes he screamed.

Q When did you and your husband last have sexual relations prior to your leaving on September 5, 1972?

A I think it was some time the latter part of August.

MR. SMITH: I believe that is all.

REDIRECT EXAMINATION

BY MR. WRIGHT:

Q I wanted to get this on direct but Mr. Smith opened it up. He indicated an offer to reconcile by your husband. Has anything occurred since your separation that makes you doubt the bona fide or good faith of his offer of reconciliation?

A Yes.

Q If so, what?

MR. SMITH: I object to leading question.

MR. WRIGHT: I am not suggesting any answer.

A He had told me that Cassandra could have a lot of the toys and that I could have quite a lot of my personal items that were in the house that had obviously belonged to me much prior to our even having met. And to this

day I have not seen any of them. When my mother and I went over with the mover to get the things out, he had thrown everything that he would allow me to have in the living room and ordered me to stay out of every other room in the house.

Q Anything occurred subsequent to that?

A Yes. I came home one afternoon and discovered that the silver and crystal had been taken out of my apartment and the apartment had been entered unbeknown to me. The rings and silver and crystal were all gone. The TV was still there. I thought somebody had broken in. I called the police and they came out and said there was no visible, forceful entry. They took fingerprints. I understand that one of the detectives went over and approached my husband.

MR. SMITH: I object to anything the detective might have told.

A And less than two days later or the very next day there was an anonymous telephone call to the police headquarters saying that the stuff they were looking for was at the night depository at the Public Library Branch next to the Third Precinct.

Q So were the items recovered?

A Some were broken. They were recovered.

MR. WRIGHT: All right. That is all.

RECROSS-EXAMINATION

BY MR. SMITH:

Q Mrs. Rowand, I believe you testified previously in response to my question as to whether or not Mr. Rowand had asked you to become reconciled and whether you were unwilling to do so, I believe you said then that, in thinking about the matter and what had occurred during August and September up until the time you left, you just didn't think it would work?

A Yes.

Q You had reached that conclusion?

A Yes.

MR. SMITH: That is all.

MR. WRIGHT: You also have the right to sign the transcript, read and sign it, but you may waive that right.

MRS. CASSANDRA N. ROWAND: Okay. I waive it.

BY MR. WRIGHT:

Q The waiver will still hold. Mrs. Rowand, with regard to the taking of these depositions, have I been trying to set up a date?

MR. SMITH: That is a leading question. I object to it.

MR. WRIGHT: You object but it is going on the

record.

BY MR. WRIGHT:

Q Have I been trying to set these depositions up now for about forty-five days?

A Yes, sir.

Q What is the reason we couldn't do it?

A My mother has been very ill and in the hospital and forced to quit work. And on the doctor's advice she had to remain in the house.

Q And we have done it just as soon as we could?

A Yes.

Q You and your husband only been separated four months; isn't that true?

A Uh-huh.

MR. WRIGHT: All right.

MR. SMITH: We are not going to offer any evidence today. Notice to take your depositions.

MR. WRIGHT: Let's put in the record that I want the record to show that Mr. Rowand has been present throughout and that his counsel, although in a big hurry to get these depositions taken, has chosen to offer no evidence at this time.

MR. SMITH: For the record, the Notice to take depositions was a Notice to take the complainant's depositions.

MR. WRIGHT: No question about that.

MR. SMITH: At the proper time we will give, if necessary, notice to take the defendant's depositions. No obligation about it on the defendant to offer any evidence at this time.

MR. WRIGHT: That is right.

III. ORDER OVERRULING APPELLANT'S MOTION TO DENY APPELLEE'S PRAYER FOR A DIVORCE

This cause came on this day to be heard, after Notice to counsel of record for the Plaintiff herein, on the Motion of the Defendant to enter a Decree denying the Plaintiff's prayer for a divorce on the ground that the Plaintiff's evidence in support thereof is uncorroborated and, in any event, insufficient as a matter of law and was argued by counsel.

Upon consideration whereof, it is ADJUDGED, ORDERED and DECREED that the said Motion be, and the same hereby is, overruled, to which action of the Court the Defendant by counsel objected and excepted.

* * * * * * * * * * *

IV. DEPOSITIONS FILED ON BEHALF OF HUSBAND (APPELLANT)

A. HARRY R. DUDLEY, JR.

(The testimony appearing immediately below on pages 57A-60A of this Appendix is from pages 2-5 of the Depositions filed on behalf of Husband (Appellant)

BY MR. SMITH:

Q Tell us your name, please, sir.

A Harry R. Dudley, Jr.

Q And where are you employed?

A I am President of Dudley, Morrisette, Cederquist & Associates, architects and engineers, Norfolk, Virginia.

Q And where do you live?

A I live in Norfolk, 5726 Shenandoah Avenue,

1 Norfolk.

2 Q And how long have you been an architect?

3 A Seventeen years.

4 Q Do you know Dale F. Rowand?

5 A Yes, sir.

6 Q In what capacity do you know him?

7 A It's my pleasure to know Mr. Rowand in

8 connection with Boy Scouts. I am Chairman of the Nottoway

9 District of the Tidewater Council of Boy Scouts. Nottoway

10 District encompasses one-half of Norfolk, and I had the

11 pleasure of working with Mr. Rowand in that connection.

12 Q And is he employed by the Boy Scouts of

13 America?

14 A Yes, he is.

15 Q I believe in a professional capacity?

16 A That's right. He's a professional scout.

17 Q And have you again had the occasion to deal

18 with him and his superiors and the people he works with?

19 A Yes, sir. For a period of about four

20 months I had almost daily contact with Mr. Rowand, because

21 as a District Scout Committee Chairman my liaison with the

22 Tidewater Council of Scouts was through my executive, who

23 was Mr. Rowand.

24 Q Mr. Dudley, do you know Mr. Rowand's

25 reputation in the community in which he works and lives as

1 far as telling the truth is concerned?

2 MR. WRIGHT: I object to that. Counsel is

3 trying to impeach his own witness. There's no

4 character in issue in this case. I object to it.

5 MR. SMITH: All right, note his objection.

6 The witness is being taken out of turn, and

7 I think that the evidence would be admissible.

8 MR. WRIGHT: His character is not in issue.

9 MR. SMITH: Well again, the witness is being

10 taken out of turn. The character will be in issue

11 after, I am sure, you examine Mr. Rowand.

12 BY MR. SMITH:

13 Q Do you know his reputation for telling the

14 truth?

15 A Yes, sir. He has a fine reputation, to the

16 best of my knowledge.

17 Q In other words, is this reputation good or

18 bad?

19 A Good.

20 Q Do you know his reputation in the community

21 for being a peaceful, law-abiding citizen?

22 MR. WRIGHT: I object to that, too.

23 A Yes. The reputation is good.

24 MR. SMITH: Mr. Wright has previously put

25 in evidence tending to, or attempting to, show that

1 Mr. Rowand has a violent disposition. This evidence
2 is offered to rebut that evidence.
3 BY MR. SMITH:
4 Q Then you do know his reputation for being
5 a peaceful, law-abiding citizen?
6 A Yes, sir. And that is based on contact
7 during the period that I have known Mr. Rowand of three or
8 four times a week. I have seen him in many Scout functions,
9 where if there was a tendency to --
10 MR. WRIGHT: Objection. The man is stating
11 his conclusion.
12 Q All right. Is that reputation for being a
13 peaceful, law-abiding citizen good or bad?
14 A Good. I would even say excellent.
15 MR. WRIGHT: Objection again. It's all
16 his conclusion.
17 MR. SMITH: Your objection is in the record,
18 Mr. Wright.
19 All right, Mr. Dudley, thank you for coming
20 down. You may be excused.
21 MR. WRIGHT: Mr. Dudley, you have the right
22 to examine, read and sign this after it's
23 transcribed, or you may waive that right. I might
24 add it is customary to waive it.
25 MR. SMITH: She's a court reporter, and she

B. RICHARD L. SHEPHERD

(The testimony appearing immediately below on pages 61A-65A of this Appendix is from pages 6-10 of the Depositions filed on behalf of Husband (Appellant)

BY MR. SMITH:

Q Tell us your name, please, sir.

A Richard L. Shepherd.

Q Where are you employed?

A Boy Scouts of America.

Q In what capacity?

A Director of Field Service.

Q How long have you been in Boy Scout work?

A Twelve years, professionally.

Q And what are the responsibilities of your job, present job?

A The Director of Field Service supervises the district operations of the seven districts of our Tidewater Council, providing program services to about 18,000 boys and over 600 units of the Council. Part of the job

1 would include the supervision of the seven District
2 executives, the seven professionals that give direct
3 leadership to the districts.
4 Q And do you know Dale F. Rowand?
5 A Yes, sir.
6 Q Who is he employed by and in what capacity?
7 A He's employed by the Tidewater Council as
8 an associate district executive in one of these seven
9 districts I spoke of.
10 Q Does he then work under you, so to speak?
11 A Yes.
12 Q Under your supervision?
13 A Yes.
14 Q What are his duties?
15 A He would be the administrator for the
16 Scouting program in one of those seven district areas.
17 Q Does his work involve any particular number
18 of scouts?
19 A Yes. Currently he serves in a district
20 that serves just over 5,000 boys.
21 Q And how long have you been working with him?
22 A Eleven months.
23 Q Have you also worked with the other people
24 that he works with and his other superiors?
25 A I don't quite know what you mean.

1 Q I mean, have you also had occasion to work
2 with him and the other people that he works with?
3 A Oh, yes.
4 Q Do you know his reputation for truth in the
5 community, for telling the truth?
6 MR. WRIGHT: For the record, again I
7 object to the line of questioning. It's not in
8 issue.
9 MR. SMITH: All right, Mrs. Zahn, note
10 that Mr. Wright's objection will apply to all similar
11 testimony without his having to make it each time.
12 BY MR. SMITH:
13 Q Do you know his reputation in the community
14 for telling the truth?
15 A To the best of my knowledge, the reputation
16 is good.
17 MR. WRIGHT: Wait a minute. It calls for
18 a yes or no answer. The answer is not responsive.
19 BY MR. SMITH:
20 Q All right. Based on your experience that
21 you have related, do you know his reputation in the
22 community for telling the truth?
23 A Yes.
24 Q Is that reputation good or bad?
25 A Yes. It is good.

1 Q Do you also know his reputation in the
2 community for being a peaceful, law-abiding citizen?
3 A Yes.
4 Q Is that reputation good or bad?
5 A That's good.
6 MR. SMITH: All right, thank you,
7 Mr. Shepherd.
8
9 CROSS-EXAMINATION
10 BY MR. WRIGHT:
11 Q Tell me, Mr. Shepherd, when have you ever
12 sat around and talked to anybody about Mr. Rowand's
13 reputation for telling the truth? Have you ever had a single
14 occasion in which you have discussed whether or not he tells
15 the truth?
16 A I am not sure that the question has ever
17 been brought forth in that manner, no.
18 Q Well then, how do you know his reputation
19 for telling the truth if you have never discussed it?
20 A I have never -- I just never had any reason
21 to question it. He's never been --
22 Q All right, you don't know whether it's good
23 or bad. You have never discussed it. Isn't that the truth
24 of the matter? You have come here to tell the truth;
25 haven't you?

1 A Yes, sir.

2 Q You have never discussed it one way or the

3 other; right?

4 A I'm not trying to stall you off. I am

5 trying to remember if we have specifically discussed it or

6 not.

7 Q I don't mean "we." I mean you.

8 A I guess, really, I have never had any

9 occasion to sit down and specifically discuss whether the man

10 tells the truth or not. There's just never been any question

11 about it.

12 MR. WRIGHT: Okay. Fine. No further

13 questions.

14 MR. SMITH: Mr. Shepherd, it is customary

15 for the witness to waive the signing of the

16 deposition. She's a court reporter and takes it

17 down verbatim, types it up, and the witness

18 customarily waives the requirement that it be

19 resubmitted to you and signed by you.

20 Do you waive the signing of your deposition?

21 It's usually done.

22 THE DEPONENT: Is there any copy that I get

23 or anything?

24 MR. WRIGHT: Not unless you pay for it.

25 THE DEPONENT: I mean, I hate to, you know,

C. EDWARD F. THOMPSON

(The testimony appearing immediately below on pages 66A-78A of this Appendix is from pages 11-23 of the Depositions filed on behalf of husband (Appellant)

BY MR. SMITH:

Q Tell us your name, please, sir.

A Edward F. Thompson.

Q And where are you employed?

A Boy Scouts of America, Tidewater Council.

Q And in what capacity?

A Director of Support Services.

Q And what are your responsibilities in that job?

1 A Well, there's a lot of things. I manage
2 the budget. I do all the buying. I support the staff out
3 in the field in every which way. I work the camps.
4 Q All right, does Mr. Shepherd work under you
5 as Director of Field Services?
6 A We are both on the same level. He handles
7 the field men out in the field. I handle everything else.
8 Q Do you know Dale F. Rowand?
9 A I do.
10 Q How long have you known him, and in what
11 capacity?
12 A He was my assistant when I was a district
13 executive in Virginia Beach here. He was only employed a
14 year, I guess. I guess it's about a year.
15 Q Did you have anything to do with hiring him?
16 A Yes, I did.
17 Q What was that? Did you hire him yourself?
18 A No. Both Shepherd and I talked about him,
19 went over his records, and as we do with all men coming into
20 the profession.
21 Q Now, since that time have you had occasion
22 to work with Mr. Rowand and also to work with other people
23 in your organization who did work with him?
24 A Oh, yes. Yes.
25 Q And I believe he's still with the Boy Scouts?

1 A That's right. He's still out at Nottoway.
2 Q Do you know his reputation in the community
3 for telling the truth?
4 A In the community? From the Boy Scouts.
5 Q In which he works?
6 A Yes. A Boy Scout. I always found him to
7 tell the truth. I never had any occasion to doubt him.
8 Q But have you dealt with other people who
9 dealt with him also?
10 A Very indirectly. Mostly I have been to
11 scouting -- I have been to civic meetings with him, with
12 Mr. & Mrs. Rowand, and that's the connection in that way.
13 But most of the time we have been together, it's been mostly
14 in a Scouting function.
15 Q Based on your experiences, is his reputation
16 for telling the truth good or bad?
17 A Good on Boy Scouting ways. I mean, things
18 he said he did, by questioning him, and because I had to
19 know everything in the Scouting program, it mainly was so.
20 Q What's his reputation as far as being a
21 peaceful, law-abiding citizen? Is that good or bad?
22 A Good. Good.
23 Q Did you ever have occasion to discuss with
24 him -- and don't tell me what was said at this point --
25 discuss with him his domestic situation?

1 A He just told me -- because he was
2 responsible to me to keep me informed of everything that was
3 going on -- he told me that he and his wife weren't getting
4 along together, and there was possibly -- and later on there
5 was a question of getting a divorce.
6 Q Did he tell you that she had left, moved out
7 of the house?
8 MR. WRIGHT: Objection. That's the most
9 leading question I have heard today, and he's your
10 witness.
11 BY MR. SMITH:
12 Q Did he ever indicate --
13 MR. WRIGHT: Objection. You can ask him
14 what the man said to him, but you can't suggest
15 anything.
16 BY MR. SMITH:
17 Q All right, did he say anything to you about
18 being separated?
19 A Yes, he did. I told him to take all the
20 time he wanted to iron out his difficulties and keep me
21 informed what he felt I should know in his personal
22 relationships, and he did keep me informed of different
23 things that were happening, and had said that his wife had
24 left.
25 Q Did he tell you anything about becoming

1 reconciled with his wife?
2 A He said he was interested, he hoped that
3 maybe it was developing towards reconciliation.
4 MR. WRIGHT: Objection to that statement.
5 I move that it be stricken. It calls for something
6 that is self-serving that Mr. Rowand may have said
7 after the parties separated, probably after this
8 suit was filed, although he hasn't told us when it
9 was.
10 BY MR. SMITH:
11 Q Do you recall when that was?
12 A Gee, no, I don't. It was after she -- after
13 he told me that she had left his house.
14 Q When he told you that, was that imminent?
15 Had she just left; do you recall?
16 A No.
17 Q You don't recall?
18 A No, I don't recall.
19 Q Has he ever indicated to you that he did not
20 want to reconcile with his wife?
21 MR. WRIGHT: Objection. This is the most
22 leading type of question. You know it's improper,
23 Mr. Smith.
24 MR. SMITH: No, I don't, Mr. Wright.
25 MR. WRIGHT: Well, you ought to. Let me say

1 that. It's a leading question. He's your witness,
2 and you are not privileged to do it, and I object
3 to it and move that the question itself be stricken.
4 MR. SMITH: Because you say it's improper,
5 Mr. Wright, doesn't make it so.
6 MR. WRIGHT: No, it doesn't. As long as I
7 put it in the record, the Judge can decide.
8 MR. SMITH: That's right.
9 BY MR. SMITH:
10 Q Mr. Rowand is still with the Boy Scouts?
11 A That's correct.
12 MR. SMITH: All right, I believe that's all.
13 Answer Mr. Wright's questions.
14
15 CROSS-EXAMINATION
16 BY MR. WRIGHT:
17 Q Let me ask you this. You don't mean to
18 indicate to us that you are familiar with Mr. Rowand's
19 community-wide reputation for telling the truth?
20 MR. SMITH: I object to that question. It
21 doesn't have to be community wide. The community
22 referred to can be the community in which he works.
23 BY MR. WRIGHT:
24 Q Well, go ahead and answer me.
25 A What was that again?

1 Q Are you trying to tell us that you are
2 familiar with Mr. Rowand's community-wide reputation for
3 telling the truth?
4 A I didn't say that. I didn't.
5 Q You didn't. You just mentioned as far as
6 your work connection was concerned?
7 A I said the only time I have been in the
8 community was -- community-wide, with community people, has
9 been --
10 Q I don't mean that.
11 MR. SMITH: Let him finish.
12 BY MR. WRIGHT:
13 Q What I am asking you: Are you saying you
14 are familiar with his community-wide reputation for truth
15 and veracity?
16 MR. SMITH: He's already answered that. He
17 said he didn't say that.
18 MR. WRIGHT: I am asking the question. Don't
19 you testify. If you want to make an objection,
20 object.
21 MR. SMITH: I am objecting.
22 A Yes. The Boy Scout community. The community
23 of where all the volunteers live throughout all of Virginia
24 Beach.
25

1 BY MR. WRIGHT:

2 Q You are talking about the Scouting community?

3 A The Scouting community.

4 Q Let me ask you this. Have you ever really

5 had a single occasion arise in which you have discussed with

6 anyone whether or not he tells the truth?

7 A No.

8 Q That's what I thought.

9 All right, now let me ask you this: you

10 say you have only known him eleven or twelve months?

11 A Well, when we employed him, I guess -- it's

12 been a year, I guess.

13 Q It's now February 23, 1973.

14 A I think he came in 1972, either January,

15 February, one of those. I'd say a year.

16 Q When was it he first mentioned to you that

17 he might be getting a divorce?

18 He's not going to help you out. I am asking

19 you.

20 A I don't know. I don't know.

21 Q Well, was it when you first employed him?

22 A No. I can't pinpoint when I talked about it.

23 Q Well, we want to make your testimony worth

24 something, and if you can't tell us any time at all, I'm

25 afraid it's not going to be, so can you give us your best

1 recollection of when he first mentioned to you that he might
2 be getting a divorce?
3 MR. SMITH: I don't believe he's testified --
4 I object to it.
5 MR. WRIGHT: Yes, he did.
6 MR. SMITH: I object to it because I believe
7 he testified --
8 MR. WRIGHT: Wait a minute. Put your
9 objection in there, but don't give him an answer.
10 You object to the question, but don't give an answer.
11 MR. SMITH: If you will give me that
12 objection, I will finish my objection.
13 MR. WRIGHT: You can object to the form of
14 the question.
15 MR. SMITH: All right. I object to the
16 question on the ground that he did not testify that
17 Mr. Rowand told him he was getting a divorce. He
18 testified, as I understood it, that they might be
19 getting a divorce.
20 MR. WRIGHT: All right, I will accept that
21 amendment.
22 BY MR. WRIGHT:
23 Q When did Mr. Rowand first mention to you
24 that they might be getting a divorce? They, meaning Mr. Rowand
25 and Mrs. Rowand?

1 MR. SMITH: If you remember.
2 A I can remember when we had dinner. It was
3 after I was at their house for dinner. I don't know whether
4 that was in the summertime.
5 BY MR. WRIGHT:
6 Q Okay, that's good enough. Maybe I can tie
7 that in.
8 When were you at their house for dinner?
9 A This, I don't know. It was --
10 Q How many times were you ever at their house
11 for dinner?
12 A Once. Once.
13 Q All right. Did he mention --
14 A It must have been before the summertime.
15 Q Did he mention it to you before or after the
16 dinner?
17 A It was after the dinner. Afterwards.
18 Q Shortly afterwards? Is that why you relate
19 it to the dinner?
20 A I relate it to the dinner, because I had no
21 awareness of it until after I was out to the house, and it
22 was at that time. I know that there was nothing said up to
23 that time.
24 Q All right, you think it was shortly after
25 the dinner?

1 A It was before my wife came down here. My
2 wife came down here around September, I guess. Around
3 October. I guess it was more in the spring -- I guess it was
4 more in the summertime, late spring.
5 Q Late spring or early summer of '72?
6 A Yes. Right around that time, yes. It's
7 hard to remember.
8 Q It would be harder if you had known him
9 longer, but you say you have only known him a year?
10 A Yes.
11 Q How many times did he discuss his personal
12 marital problems with you?
13 A You mean lengthy discussions?
14 Q Any discussion?
15 A Any discussion?
16 Q On that subject.
17 A Oh, quite often, because of having to be
18 someplace; and I'd ask him, "how are things going; are you
19 and your wife going to get together," and this type of thing.
20 I would say ten times at least.
21 Q Starting in the spring of '72?
22 A Yes. Around the warm weather.
23 MR. WRIGHT: All right, that's all.
24
25

1
2 REDIRECT EXAMINATION

3 BY MR. SMITH:

4 Q Mr. Thompson, did I understand that you
5 answered in response to Mr. White's question that when you
6 did have dinner with him there was nothing that occurred at
7 that dinner to make you aware of any marital discord?

8 A No. I enjoyed my -- it was nothing that --
9 I was quite surprised that something was happening.

10 Q Did it appear -- did Mr. Rowand, on that
11 occasion, appear to be attentive to his wife?

12 A He was a good host.

13 Q Did you see them together on other occasions?

14 A Yes. I don't recall. We have been to --
15 I guess it was just that one night. We went to the community
16 civic meeting. I think it was that night we went to Pembroke.

17 Q All right. On any occasion that you did see
18 them together, did you notice any discord between them?

19 A No, I didn't.

20 Q Mr. Thompson, do you waive your signature
21 to your deposition? In other words, the court reporter will
22 type them up just as you gave them, and rather than have you
23 come back down and read them over and sign them -- she's a
24 good court reporter, and she does it accurately, and it's
25 customary for the witness to waive the signing of the deposition

A I so waive.

MR. SMITH: All right, thank you.

(And further this deponent saith not.)

D. JUNIOR ARCHIE RICHENDOLLAR

(The testimony appearing immediately below on pages 78A-81A of this Appendix is from pages 23-25 of the Depositions filed on behalf of Husband (Appellant)

BY MR. SMITH:

Q Tell us your name, please, sir.

A Junior Archie Richendollar.

Q And where are you employed?

A In Civil Service.

Q In what capacity?

A I am a program analyst, GS-12.

Q Do you have any connection with the Boy Scouts of America?

A Yes. I am PAVAB District Commissioner; Princess Anne, Virginia Beach.

Q District Commissioner?

A Yes, sir.

Q And that is a civic activity of yours?

A Yes, sir.

Q And in what responsibility does that involve?

1 A Overseeing of all the units and the tasks and
2 the troops succeed in their scheduled mission.
3 Q Do you know Dale F. Rowand?
4 A Yes, sir.
5 Q In what capacity do you know him?
6 A Through Scouting.
7 Q And is he employed by the Boy Scouts of
8 America?
9 A Yes, as Associate Scouting Director.
10 Q Have you had occasion to deal with him and
11 with his superiors?
12 A Yes, sir.
13 Q In his Scout work?
14 A Very directly.
15 Q Do you know his reputation in that community
16 for telling the truth?
17 A Yes, sir.
18 Q Is that reputation good or bad?
19 A I'd say very good.
20 Q Do you know his reputation in that community
21 for being a peaceful, law-abiding citizen?
22 A Yes, sir.
23 Q Is that reputation good or bad?
24 A I'd say it's very good.
25 MR. SMTIH: All right, answer Mr. Wright's

1 questions.

2

3 CROSS-EXAMINATION

4 BY MR. WRIGHT:

5 Q Have you ever really had a specific occasion

6 to discuss with anyone whether or not he tells the truth?

7 A Let me phrase it so I understand your

8 question. Have I ever had anyone --

9 Q Is there a chance that you don't understand

10 my question?

11 A Yes. Ask it again then.

12 Q All right. Has there ever really been an

13 occasion when you discussed with anyone whether or not

14 Mr. Rowand tells the truth?

15 A No, sir.

16 MR. WRIGHT: That's what I thought. No

17 further questions.

18 MR. SMITH: All right, thank you a whole

19 lot, Mr. Richendollar. I appreciate your coming

20 down.

21 It's customary for the witness to waive the

22 signing of the deposition rather than having her

23 type it up, and you come back down and read it and

24 sign it. She's a court reporter, and she will type

25 it up accurately. So do you waive the signing of

the deposition?

THE DEPONENT: Yes, I do.

E. MRS. CHARLES ROWAND

(The testimony appearing immediately below on pages 81A-88A of this Appendix is from pages 25-32 of the Depositions filed on behalf of husband (Appellant)

BY MR. SMITH:

Q Tell us your name, please, ma'am.

A Mrs. Charles Rowand.

Q And are you related to Dale F. Rowand?

A Yes. I am his mother.

Q And of course you know his wife, Cassandra N. Rowand?

A Yes.

Q When did you first meet Cassandra, approximately?

A One time when Dale brought her down to my home when he had had her -- I think it was when they were up visiting a relative of hers, up north.

Q Had they been married then?

A No.

Q Were they planning on getting married as far

1 as you know?

2 A Not at that time.

3 Q But they were seeing each other?

4 A Right.

5 Q And then of course they did get married, and

6 did you visit with them in their home after they became

7 married?

8 A Oh, yes.

9 Q On how many occasions, just generally?

10 A I couldn't say exactly. It was numerous

11 occasions.

12 Q And did they ever visit in your home?

13 A Yes, they did.

14 Q And would that be also on several occasions?

15 A Right.

16 Q On those occasions, Mrs. Rowand, did, as

17 far as you were concerned, was there anything apparent to you

18 that indicated any discord in their marriage?

19 MR. WRIGHT: Objection. That calls for a

20 conclusion. She can state what she observed, but

21 you are suggesting an answer.

22 BY MR. SMITH:

23 Q What did you observe when you would see them

24 together?

25 A Well, they seemed very congenial as far as

1 I was concerned, except the last time she visited my home.
2 Q And on the occasions that they appeared to
3 be congenial, what was Mr. Rowand's attitude towards his wife?
4 A He seemed very much in love with her and
5 very --
6 MR. WRIGHT: Objection. This is all
7 conclusions of the witness. She's entitled to state
8 what she saw and heard, but that's all.
9 BY MR. SMITH:
10 Q All right, go ahead and answer the question.
11 He's made his objection.
12 A They seemed to be very happy. He was very
13 kind to her. He was a very loving husband, and everything
14 seemed very congenial.
15 Q Did that, when you would see them, was that
16 true up until the time that they separated, as far as you
17 could tell?
18 A The last time she was in my home she was --
19 seemed to be pouting and very -- well, she just didn't have
20 much to say.
21 Q Did anything happen on that occasion?
22 A Well, Dale was playing with the little girl
23 on the floor, and he was -- the baby was crawling on his
24 back, and they were playing together, and I made the remark
25 that the baby seemed to think an awful lot of her daddy; and

1 Cassandra said, "yes, she and the dog both think a lot of
2 him."
3 Q Do you recall about when that was in relation
4 to the date they separated, or the day that she moved out of
5 the house, which was September 5?
6 MR. WRIGHT: Objection. You are leading
7 the witness. You can ask her when it happened,
8 but why in the world do you have to suggest all
9 these times? I object to the leading question.
10 MR. SMITH: Mr. Wright, is there any objection
11 as to when Mrs. Rowand moved out of the house?
12 MR. WRIGHT: There may. You can ask her
13 when it happened. That's all that's necessary.
14 BY MR. SMITH:
15 Q Do you know approximately when it happened?
16 A I don't know the date, no.
17 Q Do you know approximately, in relation to
18 September 5, 1972?
19 A Well, it was about a week before. It was
20 within the vicinity of when they separated.
21 Q Did you ever have occasion to assist
22 Mr. & Mrs. Rowand financially?
23 A Yes, I did.
24 Q How did that come about?
25 A Well, I was -- that was right after Dale's

1 return, and I was over to their home, and Cassandra spoke
2 to me about their financial problems, indicating that Dale
3 was in debt and didn't know how to manage his affairs, and
4 she wanted to know if I could loan them some money.
5 I told her that I had some that was from --
6 that I was saving up for my mother's expenses, and that I
7 could loan it to her for a short while until they could get
8 back on their feet, because they had just bought their home.
9 They were furnishing it. Dale was -- had all the income tax
10 that he had -- that had accummulated while he was overseas
11 to pay that he wasn't expecting. So I offered to loan them
12 $2500.
13 Q And did you do that?
14 A I did.
15 Q Has it been paid back?
16 A After the separation.
17 Q Was any of it paid back before?
18 A $500 had been paid back previous to that.
19 Q And who paid the balance of it back to you?
20 A Dale.
21 Q Has Mr. Rowand discussed his marital
22 situation with you since the separation?
23 A Yes.
24 Q Has he ever indicated to you one way or the
25 other whether or not he wished to become reconciled?

1 MR. WRIGHT: Objection. It's self-serving.
2 Anything that happened after the separation is
3 totally immaterial.
4 BY MR. SMITH:
5 Q All right, go ahead and answer the question.
6 A Dale has said numerous occasions that he
7 hoped there would be a reconciliation, that Cassandra would
8 come back to him. He seemed to think at first that he could
9 work it out.
10 MR. WRIGHT: Objection. That is a
11 conclusion. Obviously, what he seemed to think --
12 A (Continuing) And I was in hopes that they
13 could be reconciled and come back together again. I didn't
14 see any reason why they couldn't.
15 MR. WRIGHT: Move that all that be stricken.
16 What she seemed and what she hoped is totally
17 irrelevant.
18 BY MR. SMITH:
19 Q Has that continued up until today, as far
20 as you know?
21 A As far as I know, it has.
22 Q Have you seen Dale both before and after the
23 separation with his daughter?
24 A Yes, I have.
25 Q What's his attitude towards the daughter?

1 A Well, he's --

2 MR. WRIGHT: Objection to the form of that

3 question. What's his attitude calls for a conclusion.

4 A Dale is very fond of his little daughter,

5 and she seems to be very fond of him. She seems to be very

6 happy when she's with her daddy.

7 MR. WRIGHT: Objection. All this is a

8 conclusion.

9 BY MR. SMITH:

10 Q And has he visited his daughter regularly

11 since the separation, or has his daughter visited them both?

12 A Yes, and they have been in my home, and I

13 have observed how they have reacted to each other. When she

14 comes into the house, she's very happy to see me. She's

15 very happy with her father.

16 Q What has been your experience with Dale as

17 far as his financial responsibility has been concerned?

18 A Dale has always been able to manage his

19 affairs.

20 MR. WRIGHT: Objection. That is a conclusion

21 in her opinion.

22 A (Continuing) He put himself through college.

23 He did not ask for any financial help whatsoever in the years

24 that he attended V.P.I. He has never asked for any help in

25 any of the years that he has been on his own.

1 MR. SMITH: All right, thank you. Answer
2 Mr. Wright's questions.
3
4 CROSS-EXAMINATION
5 BY MR. WRIGHT:
6 Q You say he never asked for any help when
7 he was on his own?
8 A He never asked for any money, any financial
9 aid.
10 Q When he was on his own, you said?
11 A Since he has left home.
12 MR. WRIGHT: All right, I don't have any
13 questions.
14 MR. SMITH: Mrs. Rowand, do you waive the
15 signing of your deposition?
16 In other words, she will type it up as you
17 have testified, rather than have you come back and
18 read it over and sign it, it's customary to waive it.
19 Is that all right?
20 THE DEPONENT: Perfectly all right.
21 (And further this deponent saith not.)
22 (Signature waived)
23
24

25

F. DALE FRANKLIN ROWAND

(The testimony appearing immediately below on pages 89A-133A of this Appendix is from pages 33-75 of the Depositions filed on behalf of husband (Appellant)

BY MR. SMITH:

Q Tell us your name, please.

A Dale Franklin Rowand.

Q And are you the defendant in the suit styled Cassandra N. Rowand versus Dale F. Rowand?

A Yes, I am.

Q When did you meet your wife, Mr. Rowand?

A I met my wife while I was stationed at the Naval Air Rework Facility in Norfolk in 1968.

Q And where were you employed at that time?

A I was employed by the U. S. Navy.

Q What education have you had?

A I have three years of college.

Q And what was your rank in the Navy?

A At the time I was Lieutenant Aviator in the Navy.

Q All right. After meeting your wife, did you all begin to see each other?

A After we met at the Officer's Club at Norfolk, we started seeing each other more and more frequent as time went on, up until the time I was ordered to a deployed

1 squadron; and at that time, of course, when I left I didn't
2 see her until I came back that Christmas for Christmas leave;
3 and then not again until we were married in Hawaii.
4 Q Did you correspond before you were married?
5 A Oh, yes. We corresponded regularly while
6 I was stationed in California in school before going to
7 Vietnam, and then during the time I was in Vietnam.
8 Q And when she came to Hawaii, had you made
9 plans to be married?
10 A Yes. We had made the plans through the mail
11 and a couple of long distance telephone calls, and I sent her
12 the airline ticket from Vietnam for her transportation from
13 Norfolk to Hawaii. I made the arrangements with the chaplain
14 in Hawaii and had everything arranged through the mails.
15 Q And you all were married October 2, 1969,
16 in Hawaii?
17 A Yes. We were, at the chapel.
18 Q Did she then return to this area?
19 A After my five days R & R was over, and I
20 returned to Vietnam, I put her on the plane back to the States
21 just before I left.
22 Q Then when did you return to the United States?
23 A I returned to the United States the last of
24 March on emergency leave request from Vietnam twenty-two days
25 before my normal rotation date back because of serious illness

1 of my mother. I came back on the emergency leave not to
2 return to Vietnam but to proceed to my next duty station.
3 Q And where did you and your wife then live?
4 In this area?
5 A At the time that I first came back, since
6 we did not have a house, she did not have an apartment, we
7 moved into my mother's house, because my mother was in the
8 hospital in Fort Eustis critically ill; and we stayed there
9 at my mother's house for about a month, I think it was.
10 Q Then where did you go to live?
11 A Then during this period of time we were
12 shopping for a house in Virginia Beach, since my next duty
13 station was Oceana, and we spent a couple of weekends, or a
14 couple of nights at her parents' apartment in Norfolk, and
15 then we moved into our own house in Virginia Beach around the
16 first of May.
17 Q Is that a house that you all purchased?
18 A Yes. That's the home that we bought.
19 Q And is that where you resided until you
20 separated?
21 A That's where we resided together until we
22 separated, and that's where I still reside.
23 Q Did you pay anything down on the house?
24 A Yes. I don't recall the exact figure. I
25 believe it was about $3,000 down payment on the house, and

1 the previous owner assumed, or took a second mortgage on the
2 remainder of the equity, and we assumed the remainder of his
3 loan.
4 Q Who made the down payment?
5 MR. WRIGHT: I object. It's totally
6 immaterial to a divorce suit.
7 A Well, the money that was used, of course,
8 was my money that I had saved while in Vietnam; but since it
9 was a joint venture, I guess it might be considered our money
10 at the time; but it was money that I had saved from my salary
11 in Vietnam.
12 Q Were you still in the Navy at that time?
13 A Yes, I was.
14 Q And then how long did you remain in the Navy
15 after that?
16 A I remained in the Navy for about a year
17 longer. This was in May, and I got out June one year later.
18 Q Had your daughter been born by then?
19 A By the time I got out of the Navy, yes.
20 Q And what's her birth date again?
21 A She was born on the 21st of January.
22 Q Of what year?
23 A 1970.
24 Q After you got out of the Navy --
25 A It will be '71. I'm sorry.

1 Q '71?

2 A '71.

3 Q After you got out of the Navy, what did you

4 do?

5 A After I got out of the Navy, and as I was

6 just approaching my time to get out of the Navy, I started

7 looking for a job and had many job interviews but did not

8 actually land a job that I was working at until September

9 of '71.

10 Q Was your wife working during that time?

11 A No, she was not. She quit work just prior

12 to my return from Vietnam.

13 Q And were you living on the separation pay

14 that you had received?

15 A During the time that I was unemployed, we

16 lived on the separation pay and savings and an unemployment

17 check from the State; and then while I was employed with my

18 first position as a chemical salesman, primarily off the

19 savings, because it did not pay enough to keep us going.

20 Q Did you change jobs from the sales job you

21 mentioned?

22 A I left the chemical sales business after I

23 found out that my sales supervisor had been forging checks

24 that had been sent down to me by the company, and the company

25 would not give me any support as far as answering correspondence

1 or orders that I sent up to them, or would not help me in
2 any way to prosecute the sales manager that in the forgery
3 case.
4 MR. WRIGHT: I don't know why I should
5 object, because all of this is totally immaterial.
6 I mean, he's going to have to pay for it; but it
7 seems to me that what he did in his old job -- here
8 we are in February of 1973. It's completely
9 immaterial.
10 MR. SMITH: Well, Mr. Wright, I think the
11 Court in determining whether or not these parties
12 should be divorced should have the benefit of some
13 knowledge of the history of this marriage.
14 BY MR. SMITH:
15 Q So where did you go from there, as far as
16 employment is concerned?
17 A From there I started back looking for
18 another job, and in March of that year I secured the position
19 with the Boy Scouts of America.
20 Q And what year was that?
21 A That was 1972, March of '72.
22 Q Now, was your wife working then?
23 A She started back to work about the same time
24 that I got the job with the Boy Scouts of America.
25 Q Now, were you making as much money with the

1 Boy Scouts as you had been in the Navy?

2 A No where near. Approximately one half.

3 Q From the time you were married, say on up

4 until the point where you went to work with the Boy Scouts,

5 how did you and your wife get along?

6 A We got along fairly well on most matters.

7 We differed on a few matters of the care of the child and

8 trying to work out and live on a budget that would balance

9 our income with our outgo.

10 Q Did it ever come to your attention what

11 one of your main problems was about living within your

12 financial means?

13 MR. WRIGHT: Objection. You are leading him.

14 A We sat down many times and tried to work

15 out a budget, and each time at the end of the month the

16 budget would not balance, and I couldn't understand why.

17 The amount of income versus the amount of budgeted outgo

18 would not match; and over the years, we just shrugged it

19 off as unexplainable until this past summer.

20 Q Would that be, of course, the summer of 1972?

21 A It would be the summer of 1972, when one

22 night Cassandra offered me a separation agreement almost out

23 of the clear-blue sky. We had never discussed separation or

24 anything like that before, though we had talked about

25 possibly a marriage counselor. But she offered me a separation

1 agreement, and I said I would consider it and spent quite
2 a lot of thought on it and started looking to find out what
3 my financial situation was, started looking for bank statements
4 to figure out where we stood financially and called her at
5 work, asked her for the last bank statement. She told me
6 that the bank statement had not come yet.
7 Then I called the bank. The bank said it
8 had been mailed out ten days before, and it should have been
9 there, and I went to the bank to find out what it was,
10 started digging around home, and that's when I discovered
11 that all the bank statements had been hidden; and going
12 through, looking for them, trying to piece them back
13 together, I found checks missing, found bills that I did not
14 know existed.
15 Then I asked her where the bank statement
16 was after she came home from work a day or two later, and
17 she admitted that it had been at work, and the reason she
18 had it at work was that she wanted to balance it and get
19 the bank book balanced before I got a chance to see the bank
20 statement so she could remove certain checks from it as she
21 had done all the bank statements in the past.
22 Q Did you tell us that was in the summer of
23 1972?
24 A Yes.
25 Q Do you remember about what month it was?

1 A It was about June. I'd just come back
2 from the National Executive School in New Jersey in May,
3 and it was about a month later. It would be about -- it was
4 during the month of June, as I recall it.
5 Q All right. Now, did I understand you that
6 she told you that she had been writing some checks that you
7 didn't know about and had been removing them from the --
8 MR. WRIGHT: Objection. That's leading.
9 BY MR. SMITH:
10 Q From the checking account?
11 A Yes. At the time that I asked her about the
12 last bank statement, which she lied to me about not having
13 received.
14 MR. WRIGHT: Objection. I move that that
15 answer be stricken.
16 A (Continuing) And as I started looking
17 through the checkbook, bank statements and trying to balance
18 them or match them back against the checkbook, I found they
19 wouldn't match and asked her why.
20 Q Now, did this come before or after she had
21 offered to you to make an agreement with you about separating?
22 A This occurred after she offered me the
23 separation agreement. It was the separation agreement that
24 caused me to start wondering what was happening and to start
25 looking into our financial affairs.

1 Q Did she tell you why she wanted to be
2 separated?
3 A At that time it was -- she said it was just
4 because we apparently could not get along. We had had
5 numerous discussions on trying to reduce the monthly expenses
6 in the home, and she would not go along with what I wanted
7 as far as trying to reduce the expenses in the home to
8 conserve on the utility bill, to conserve on the food bill
9 of the type food she bought. She generally bought the frozen
10 foods, frozen vegetables, versus the cheaper types; and it was
11 obvious to me that we were going deeper and deeper in debt
12 and the savings account was dwindling down to the point that
13 there was almost nothing left.
14 Q Were you ever able to find any of the checks
15 that she removed?
16 A Yes. She finally brought me a bunch of the
17 checks that she had removed from the checkbook and had never
18 entered into the checkbook, and I found bills that I did not
19 know existed, such as a Spiegel's account, a Master Charge
20 account that she had told me for over a year had been paid
21 off; but when in fact it still is not paid off, or was not
22 paid off at the time she left.
23 Q Did you make any copies of those checks?
24 A Yes, I did; and these are the copies of the
25 checks that she brought to me and were never entered into the

1 bank book and the bank balance modified, or entered into the
2 checkbook to balance the checkbook without keeping a running
3 tally through the checkbook, check by check.
4 Q Did you know anything about these checks
5 before she gave them to you, other than what she had told you?
6 A Other than what she had told me, no, except
7 for possibly a few of them that I may have known about; but
8 it would only be one or two.
9 Q All right. Are these two copies of the
10 checks that you are talking about?
11 A Yes, they are.
12 Q Have you run a tape, adding machine tape on
13 the amounts that the checks total?
14 A Yes, I have.
15 Q What's that total?
16 A That total is $3,630.62.
17 Q Do you recall over what period of time those
18 checks cover?
19 A Those checks cover the period of time from
20 our opening a joint checking account or converting her old
21 checking account to a joint checking account until the time
22 she left, which was approximately two and a half years.
23 Q Approximately two and a half years. When
24 was the change made in the checking account?
25 A The change was made in the checking account

1 right after I came back from Vietnam April or May 1970.
2 MR. SMITH: All right. I want to offer
3 these copies of those checks and adding machine tape
4 as Defendant's Exhibit 1.
5 MR. WRIGHT: I don't have any objection to
6 your offering those copies of checks into evidence.
7 MR. SMITH: All right. If you will mark
8 those.
9
10 (Photocopies of checks consisting of
11 seventeen sheets with adding machine tape attached
12 thereto were marked Defendant's Exhibit No. 1 and
13 made a part of the deposition.)
14 BY MR. SMITH:
15 Q Now, what was the outcome of that discussion
16 in June of 1972?
17 A The outcome of the discussion in June of
18 '72, after I discovered all this and uncovered as best I
19 could of her concealing these debts, personal loans that had
20 been made to her under our married name, we went down to
21 her parents' house one evening when she came home from work
22 and I explained to her parents what had been going on and
23 what I thought was one of the reasons we were in such
24 financial problems was because I did not know and could not
25 work out a budget when the expenses of the family were being

1 hidden from me, and brought out the fact that night that in
2 talking to her parents that she had just purchased a new car
3 from her brother, that she had told myself and her parents
4 that she was assuming the payments on the car when in fact
5 she had taken out a new loan to purchase the car, and her
6 parents asked her if that was true, and she admitted it that
7 night to them that she had in fact lied to them about assuming
8 the payments on the car where she actually did take out a
9 new loan on the car.
10 Q All right. Now, at that meeting at her
11 parents' home, was your wife, Cassandra, present during that
12 entire discussion?
13 A Yes, she was, and she entered into the
14 discussion.
15 Q Did she deny having concealed these moneys
16 that she had spent in these accounts that you mentioned?
17 A No. She admitted it, and she told her
18 parents that she did not want me to know that she had made
19 all of these bills prior to my coming back from Vietnam.
20 Q What else, if anything, was said in that
21 discussion?
22 A That discussion with Cassandra present ended
23 with my telling her, her parents, that I was going to have to
24 establish a balance of the income and the outgo of the family
25 and that I would take over the paying of all bills for the

1 family at that time, and that it was obvious to me in the
2 past that allowing her to pay all the bills and keep the
3 financial records of the family wouldn't work, and the budget
4 would never balance if it was done that way, and so that I
5 would take over at that time and pay all the bills of the
6 family and run the financial affairs of the family.
7 Q Did her parents have any recommendations
8 to you all?
9 A That night, the only recommendations that
10 they had was they said they were sorry that they could not
11 financially aid us, that they were unable to do so.
12 Q All right. Did you later have a discussion
13 with her parents about the situation?
14 A Her mother called me at work the following
15 day and invited me --
16 MR. WRIGHT: Now, you know this is hearsay.
17 There's no way that can be admissible into evidence,
18 what her mother said to him on the telephone.
19 BY MR. SMITH:
20 Q Did her mother call you after this
21 conversation?
22 A Yes. Her mother called me the following
23 day and invited me --
24 MR. WRIGHT: Objection.
25

1 BY MR. SMITH:

2 Q All right, as a result of that conversation,

3 what did you do?

4 A I met her mother and father for lunch, and

5 we discussed --

6 MR. WRIGHT: Objection.

7 MR. SMITH: He can say what they discussed.

8 Go ahead.

9 MR. WRIGHT: I object to it.

10 A We discussed the way that they had treated

11 Cassandra while they brought her up and that they thought we

12 needed to --

13 MR. WRIGHT: Objection. It's clearly

14 hearsay.

15 A (Continuing) They thought that we needed

16 to work out our financial problems and that we had a

17 difficult time ahead of us, that they thought we could make it.

18 BY MR. SMITH:

19 Q All right. Now, how did you and your wife

20 handle the situation after that?

21 A After that time, the situation became very

22 strained at home. The wife resented the fact that I was

23 handling all the financial affairs of the family, and on a

24 couple of occasions she refused to allow her check to be put

25 into the joint checking account. She said it was my

1 responsibility to provide the home and pay for everything
2 in the family, and that she could do with her check as she
3 wanted to.
4 Q Had there been any discussion about seeing
5 a marriage counselor, a minister, or anything?
6 A Yes. There had on a few occasions, and
7 during this period of time we had made an agreement that we
8 would see a marriage counselor, and we were both trying to
9 make a point of seeing a marriage counselor.
10 Q All right now, going on up into -- did
11 anything happen in August?
12 A During the month of August, we were discussing
13 the family situation and financial situation, the general
14 overall tone of our living together and things kept getting
15 worse and worse in the conversation to the point that I was
16 trying to reason with her where we stood financially, how we
17 had gotten there and why I was apparently receiving no help
18 at all from her in trying to balance the budget and to get
19 the family back on an even accord to the point that since
20 she had already given me a separation agreement a couple of
21 months prior I told her that night that she could just leave.
22 Q Were you discussing any other problem or
23 contention between you other than the financial matter?
24 A Yes. We were discussing quite a few things,
25 from her weight to the care of the child and the dogs, and

1 whether or not we should spend another $300 to join the
2 recreation center and the pool that she wanted to join and
3 use; and I told her that night that we would not join the
4 pool until she lost weight; and I asked her how much she
5 weighed; and she refused to tell me. And that was, I guess,
6 sort of the straw that broke the camel's back. She told me
7 she would leave if I would find her a place to stay, and I
8 went and called her parents and said -- asked them if they
9 had a place for her to stay, and they said, yes, they did.
10 But she did not leave that night.
11 Q Is that the occasion that she has mentioned
12 in her testimony as occurring approximately the middle of
13 August of 1972?
14 A Yes, it is.
15 Q So she did remain there that night?
16 A Yes. She remained there that night and
17 remained living together until after our first appointment
18 with the marriage counselor, and that night we sat down to
19 discuss that, and she left that night.
20 Q Was that September 5, 1972?
21 A September 5.
22 Q And you said that was the same day you had a
23 meeting with a marriage counselor?
24 A Yes.
25 Q When had that appointment been made?

1 A That appointment had been made some three
2 or four weeks earlier, as I recall. We were both trying to
3 get an appointment with a marriage counselor. I don't recall
4 exactly when, but it was a period of time from the time I
5 called to make the arrangements and see a marriage counselor
6 until we got an appointment.
7 Q What did the marriage -- who was the
8 marriage counselor?
9 A The marriage counselor was a Mrs. Jacqueline
10 Warren.
11 Q She talked to both of you?
12 A She talked to us both together, yes.
13 Q Did she have any recommendation for your
14 situation?
15 A She --
16 MR. WRIGHT: I am going to object to this.
17 I think they went to her in a confidential capacity.
18 What she said is not admissible.
19 A She told us that it was necessary for any
20 family to live on a budget and to budget their income and
21 outgo and also that both of us -- it was obvious to her --
22 had been working hard up to this point. I had not had maybe
23 one or two weekends off in the past six or seven months, and
24 she said that it was going to be -- has to be a joint effort
25 between the two of us to display to each other more trust and

1 more confidence and more love.
2 BY MR. SMITH:
3 Q Were there to be any further conferences
4 with a marriage counselor?
5 A Yes. That day we each made an appointment
6 to come back and see her at a later date. I believe the
7 wife had an appointment the following week, and I had one
8 either the following week or the week after.
9 Q All right. Then, from the marriage
10 counselor's office, did you all go on to work and then return
11 home that night?
12 A Yes. After we left the marriage counselor's
13 office, as we went down the elevator together, Cassandra
14 wouldn't even speak to me; but we both left and went back to
15 our respective jobs. She went back to work where she works
16 now, and I went back to my office and back to work.
17 Q All right. What happened that night?
18 A That night, when we came home, we had a fairly
19 quiet evening as far as speaking to each other up until the
20 time that the daughter had been put to bed, and had gone to
21 sleep, and then I said -- I asked the wife to come in, sit
22 down, and let's discuss what had happened that day and also
23 that I wanted to tell her something about work. I don't
24 recall exactly how I put that, but I had been offered a
25 promotion at work that day, and I thought it would be a good

1 way to start our conversation, and I tried to start the
2 conversation with that.
3 Q All right, go ahead. What happened?
4 A Well, it was -- I tried to make it sort of
5 suspenseful, since I thought it was very good news and hoped
6 she would think so also; and then finally I told her that I
7 had been offered another position in the Scouting movement
8 in another district, and then we moved on into the discussion
9 of what had happened at the marriage counselor's, started
10 talking about the budget. We had figured out a budget the
11 previous weekend based on our joint income that we had told
12 the marriage counselor about; and as I recall, the budget
13 left us, after bills and necessary expenditures, using our
14 joint income, there was $13 left over.
15 That night, she offered to give me $100 a
16 month for living expenses in the home and that she would
17 keep the rest of her check and that she had already opened
18 a checking account of her own and deposited her check in it
19 and had paid the car payment and the Master Charge bill out
20 of her own check; that I would not have to pay those; but
21 I would have to pay all the other bills. I told her that we
22 just couldn't make it that way; my income was not great
23 enough to cover the rest of the payments that we had; and
24 that I asked her could she find a place to stay by that
25 weekend, referring back to her offer of a separation agreement

1 some months earlier; and she said she could find a place
2 that night. She got up, went and called her parents, told
3 them she was coming home, and went and packed a small bag,
4 got the baby out of bed, got her dressed and left.
5 Q Was there any discussion at all after she
6 said she could find a place that night, to amount to anything?
7 A Not to amount to anything, no. She just got
8 up, went to the telephone, called her parents and went --
9 opened the closet, got out a bag and started packing; and I
10 told her I didn't think it was proper to get the child up
11 at that hour of the night.
12 Q What time was it?
13 A This was about -- oh, 9:30, 10:00 at night.
14 Q And did she take the baby and leave that
15 night?
16 A Yes, she did.
17 Q Did she take some of her personal belongings
18 with her?
19 A She took a few, just one small bag full. I
20 believe a dress or two to wear to work the next day.
21 Q Have you all lived together since that time?
22 A We have not lived together since that time,
23 no. We have seen each other, but not lived together.
24 Q Have you made any offer to her to become
25 reconciled since that time?

1 A Yes, I have, on numerous occasions.
2 Q Has she been willing or unwilling to become
3 reconciled?
4 A She has been unwilling on all occasions to
5 be reconciled. At one period of time, she became a little
6 more friendly and would talk to me, and we had one meal
7 together, but since that time she has been very cold, very
8 demanding on when I could see the daughter and when I
9 couldn't, and apparently trying anything she could think of
10 to try my patience on trying to become reconciled.
11 Q Did you want to permanently sever your
12 marital relation with your wife on September 5, 1972?
13 A No, I did not. From the time that she
14 offered this separation agreement, she said she thought we
15 possibly could work things out together if we lived apart
16 for a period of time and thought about it, and at that time
17 I had just about expended all of my efforts and thought
18 possibly this was the only recourse left open to us.
19 Q Was there any discussion on that night
20 about you all continuing to meet with a marriage counselor?
21 A No, not that I recall.
22 Q Did you, after that night, convey to her
23 a request that she meet with a marriage counselor?
24 A After we had been to court the first time,
25 I believe it was that following Friday, I asked her after we

1 left the courtroom if she was going to keep her appointment
2 with the marriage counselor for the following week, I believe
3 it was; and she said, no, there was no point in it any more.
4 Q How long after September 5, 1972, when she
5 left, was it that you were served with divorce papers?
6 MR. WRIGHT: If there is any doubt, I think
7 the record will show.
8 A About three days.
9 BY MR. SMITH:
10 Q Three days.
11 MR. WRIGHT: Let the record show that her
12 attorney is swift.
13 MR. SMITH: I thought it was Wright.
14 You don't want the record to show anything?
15 That's what we are waiting on. You said you wanted
16 the record to show --
17 MR. WRIGHT: I said the record would show
18 when he was served.
19 MR. SMITH: Oh, I thought you said let the
20 record show and were looking for something.
21 BY MR. SMITH:
22 Q Mr. Rowand, Mrs. Rowand has testified that
23 on the occasion that she described, the ones you have
24 described in the middle of August of 1972, that you grabbed
25 her by the arm and threw her to the front door. Did that occur?

1 A On that particular occasion, I don't recall
2 any physical contact, physical force to move her towards the
3 front door, or anything like that, no.
4 Q Do you recall any physical contact between
5 the two of you?
6 A We had been discussing her weight and my
7 concern over her being so overweight, and I recall trying
8 to stand her up out of the chair that she was sitting in and
9 telling her to look at herself, at her weight.
10 Q Had she gained substantial weight since the
11 time you all were married?
12 A Yes, she had.
13 Q All right.
14 A She had started gaining weight -- well, when
15 she first became pregnant, right after I returned from Vietnam.
16 Q Mrs. Rowand also testified to an incident
17 involving the air conditioner. Can you tell us when that
18 occurred and what it amounted to?
19 A The exact time that it occurred, I cannot
20 recall, but as of the date -- it was late summer or early
21 fall. During a period of time that I was unemployed.
22 Q How long before you separated would that
23 have been?
24 A About a year, and it was during the period
25 of time I had no income. We were living on the savings, and

1 I was trying to keep the costs of running the house down
2 as much as possible. The house is centrally air conditioned,
3 and I repeatedly told her and had gotten out books and showed
4 her that once an air conditioner is set at a specific setting
5 it should be left at that setting and not raised and lowered
6 all the time; and on numerous occasions I had come home and
7 found the air conditioner turned way down, and I would reset
8 it to a mean temperature, which was a comfortable setting
9 of about 75, as I recall; and on this occasion, I came home.
10 As I recall, her mother and father were there, and I said
11 nothing about the setting of the air conditioner until after
12 her parents had left, and then I reminded her that I had told
13 her time and time again the air conditioner would be left at
14 one setting if she was going to have it, and that I had told
15 her before that if she wouldn't leave it alone she would
16 lose the air conditioner. I went out to the circuit breaker
17 panel, turned all the circuit breakers off for the air
18 conditioner and went back into the dining room where the
19 thermostat is for the air conditioner and broke the thermostat.
20 Q And that was about a year before you
21 separated?
22 A That was about a year before we separated,
23 yes.
24 Q Did anything at all of a physical nature
25 occur between you all on the night of September 5, 1972, when

1 she took the baby and left the house?

2 A No. Other than -- when I first came home

3 from work, I walked into the living room and spoke to her.

4 Other than that, there was no physical contact between us

5 that night until she left and I carried the daughter out and

6 kissed her goodbye.

7 Q All right. Without waiving my prior objection

8 to the incident that is supposed to have occurred at the

9 spice cabinet after you all were separated, since Mr. Wright

10 has had his witnesses testify to it, tell us what happened

11 on that occasion.

12 A This was on the occasion that she came to

13 pick up furniture and her -- the remainder of her personal

14 belongings from the home, after we had been separated, and

15 she was moving into her new apartment. She had given me a

16 list of the furniture and items that she wanted, and I had

17 gotten those items together and had them sitting in the

18 living room and the entrance foyer. And the bed she wanted

19 was taken apart, moved in there. The mattress and the

20 springs and the headboard, rails, and all that was there

21 that she had asked for.

22 Then she started through the rest of the

23 house, changed her mind about what furniture she wanted. She

24 didn't want one bed. She wanted another one instead.

25 She went into the kitchen, started to take

1 the spice rack down off the back of the kitchen door, which
2 was not on the list, and I told her, no, she couldn't have
3 that, and went over and took hold of her arms, standing
4 behind her and attempted to physically restrain her from
5 doing anything further to take the spice rack off the wall.
6 Q Did you strike her in any way?
7 A No. I did not strike her, or anything like
8 that. I just walked up behind her while she was cleaning
9 out the spice cabinet and took hold of her upper arms and
10 told her she could not have them.
11 Q When, Mr. Rowand, did you and your wife
12 last have sexual relations?
13 MR. WRIGHT: I am going to object to this
14 line of testimony. There's no allegation in here,
15 in the pleadings anyplace, either the bill of
16 complaint or the answer, that raises any such issue
17 of any withdrawal or refusal, or any such thing.
18 A The last sexual relations that we had were
19 the latter part of August just prior to her leaving.
20 BY MR. SMITH:
21 Q And was that after the incident that she
22 described and which you testified to that occurred in
23 approximately the middle of August of 1972 when you called
24 her parents?
25 A Yes, it was.

1 Q Was that a mutual, voluntary act on both
2 parts?
3 MR. WRIGHT: Objection. That's got to call
4 for his conclusion and opinion.
5 A Yes, it was.
6 BY MR. SMITH:
7 Q Mr. Rowand, have you been, and are you now,
8 willing to make every reasonable effort to become reconciled
9 with your wife?
10 MR. WRIGHT: Objection to that, too.
11 A Yes, I am.
12 Q Tell us, if you will, about your financial
13 condition, what your income and expenses are.
14 A My income at the present time, from the
15 Boy Scouts, is $542 a month salary, and for my weekend
16 reserve with the Navy, approximately $135 a month; so the
17 total is $677 a month.
18 Q Tell us what your expenses consist of?
19 A At the present time, obligated expenses
20 consist of mortgage on the house of $159; second mortgage
21 on the house of $75; a payment to United Fidelity, which is
22 a payment for out lots in North Carolina, which is $112.48;
23 an average electric bill of about $35 to $40; telephone bill
24 of about $12 a month; other utilities, such as the water,
25 sewer, of $9.50 a month; at present, temporary alimony and

1 child support of $200 a month; monthly payment to Sears of
2 $25; monthly payment to other charge accounts and time payments
3 of about $50 a month. Then, food bill per month of,
4 including lunches and stuff, about $60 a month; cigarette
5 money of about 12 to 15 dollars a month; average bill a
6 month is, for dog food and such, of about $16 a month; and
7 oh, someplace in the neighborhood of 15 to 20 dollars a
8 month for clothes, clothes cleaning, laundry supplies, and
9 such.
10 Q The expenses you have mentioned, with the
11 exception of cigarettes, clothes, gifts, cleaning, medicine,
12 drugs and church, they total $813.50 a month?
13 A Someplace in that neighborhood, yes. It's
14 approximately. The electric bill fluctuates a month.
15 Q Have you visited in your wife's apartment
16 since you all were separated?
17 A Yes, I have.
18 Q Did you testify that you have been over
19 there?
20 A Yes, I have.
21 Q Did you testify that you have eaten over
22 there?
23 A Yes, I have.
24 Q Is that more than one occasion?
25 A No. I have only had dinner over there on

1 one occasion, but I have visited over there and attempted
2 to talk to her to try to reach an agreement on reconciliation
3 several times at her apartment.
4 Q What does her apartment consist of?
5 A Her apartment is a two-bedroom, two-bath,
6 kitchen, dinette, living room apartment. It's in Eastwood
7 Villa. I would imagine it's about their standard apartment,
8 just from viewing the others from the outside, but it is a
9 very nice apartment.
10 Q Do you know what she pays for that apartment
11 per month?
12 A Not exactly, no; but as I recall from her
13 testimony in the first divorce, it was $235 a month.
14 Q Have you made an investigation as to the
15 availability of other apartments?
16 A Yes. Now, I have looked around for other
17 apartments in the Beach. At the present time our home is
18 up for sale, and I have been considering moving out of it,
19 and I have looked for other apartments for myself. I can
20 find apartments from $100 a month up, nice apartments with
21 two bedrooms, only one bath, but I see no reason that any
22 apartment would need two baths. They are not all wall to
23 wall carpeted or anything like that that hers is, but --
24 Q Is she driving the same car she was driving
25 when she left you?

1 A No. She's driving a new car that she's
2 purchased since she left.
3 Q Do you know what kind it is?
4 A It is a Ford, 4-door sedan, Galaxie 500,
5 I believe.
6 Q Do you know what year it is?
7 A No, I don't. It is either a '72 or '73. I
8 am not sure.
9 Q Is she still employed, as far as you know,
10 as a legal secretary?
11 A Yes, she is.
12 Q Do you know about how much she makes?
13 A What she was supposed to make, what she told
14 me she was making prior to the separation, was $150 a week.
15 MR. WRIGHT: I believe the question was:
16 do you know what she makes. His answer is totally
17 unresponsive.
18 BY MR. SMITH:
19 Q Have you ever heard -- you don't know?
20 A As an absolute fact, I do not know what
21 she makes, other than what she told me she would be making
22 when she took the new job.
23 Q What did she tell you?
24 A She told me she would be paid $150 a week.
25 Q Now, Mr. Rowand, are you willing to pay a

1 reasonable sum for the support of your child?
2 A Yes, I am.
3 Q When have you been visiting your child?
4 A I have tried to see the child each Thursday
5 afternoon from the time I got off work until I returned the
6 child just prior to bedtime for her mother, and one weekend
7 a month, usually the last weekend of the month.
8 Q Are you requesting that the Court specify
9 reasonable visitation rights?
10 A Yes, I would.
11 Q And what would you consider to be reasonable?
12 A I consider the visitation rights that I
13 have now, the minimal amount, unreasonable. I would like to
14 see my daughter more often. The daughter, on numerous
15 occasions, is at the neighborhood, four houses down from
16 mine, and no offer is ever made to allow me to see her at
17 that time.
18 Q Would you like to have her also on alternate
19 Christmases and Thanksgivings?
20 A Oh, yes, I would like to see her -- I
21 believe an equitable arrangement would be made that I have
22 the daughter on one Thanksgiving and the wife to have her on
23 the following Thanksgiving. I have her on the Christmas
24 that the wife has her on Thanksgiving, vice versa.
25 Q What about the summertime; what do you think

1 is reasonable?

2 A The summertime, I would consider two weeks'

3 visitation reasonable.

4 Q Mr. Rowand, your wife mentioned something

5 about your refusal to buy the baby shoes. Did you ever

6 refuse to buy the baby any shoes or medicine?

7 A A couple of occasions I refused to buy the

8 baby shoes after checking the shoe that the child was wearing

9 and in my opinion the shoes were not too small. There was

10 still approximately a half inch between her toes and the end

11 of the shoe, and I did not consider a shoe that large to be

12 too small for the daughter. I never refused to buy the

13 child medicine. On a couple of occasions I neglected picking

14 up the medicine at the time the prescription was there.

15 Usually the child still had medicine left at home, and because

16 of my schedule I just had not gotten a chance to pick it up.

17 Q Did you determine whether or not there was

18 sufficient medicine at the time?

19 A Usually, yes. As far as I can recall.

20 However, at this time the wife could have picked up the

21 medicine for the child herself when I was unable to do so.

22 Q Mrs. Rowand also testified, Mr. Rowand, that

23 of these disbursements that she made without your knowledge

24 that 95 per cent were for clothes for her daughter. Is that

25 correct or not?

1 A That cannot be correct, because the
2 majority of these disbursements that were made without my
3 knowledge were made prior to the daughter being conceived,
4 much less born.
5 Q What about after that?
6 A There were certain charges that she made,
7 I am sure, within the last year that were possibly for the
8 child. I don't know, because I never saw the records of
9 these transactions until just shortly before we separated,
10 and the wife came into the house the next day and took all
11 the records, so I have no records.
12 MR. WRIGHT: I object to that.
13 MR. SMITH: Why, Mr. Wright?
14 MR. WRIGHT: Well, it's a conclusion.
15 MR. SMITH: That she took the records?
16 MR. WRIGHT: Yes.
17 MR. SMITH: All right, Mr. Rowand, answer
18 Mr. Wright's questions.
19
20 CROSS-EXAMINATION
21 BY MR. WRIGHT:
22 Q Mr. Rowand, your attorney asked you if you
23 were willing to pay a reasonable amount for support, and you
24 answered yes, but that doesn't eliminate the situation very
25 much. What is a reasonable amount of support?

1 A A reasonable amount of support, I would
2 have to go to a report that I read the other day, and I
3 believe you have offered to me.
4 Q Wait a minute. Wait a minute. I am not
5 talking about any offers. I want to know what is a reasonable
6 amount of support in your estimate. That's all I'm asking.
7 A A reasonable amount of support, in my
8 estimation, would be the average cost of raising a child
9 today which is based by government figures at $25,000 to
10 raise a child to age eighteen, and $25,000 spread over the
11 period comes out to just about $100 a month.
12 Q I see. And you wonder why the suit was
13 filed shortly after you were separated?
14 MR. SMITH: I don't believe he testified he
15 wondered why the suit was filed.
16 A No. I didn't wonder why. I knew my wife
17 was a legal secretary.
18 Q You say you are now willing to pay a
19 hundred dollars, and you are in court. You told her you
20 weren't going to pay anything, didn't you?
21 A No, sir. I never did tell her that.
22 Q You didn't?
23 A She offered me a separation agreement some
24 months earlier and asked for a hundred dollars a month, and
25 I said I would consider it, and that is what started me looking

1 at my financial statement, at my financial condition, to see
2 what I could afford.
3 Q Do you know what a babysitter costs a month,
4 Mr. Rowand?
5 A Yes, I do.
6 Q How much?
7 A About $80 a month.
8 Q $80 a month?
9 A Yes.
10 Q And then the child can eat on $20. Is that
11 your idea, and be clothed and medicine, all the other things?
12 A No. I don't believe that child support
13 consists of providing a babysitter.
14 Q You don't?
15 A No.
16 Q Are you willing to support your wife then
17 so she won't have to work then and won't have to hire a
18 babysitter?
19 A I am not willing to divorce my wife.
20 Q You are not?
21 A I am willing for us to live together.
22 Q Are you willing to support her so she won't
23 have to work?
24 A I have tried to do that for the past three
25 years.

1 Q Now, Mr. Rowand, you never have been able
2 to cut it without her working; have you? You can't support
3 a family by yourself; can you?
4 A Yes, I can, as long as the family lives on
5 a reduced standard of living which I have been trying to get
6 us to live on.
7 Q As long as the child doesn't take more than
8 $100 a month to raise?
9 A No. That's not true.
10 Q How many jobs have you had since you got
11 out of the Navy? How many different ones?
12 A I have worked for two different chemical
13 companies, and then the Boy Scouts of America, which I am
14 still employed by.
15 Q And what did you earn at the chemical
16 companies? You worked for two of them. What did you earn
17 there?
18 A Almost nothing.
19 Q For both of them?
20 A The one company that I was working for I
21 started on $150 a week draw, and when I finally left the
22 company I was making sales up to that point, on occasion a
23 little over, on occasion a little less. The other company
24 I only worked for really on a part-time basis while I was
25 working with the other company and making sort of dual calls.

1 Q You got out of the Navy when?
2 A I got out of the Navy the last day of June,
3 1970.
4 Q June of '70. And you went to work for the
5 Boy Scouts in March of '72?
6 A That's correct.
7 Q So you made almost nothing for two years;
8 right?
9 A No. Make that '71 that I got out of the
10 Navy. June of '71.
11 Q All right. So for a year?
12 A Almost a year, yes.
13 Q Now, didn't you get a raise in October?
14 A In October when I transferred to the
15 District downtown I got a raise of $200 a year.
16 Q All right. Have you had a raise since then?
17 A I have had an annual raise of $150 a year.
18 Q So your salary now is almost $30 a month
19 more than it was when we went to court in September; isn't
20 that true?
21 A I don't know the exact figures. It has
22 increased, yes.
23 Q Well, you have just told me $200, plus $150.
24 That's $350. Divide that by twelve, and you get almost $30
25 a month; don't you?

1 A Yes, but I have also lost certain
2 deductions from my income.
3 Q What deductions have you lost?
4 A I used to claim the wife as a deduction.
5 Q I am not talking about deduction. I am
6 talking about income.
7 A My income tax and Social Security also went
8 up this year, and that ate up a portion of that income, so
9 the amount that I bring home in the check does not reflect
10 that total amount.
11 Q Isn't it true that after you reach a certain
12 salary level, the Social Security stops being drawn from your
13 income; does it not?
14 A That's correct, but I did not reach that
15 salary level last year.
16 Q You are not making enough salary now on an
17 annual basis to go in excess of the Social Security amount?
18 A This year, I probably will.
19 Q You know you will.
20 A All right. But last year, since I did not
21 work a full year with the Boy Scouts, I did not.
22 Q Look, all I asked you was: you got a raise
23 of $30 a month, approximately; right, since we went to court?
24 A That's correct.
25 Q All right. Now, you left out some income

1 that you get from some rental property; didn't you?
2 A I have some income from some rental property,
3 yes, but that income is never realized since it turns around
4 and goes right back into the property as payment.
5 Q What is the income?
6 A The income is, I believe, $85 a month, what
7 that property rents for.
8 Q Where is the property?
9 A The property is in Newport News, Virginia,
10 and it's handled almost entirely by my mother. She collects
11 the rent, makes the payment.
12 Q You own it, don't you?
13 A Yes, I do.
14 Q What does it consist of?
15 A Consists of a 2-bedroom house and a lot with
16 an old out building behind it.
17 Q Let me ask you this. In addition to your
18 salary, don't you get some expense money from the Boy Scouts
19 of America?
20 A Yes. I get a certain expense account that
21 I am authorized, but that, before I can draw on expenses, I
22 must pay it out of my pocket first.
23 Q All right. How much is it a month that you
24 receive for your expenses?
25 A It's a varying amount. This past month it

1 was approximately $100, as I recall.

2 Q It's normally $60 every two weeks; is it

3 not?

4 A No, it's not. It's normally $60 on the 15th

5 of the month for car expenses, and on the last day of the

6 month the check depends on your amount of expenses that month;

7 and last month the check that I got on the last of the month

8 was $43, while I was out --

9 Q You didn't mean to leave that out, did you?

10 A That's not income. That is --

11 MR. SMITH: Leave it out of what, Mr. Wright?

12 MR. WRIGHT: Income.

13 A (Continuing) That is an expense account.

14 It is not considered by the government as income.

15 MR. SMITH: It's for expenses. It's an

16 expense account to cover expenses.

17 MR. WRIGHT: I am not asking you, Mr. Smith.

18 MR. SMITH: Well, I am asking you not to

19 suggest that it is income.

20 MR. WRIGHT: It is cross-examination.

21 A No, it is not income.

22 BY MR. WRIGHT:

23 Q I don't want you to give any tax lesson to

24 me, Mr. Rowand. Let me just summarize the sum of money you

25 get in your hot little hand every month.

1 MR. SMITH: I object to summarizing. Just
2 ask him the question.
3 BY MR. WRIGHT:
4 Q You get paid by the Boy Scouts?
5 A That's correct.
6 Q You get money from your reserves?
7 A That's correct.
8 Q You get expense-account money?
9 A That's correct.
10 Q And you get rental income?
11 A Except for the fact that I never see the
12 rental income.
13 Q Well, what you do with it is your own
14 business, and whoever handles it is your own business, but
15 you get that money.
16 Now, let me ask you this. Your mother
17 testified that you have paid her in full the loan that you
18 owed to her?
19 A That's correct.
20 Q All right. When we went to court in
21 September, you told Judge Vakos you owed her $1700?
22 A That's correct.
23 Q So then it is reasonable to assume that you
24 had money enough to pay her $1700 from September until now?
25 A I also testified to Judge Vakos that I had

1 a savings account and that savings account I do not have any
2 more. I used that to pay my mother.
3 Q The time that your friend came to dinner,
4 the man who was here today --
5 A Everette Thompson.
6 Q Thompson. That was the second weekend in
7 May; was it not, of 1972?
8 A I don't believe so.
9 Q You don't. Well, then, you correct me.
10 A Not the second weekend in May, but it was
11 sometime during the summer of that year, but --
12 Q You are going to correct me and tell me it
13 wasn't the second weekend in May, and then you are saying
14 it was so broad that it was sometime during the summer of
15 '72?
16 A I would have to go back and look at my
17 calendar to see exactly when I came back from National
18 Training School in New Jersey.
19 Q All right. You went there right after you
20 were employed?
21 A No, I did not.
22 Q You didn't?
23 A No.
24 Q You were employed in March, weren't you?
25 A Yes, I was.

1 Q The first part of March?

2 A The first part of March, and I did not go

3 to school for a couple of months, because after you are

4 employed then they have to get you into the schedule to go

5 to the school. I went to the school in May.

6 Q How long does school last?

7 A The school is one-month school.

8 Q One month, and this was right after you got

9 back; wasn't it?

10 A Yes, it was.

11 Q All right. So it could have been as late as

12 June?

13 A Yes. That is correct.

14 Q You own an automobile, don't you?

15 A Yes, I do.

16 Q What model is it?

17 A 1970 Mercedes.

18 Q 1970 Mercedes. You own a camper, don't you?

19 A Yes, I do.

20 Q All right.

21 A The Mercedes was purchased while I was

22 overseas in the military at an amount approximately equal to

23 what I could have bought a new domestic car when I returned.

24 I did not have a car when I came back from Vietnam.

25 Q All right. You own a home in Newport News

V. OPINION LETTER OF HONORABLE PHILIP L. RUSSO, JUDGE, DATED MAY 1, 1973 TO COUNSEL

Gentlemen:

The court has now studied the entire file, the depositions and also all of the cases cited by Mr. Smith, and after due consideration has reached the following conclusions:

1. The complainant, Cassandra N. Rowand, is entitled to a divorce *a mensa et thoro* as of September 5, 1972, on the grounds of constructive desertion. There is no doubt that the defendant asked the complainant to leave on at least two occasions and that on September 5th, 1972, she did so leave. This is sufficiently corroborated and that fact plus the prior difficulties between these parties constitutes constructive desertion as of September 5th, 1972.

2. The complainant is entitled to the custody of the infant child born of the marriage. The defendant is entitled to reasonable visitation rights and is also entitled to have the child visit with him for certain periods during vacation as well as on certain holidays. Of course it goes without saying, that the defendant must have someone to stay with the child during these periods while he is at work. We will assume that you gentlemen can work out the times of visitation but in case you cannot then if you will so advise I will set a definite schedule. It appears to the court that these parties should have intelligence enough and common sense enough to work it out between themselves, but as aforestated, if it cannot be done in that manner the court will certainly do so.

3. The complainant, since she is working, is entitled to alimony in the sum of $1.00 per month and she is entitled to child support in the sum of $150.00 per month.

4. The defendant is to pay to the complainant's counsel the sum of $550.00 for attorney's fees plus the court costs incurred in this matter.

Mr. Wright should prepare a decree carrying out the terms of this letter and when presented to the court, properly endorsed, it will be promptly entered.

* * * * * * * * * * *

VI. DECREE OF DIVORCE A MENSA ET THORO

THIS CAUSE, which has been regularly matured, docketed and set for hearing, came on this day to be heard upon the bill of complaint, upon proof of proper and legal service of process upon the defendant, upon the answer of the defendant, upon the depositions regularly taken in the cause on behalf of both parties, after proper and legal notice of the taking thereof, and filed herein in accordance with law, upon the defendant's motion to deny the plaintiff's prayer for a divorce, and was argued by counsel.

UPON CONSIDERATION WHEREOF, and it appearing to the Court, and the Court finding from the evidence, independently of the admissions of either of the parties, in the pleadings or otherwise, that the parties are husband and wife, having been lawfully married in Honolulu, Hawaii, on October 2, 1969; that both parties are of the white race and are sui juris; that there is one infant child born of the marriage and union of the parties, namely, Cassandra T. Rowand, now age 2, who is in the care and custody of the plaintiff in the City of Virginia Beach, Virginia; that the plaintiff is a fit, suitable and proper person to have the care, custody and control of said infant child; that both of the parties are domiciled in, and are and have been actual bona fide residents of the State of Virginia for at least one year preceding the commencement of this suit; that the parties last cohabited as husband and wife in the City of Virginia Beach, Virginia; that the defendant is guilty of conduct tantamount to constructive desertion of the plaintiff without justification or excuse on the 5th day of September, 1972; that no reconciliation has taken place or is probable; and that the plaintiff is entitled to the relief prayed for;

WHEREFORE, it is ADJUDGED, ORDERED and DECREED:

(1) That the defendant's motion to deny the plaintiff's prayer for a divorce be, and the same hereby is, denied:

(2) That the plaintiff, Cassandra N. Rowand, be, and she is hereby awarded a divorce a mensa et thoro from the defendant on the ground of conduct tantamount to desertion of her by the defendant on September 5, 1972; and

(3) That the defendant, Dale F. Rowand, shall pay directly unto the plaintiff, Cassandra N. Rowand, the sum of $1.00 per month hereafter subject to revision on petition of either of the parties, as and for alimony, said alimony to continue until the death of either of the parties or until the re-marriage of the plaintiff, whichever of said three contingencies shall first occur; and

(4) That the custody of Cassandra T. Rowand, the infant child of the parties, be, and the same is hereby, awarded to the plaintiff, Cassandra N. Rowand, subject to visitation rights of the defendant, Dale F. Rowand, as follows:

(a) To have said child visit with him one afternoon per week from 4:00 P.M. to 7:30 P.M.; and,

(b) To have said child visit with him one weekend per month from Friday at 5:00 P.M. to Sunday at 7:30 P.M.; and,

(c) To have said child visit with him for a period of fifteen days during the child's vacation; and,

(d) To have said child visit with him and to visit with said child at all other proper times as the parties may reasonably agree upon; and

(5) That the defendant, Dale F. Rowand, shall pay directly to the

plaintiff, Cassandra N. Rowand, as and for child support for the support and maintenance of the said infant child the sum of $150.00 per month, in semi-monthly installments of $75.00 each on the first and fifteenth days of each and every month, subject to revision by this Court upon petition of either of the parties, said child support payments to continue until the death of the said defendant or of the said child or until the said child shall reach majority or otherwise become emancipated; and

(6) That the defendant, Dale F. Rowand, shall pay forthwith to Grover C. Wright, Jr., counsel for the plaintiff, the sum of $550.00 for legal services rendered on behalf of the plaintiff, excluding any amounts heretofore ordered, plus the costs of the Court Reporter's bills herein and the costs of this suit; and

(7) That this decree, not being a final decree of divorce, it does not permit either of the parties to marry another; and

(8) That this cause be retained on the docket for such further proceedings as may be provided by law.

* * * * * * * * * * * * *

VII. NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR

TO: HONORABLE JOHN V. FENTRESS, CLERK OF THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH, VIRGINIA

TAKE NOTICE, That, pursuant to Rule 5:6 of the Rules of the Supreme Court of Virginia, the Defendant, Dale F. Rowand, by counsel, files his Notice of Appeal and Assignments of Error from the final judgment of the Court, entered on May 11, 1973 and assigns Error as follows:

1. That the Court erred in overruling the Defendant's motion, filed after the filing of Plaintiff's depositions, to enter a decree denying the Plaintiff's prayer for a divorce on the grounds that the Plaintiff's evidence in support thereof is uncorroborated and, in any event, insufficient as a matter of law;

2. That the Court erred in overruling the Defendant's motion, filed after the filing of the Defendant's depositions, to deny the Plaintiff's prayer for a divorce on the grounds that the evidence in support thereof is uncorroborated and, in any event, insufficient as a matter of law;

3. That the Court erred in awarding the Plaintiff a divorce a mensa et thoro;

4. That the Court erred in ordering the Defendant to pay the Plaintiff alimony;

5. That the Court erred in ordering the Defendant to pay the Plaintiff's counsel the sum of $550.00 for legal services to the Plaintiff;