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SUPREME COURT OF VIRGINIA
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IN THE

SUPREME COURT OF VIRGINIA

AT RICHMOND

RECORD NUMBER 730974

Commonwealth of Virginia,
Department of Social Services
of the City of Alexandria and
Anita G. Ferguson, an infant,
by H. Bradley Evans, Jr., her
guardian *ad litem*,

PETITIONER AND APPELLANT

V.

George H. Hayes, Jr.

RESPONDENT AND APPELLEE

APPELANT'S APPENDIX

H. BRADLEY EVANS, JR.
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POST OFFICE BOX 701
ALEXANDRIA, VIRGINIA 22313

WILLIAM L. COWHIG
COMMONWEALTH'S ATTORNEY FOR
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LW/bm

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

COMMONWEALTH OF VIRGINIA,	
vs.	M-2693
ANITA G. FERGUSON,	
Defendant.	

Alexandria, Virginia

Thursday, September 20, 1973

The hearing commenced at 11:30 o'clock a.m.

BEFORE:

THE HONORABLE GEORGE M. GIAMMITTORIO, Judge

APPEARANCES:

MS. ELSIE POWELL, Esq., City Hall, 125 North Royal Street, Alexandria, Virginia 22314, Assistant Commonwealth Attorney.

PAUL LYNE DELANEY, Esq., 115 North Royal Street, Alexandria, Virginia 22314, counsel for the plaintiff.

H. BRADLEY EVANS, Esq., 122 South Royal Street, Alexandria, Virginia 22313, counsel for Social Services Department.

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
Kathleen Bigalke	8	12		
Barbara Kennedy	14	17		
Sharon Drury	21	29		
Jean D. Beasley	44	47		
Annabel Ferguson	54	64	70	
Ferris Hall	71			
Algie Wright	73			
Matt Lou Lowery	77	81		
Rosa Lee Hayes	83	86		
George Hayes	95	104		

EXHIBITS

DEFENDANT'S	FOR IDENT.	IN EVID.
NO. 1 (Photograph)	18	25
COMMONWEALTH'S		
NO. A (Photograph)	25	25

- - -

LW/bm

1 P R O C E E D I N G S

2 MRS. POWELL: Misdemeanor 2673, Anita G.
3 Ferguson.
4 THE CLERK: Case of Commonwealth of Virginia
5 versus Anita G. Ferguson, M-2697, and pleas from
6 Mr. Kennahan, Mrs. Powell and Mr. Delaney.
7 MRS. POWELL: Your Honor, this is a matter of
8 custody between the Department of Social Services in the
9 City of Alexandria and Mr. George Hayes.
10 MR. Evans has been appointed by the Juvenile
11 Domestic Relations Court to represent the interest of the
12 child on appearing from the Department of Social Services.
13 Mr. Delaney for the plaintiff in this case.
14 THE COURT: All right. Let's have all the
15 witnesses come forth to be sworn.
16 THE CLERK: Will all the witnesses please come
17 forth and be sworn?
18 (Whereupon, all the witnesses were sworn.)
19 THE CLERK: Thank you. Have a seat in the
20 courtroom.
21 THE COURT: Rule on the witnesses, Sheriff.
22 THE SHERIFF: All witnesses follow me.
23 (Whereupon, all the witnesses departed the

courtroom.)

MRS. POWELL: Your Honor, this case is an unusual case in that this is one of the first matters to come before the Court. And in regard to the illigitimate father of the child, the unwed father of the child, a punitive father claiming paternity, who wishes to assert his right to custody. And it is this way that the case comes on.

MR. DELANEY: If Your Honor please, we have this situation in which the mother of the child turned the child over to the Welfare for the placement, and that after the father of the child was notified by the Welfare of that matter he indicated that he wanted to assert his right to ask that the child be placed in his custody. And he wish to, of course, to claim the child as his and assume all the obligations. We have a very unusual turn of events in this case: that after Mr. Hayes was notified by the mother of the child, and after the child was born, Mr. Hayes was advised by the mother of the child that the child was dead and a picture was sent to Mr. Hayes that the child appeared to be in a small coffin affair, a bed with white background on this bed, indicating that this child was dead. And so for a period of several months

1 Mr. Hayes assumed that this child was dead; therefore, he
2 took no action. And then when he found out his child was
3 not dead, and then that this child was being placed by the
4 mother with the adoptive agency through the Welfare
5 Department, he then wished to assert his rights, as he
6 felt that he, being the father of the child, deserved to
7 have the custody of the child.
8 We have a young man here who has never been in
9 any prior trouble of any kind. He will be 19 years of
10 age next month. Under our state law he is considered as
11 an adult to all intents and purposes the same as somebody
12 30, 40 or 50 years of age and is, therefore, entitled to
13 every consideration in that regard and all the rights, the
14 same as an older person would.
15 The Legislature has indicated that by the
16 inactment of the law in the State of Virginia to that
17 effect.
18 We further have the more dominant factor that
19 is even the natural law in this situation. He is the
20 father of the child. He admits the obligation. Therefore,
21 he has the desire and wish as paternal father of the child
22 to have the child. He is regularly employed,and can
23 support the child, and take care of the child, and,

thereby, save the State of Virginia that burden and responsibility.

We feel that this young man should be commended for this act on his part and he is assuming his obligation in life. He is willing to work to take care of this child and, therefore, we are petitioning and asking the Court to award him the child instead of turning him over to the Welfare Department to go through the usual process of placing it with the adopted parents.

The child, of course, is very young. And the fact that she has been in a foster home where they have it now won't affect the child at this young age.

THE COURT: How old is this child?

MR. DELANEY: The child is now over a year.

MRS. POWELL: The child was born May 2nd of last year.

MR. DELANEY: It is about 18 months old. So there wouldn't be any affect at all by changing the child from one party to another right now. No deep root or psychological difficulty may be affected as it would as if she was older, five, six years of age. Therefore, under the circumstances, we reasonably ask that the father be given consideration in regard to this petition.

MR. EVANS: May it please the Court, Your Honor, if I may talk a bit on the facts.

Initially, the father denied paternity. He has never paid, to my knowledge, any money at any time, and he declined to pay anything independently of this suit. He is only paying $10.00 a week for another illigitimate child on support.

Mr. Delaney tells the Court that there will not be any psychological affect. I wonder if he is going to have any expert witnesses? It is my understanding that the child is in Richmond in what would be the adoptive home. But with respect to the Court's decision -- and it was at that time that this gentleman was advised of his right and he simply said he wanted what was his.

The home situation, for example, will provide -- I think the evidence will show the Court is not satisfactory and what is best for the child is where the child is now.

MRS. POWELL: I call my first witness, Miss Kathleen Bigalke.

Whereupon,

KATHLEEN BIGALKE,

was called as a witness for and on behalf of the

1 Commonwealth of Virginia and, having been previously duly
2 sworn, was examined and testified as follows:
3 DIRECT EXAMINATION
4 BY MRS. POWELL:
5 Q What is your name, please?
6 A Kathleen Bigalke.
7 Q And where are you employed?
8 A The Alexandria Department of Social Services.
9 MR. DELANEY: Could you speak up a little?
10 THE WITNESS: The Alexandria Department of
11 Social Services.
12 BY MRS. POWELL:
13 Q Now, in what unit are you working now?
14 A At the present time, I'm supervisor in Families
15 of Children Services.
16 MR. DELANEY: I can't hear you. Could you try
17 to speak a little louder, please?
18 THE WITNESS: I am a supervisor in the Family
19 and Children Service Unit.
20 BY MRS. POWELL:
21 Q And in 1973 were you in another unit of this
22 department?
23 A Yes, I was a social worker in the Adoption Unit.

1 Q And in that capacity in 1972 did you have
2 occasion to work with Annabel Ferguson?
3 A Yes.
4 Q Under what circumstances did Annabel Ferguson
5 come to you?
6 A She came to me requesting help and planning
7 during her pregnancy.
8 MR. DELANEY: I object to anything else about
9 Annabel Ferguson. Ask her --
10 MRS. POWELL: (Interposing) Your Honor,
11 Annabel Ferguson is here. She is representing the
12 circumstances under which the case came to the attention
13 of the Department of Social Services.
14 THE COURT: Well, if she is here you can put her
15 on.
16 BY MRS. POWELL:
17 Q What services did you provide to Annabel
18 Ferguson at that time?
19 A Counseling services regarding her planning during
20 her pregnancy and for her child.
21 Q And over what period of time did you work with
22 her?
23 A From early March through May.

1 Q And what happened in May?

2 A The baby was born and Miss Ferguson signed

3 personal entrustment agreement releasing the child for

4 adoption.

5 Q Now, had Miss Ferguson informed you as to the

6 father of the child?

7 A Yes.

8 Q And did she indicate anything to you about the

9 status of the father?

10 MR. DELANEY: If Your Honor please, I think

11 Miss Ferguson is here. She can testify as to this, sir.

12 I would like to hear it in person.

13 THE COURT: All right.

14 BY MRS. POWELL:

15 Q Now, at the time that the child was born what

16 were the procedures in the Department of Social Services

17 that took place?

18 MR. DELANEY: If Your Honor please, not the

19 procedures that take place; what procedures took place in

20 this case, not what procedures take place generally.

21 BY MRS. POWELL:

22 Q What took place in the birth of the Annabel

23 Ferguson child?

A Well, in May they came to let me know that the baby was born and that she was at Alexandria Hospital. I went to the hospital and interviewed her there and to find out if her plans were still the same as they had been prior to the baby's birth. They were; she still wished to release the child for adoption. And I returned to the hospital two days later with the necessary papers and she signed these papers in front of a notary public at the hospital.

Q What day was the baby born?

A May 2nd.

Q Of 1972?

A 1972.

Q Now, did you just remove the baby from the hospital?

A No, I did not.

Q Who was it that claimed the baby at the hospital?

A Mrs. Barbara Kennedy, another social worker at the agency.

Q Did that terminate your contact with Annabel Ferguson?

A Yes, it did.

1 MRS. POWELL: I have no further questions.

2 CROSS EXAMINATION

3 BY MR. DELANEY:

4 Q Now, when was the baby born?

5 A Pardon? May 2nd, 1972.

6 Q And when were the papers signed for the

7 adoptive procedures?

8 A May 5th, 1972.

9 Q How many days between the birth and the

10 signature?

11 A Three.

12 MR. DELANEY: If Your Honor please, I think

13 that there is 10 days supposed to intervene between the

14 time the baby is born and the time the mother is supposed

15 to give her consent.

16 THE COURT: What about that?

17 MRS. POWELL: Your Honor, the question is not

18 an issue here. The mother is not in any way asserting her

19 failure of that consent.

20 THE COURT: How does that help you, Mr. Delaney,

21 assuming that this is so?

22 MR. DELANEY: If Your Honor please, it is a

23 procedure that is incorrect right at the start. We can

1 assume from that that this is incorrect all the way
2 through.
3 THE COURT: I see. All right. I think I'd
4 better hear the evidence before I assume anything.
5 BY MR. DELANEY:
6 Q Miss Bigalke, what is it that the procedure
7 that the department is held to, what is it?
8 A The adoption law does state that when a mother
9 directly places her child with a family she cannot -- in
10 other words, when she, herself, places her baby for
11 adoption, she cannot sign the entrustment until 10 days
12 after the baby's birth. However, several years ago we
13 received an opinion from the attorney general that stated
14 that if she was releasing her child to a child-placing
15 agency and that the agency would -- could not give our
16 consent to the adoption for at least 10 days after that
17 time, but that the mother, herself, was really not
18 consenting to the adoption.
19 MR. DELANEY: If Your Honor please, I don't know
20 the attorney general here in question in regard to his
21 interpretation of the law. He isn't here today; he is
22 probably out campaigning. But at the same time they
23 can't go ahead and change the law to suit themselves with

1 everything else that is required of the law, the same
2 thing as on a national scale. We have a big issue today
3 by the President and the law.
4 MRS. POWELL: I submit that we are getting afar
5 afield from all of the issues before the Court.
6 THE COURT: All right, let's proceed.
7 Do you have anything further, Mr. Delaney?
8 MR. DELANEY: No, sir.
9 THE COURT: You may step down.
10 (Witness excused)
11 MRS. POWELL: Thank you, Miss Bigalke.
12 I call my next witness, Miss Barbara Kennedy.
13 Whereupon,
14 BARBARA KENNEDY,
15 was called as a witness for and on behalf of the
16 Commonwealth of Virginia and, having been previously duly
17 sworn, was examined and testified as follows:
18 DIRECT EXAMINATION
19 BY MRS. POWELL:
20 Q What is your name, please?
21 A My name is Barbara Kennedy.
22 Q You're going to have to talk loudly enough so
23 Mr. Delaney can hear you in the back there.

1 A My name is Barbara Kennedy.

2 Q Where are you employed?

3 A Alexandria Department of Social Services.

4 Q And in May of 1972 were you so employed?

5 A Yes.

6 Q In what department?

7 A The Adoption Unit of the Social Services

8 Department.

9 Q And in what capacity did you come into contact

10 with a child called Anita Ferguson?

11 A Baby girl Ferguson.

12 Q And what did you do in regard to that child in

13 your capacity in the Adoption Unit?

14 A I placed the child in a preadoptive foster home

15 for infants. I took her from Alexandria Hospital and

16 placed her in the preadoptive foster home.

17 Q Now, was there a day in which you went to the

18 Alexandria Hospital?

19 A I believe it was May 5. It was the following

20 day.

21 Q And what took place there?

22 A You mean the procedures involved?

23 Q What did you do when you went to the hospital?

1 A I went to the pediatric nursery, baby nursery,
2 signed the papers which discharged the child to me, and the
3 child was placed in my care by a nurse and who was employed
4 by Alexandria Hospital.
5 Q Now, to your knowledge, until that time had the
6 child been out of the hospital?
7 A No. She was about three days old when I signed
8 the report.
9 Q When you removed the child from the hospital
10 subsequently, did you take any photograph of that child?
11 A At the foster home I took a Polaroid picture;
12 maybe two or three, I don't remember.
13 Q And what became of these pictures? Do you know?
14 A The pictures were entered into the child's
15 record and I think the worker for the mother gave one to
16 the child's mother. I am not certain just how she did
17 this or whether she did.
18 Q When were these newborn pictures taken?
19 A They were taken in the foster home.
20 Q And can you describe the setting of the pictures
21 at all?
22 A These were taken in the foster mother's living
23 room. I can remember the orange and white sofa was there;

1 I can remember the particular cover. I don't remember
2 very much about the details of the room but this is where
3 they were taken.
4 Q Were there any pictures taken of the child in
5 anything or in any position which could resemble a coffin?
6 A Oh, no.
7 Q Now, did you continue to supervise the child in
8 that foster home?
9 A Yes, I supervised her there and, as a matter of
10 fact, took another picture of her in September at which
11 point a new worker released me in that job.
12 Q And who was this new worker?
13 A Sharon Drury.
14 MRS. POWELL: I have no further questions of
15 the witness.
16 CROSS EXAMINATION
17 BY MR. DELANEY:
18 Q Miss Kennedy, you don't know of any picture
19 being taken with a white background that the child had
20 been placed on that would appear to be a coffin-like effect?
21 A No. It is possible that there was white. I
22 don't recall the picture in detail. I have taken a great
23 many baby pictures. Sometimes we would put a -- use the

1 blanket or get a quilt or something as a background if the
2 furnishings of the room didn't seem to lend itself to a
3 good background.
4 Q Is this the picture that was taken at that time?
5 (Handing photograph to the witness.)
6 A Yes. I took it.
7 Q You took that picture at that time.
8 MR. DELANEY: If Your Honor please, I would like
9 to use this as Defendant's Exhibit 1, sir.
10 THE COURT: Any objection?
11 MRS. POWELL: No, Your Honor, if I may inquire
12 of the witness about the picture very shortly.
13 (Whereupon, the document
14 previously referred to was
15 marked as Defendant's Exhibit
16 #1, for identification, and
17 received into evidence as
18 Defendant's Exhibit #1.)
19 BY MR. DELANEY:
20 Q Is there any record to the time you took the
21 child from the hospital? How many days after the birth of
22 the child did you remove the child from the hospital?
23 A I would have to check to be absolutely accurate.
Usually the baby is about three or four days old. And, as
I recall, it was a Friday because we were anxious to have
her settled. The hospital doesn't like to keep babies

1 over the weekend if it can help it.

2 Q And did you have knowledge then of your own

3 knowledge of the date of the consent of the mother to the

4 adoption of her child, the placement of her child?

5 A All I would have to know before I remove the

6 baby was the fact that the child had been entrusted to us

7 either on a temporary or a permanent basis. I would not --

8 it wouldn't matter if the child was going into the foster

9 care. Sometimes they come into the preadoptive homes and

10 I don't also know that it is --

11 Q (Interposing) Now, you made the statement that

12 the child was placed in a preadoptive foster care home.

13 Is that right?

14 A Yes.

15 Q And this was not the same category of home as

16 a foster home, is it?

17 A Sometimes the babies we have in infants homes.

18 Generally, the children go there -- are placed there

19 because the mothers are making plans for them. At this

20 particular point there is no definite plan; there couldn't

21 be. We just place the child in a foster home with a

22 foster mother who is experienced in the care of infants,

23 generally. These are children who will be placed up for

1 adoption so we call them "preadoption foster homes."

2 Q Can a home that you place a child in not be the

3 home of the parties that intend to adopt the child?

4 A No, this material is incorrect. Yes, it is a

5 foster home and used as that.

6 MR. DELANEY: That is all. Thank you.

7 MRS. POWELL: If I may ask you to recall the

8 background of this picture, Miss Kennedy --

9 THE WITNESS: (Interposing) Yes, I did take it

10 in the foster home and I have other pictures with the same

11 background.

12 MRS. POWELL: I have no further questions.

13 MR. DELANEY: Did you take that picture that is

14 enlarged, Miss Kennedy?

15 THE WITNESS: No, I took a Polaroid picture. We

16 have a camera that is used exclusively for this.

17 MR. DELANEY: And you never caused the Polaroid

18 to be enlarged?

19 THE WITNESS: No, no.

20 MR. DELANEY: Thank you.

21 MRS. POWELL: I have no further questions of this

22 witness.

23 THE COURT: You may step down.

1 (Witness excused)

2 MRS. POWELL: I call Sharon Drury.

3 Whereupon,

4 SHARON DRURY,

5 was called as a witness for and on behalf of the

6 Commonwealth of Virginia and, having been previously duly

7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MRS. POWELL:

10 Q Will you state your name, please?

11 A Sharon Drury.

12 Q And are you employed at the Alexandria Social

13 Services?

14 A Yes.

15 Q In what unit?

16 A The Adoption Unit.

17 Q Now, Miss Drury, did there come a time in the

18 past when you began to work with Miss Annabel Ferguson?

19 A Yes. My first contact with her was back in

20 February when I wrote her a letter stating that I needed

21 to talk to her about the child that she had entrusted to

22 our agency and subsequently placed for adoption.

23 Q Now, had you begun working with the child before

1 you contacted Miss Ferguson?

2 A Yes, when I began working for the Social Services

3 in September of '72, and at that time the baby was in my

4 case log.

5 Q And what were you attempting to do for the child?

6 A Find an adoptive home for the child.

7 Q How has that precipitated your contact with

8 Miss Ferguson?

9 A Well, we became aware in February by the directive

10 of the Commonwealth -- I mean, the attorney general. When

11 I became aware of the new supreme court ruling on punitive

12 fathers, when the attorney general gave us a directive on

13 the fact that we would have to go back into our adoption,

14 that they were not final. There was a question that the

15 punitive father had not been contacted.

16 Q Now, was this child carried on your records as

17 the child who was born without a real father?

18 A Yes.

19 Q And did you then inquire of Miss Ferguson as to

20 the father of this child?

21 A Yes, I did.

22 Q And at that time what did she tell you?

23 A She said that the child's father was George Hayes

1 and that he was living in the City of Alexandria. And I
2 told her that I would need to contact him. And she gave
3 us his address, and told me that she had contacted him,
4 and that he would call me then and he did.
5 Q Now, what contact did you have with Mr. Hayes?
6 A I have had a couple of office interviews with
7 him -- three, I think -- and then I talked to him over
8 the 'phone.
9 Q And did you ask if he would sign an entrustment
10 for the child?
11 A Yes, I explained the situation and asked if he
12 would be willing to sign personal entrustment agreement.
13 Q And what was his answer?
14 A His answer was no at first. He thought about
15 it and said he would call me back after I explained the
16 situation. But that he guessed not during the first
17 interview, and that he wanted what was his -- and this
18 child was his -- and, therefore, he wanted it. And he
19 did call after I got in touch with him a couple days
20 later and he said he remained the same, that he wanted to
21 get the child back.
22 Q Now, at the time that you made contact with
23 George Hayes where was the child?

1 A The child was in an adoptive home where the child
2 still is.
3 Q Where was this child, or when was this child
4 placed for adoption?
5 A December 7th, 1972.
6 Q So then at that time you began to go back and
7 look for the punitive father. How long did the child
8 remain in the adoptive home?
9 A Three months.
10 Q Okay.
11 Now, in your conversations with Mr. Hayes has
12 there ever been any inquiry from him about the conditions
13 of the child?
14 A No.
15 Q Can you remember anything that he ever said
16 about the child in his conversations?
17 A No. He has never asked about the child or how
18 the child was doing or what the parents were like or
19 anything about how the child was or where the child was.
20 He really just said that he had never been able to see the
21 child, and that he had never been given a chance to raise
22 the child, and he thought he could, and that he wanted what
23 was his.

1 Q Now, Miss Drury, I show you this picture. Can
2 you identify it?
3 (Handing photograph to the witness.)
4 A It is the child, Anita G. Ferguson.
5 Q And on what date was that picture taken?
6 A It is currently 16 months old. She was 14 months
7 old then.
8 MRS. POWELL: Your Honor, I ask that this be
9 received.
10 MR. DELANEY: Can I see the picture, please?
11 (Handing photograph to Mr. Delaney.)
12 THE COURT: Exhibit A for Commonwealth.
13 MRS. POWELL: Yes, sir.
14 THE COURT: Photograph.
15 (Whereupon, the photograph
16 previously referred to,
marked as Commonwealth's
17 Exhibit A, for identification,
was received into evidence
18 as Commonwealth's Exhibit
A.)
19 BY MRS. POWELL:
20 Q Now, had you contacted with Annabel Ferguson
21 about the situation?
22 A After February?
23 Q Yes.

1 A Yes. The first time I interviewed her she
2 remained still firm in her decision that she made the best
3 plan for the child, and that she was happy that the child
4 was in a good home and that she wished the child to be in
5 the adoptive home.
6 Q What standards does the Department of Welfare
7 and Institutions have for an adoptive home, Miss Drury?
8 A We had a manual of procedures such that we
9 follow, and I do have eight points here that we look for
10 in an adoptive home if I could read them.
11 MR. DELANEY: If it please Your Honor, I am not
12 interested in having the standards read here. We are
13 interested in the particular standards of the list where
14 the child is now. That can come out of any book in regard
15 to the adoptive procedure and the rules and regulations.
16 That might establish anything. But we are interested in
17 this one particular thing, this one particular instance.
18 MRS. POWELL: Your Honor, I ask that the Court
19 receive this as background for the Commonwealth. We have
20 present a witness who will speak to the specifics of the
21 placements of the child, but the Court is here concerned
22 with what would be the best interest of the child. And
23 I ask that this be served as a kind of standard

1 measurement whereby the Court can discern what is a fit
2 place for the child and an appreciable standard for the
3 welfare of the child.
4 MR. DELANEY: If Your Honor please, now, the
5 Commonwealth Attorney has practically testified of the
6 witness. Now, if she is arguing I would like to respond
7 to this argument.
8 THE COURT: Did this particular witness know
9 anything about the adoptive home?
10 MRS. POWELL: Not this particular witness.
11 THE COURT: Okay. Sustained.
12 BY MRS. POWELL:
13 Q Mrs. Drury, did you prepare a report for the
14 Juvenile and Domestic Relations Court in regard to this
15 matter?
16 A Yes.
17 Q And what was the agency's recommendations as to
18 the custody of Anita?
19 A The recommendation was that the child would be
20 placed in our custody with the right to be placed in an
21 adoptive home.
22 Q Do you know where George Hayes lives?
23 A Yes.

1 Q What is that address?

2 A 406 North Patrick Street.

3 Q And have you had occasion to be in that

4 neighborhood?

5 A In the neighborhood, yes.

6 MR. DELANEY: If Your Honor please, not has she

7 been in the neighborhood. Has she been in the house I

8 think would be the better question. I don't want to

9 procrastinate on Green Street now.

10 THE COURT: Ask her if she has been in the house.

11 BY MRS. POWELL:

12 Q Have you been to 406 North Patrick Street?

13 A No, I haven't.

14 Q Have you been outside?

15 A Not the particular house, no.

16 Q What is the name of the individual who is working

17 with the adoptive home?

18 A Mrs. Jean Beasley of the Friends Association in

19 Richmond. It is a black agency that studies black

20 adoptive homes.

21 Q And have you been working with Mrs. Beasley in

22 the placement?

23 A Yes, she has been in constant contact with me

1 during the placement.

2 CROSS EXAMINATION

3 BY MR. DELANEY:

4 Q Now, Mrs. Williams, when did you start working

5 for the City of Alexandria Welfare Department?

6 A A year ago September 13th.

7 Q September, 1972?

8 A Right.

9 Q Is the matter you are referring to such time as

10 your statement made in regard to February of '73?

11 A February of '73.

12 Q Pardon me.

13 Now, the first time that you saw Mr. Hayes,

14 that was when?

15 A I think March 1st, '73.

16 Q When was the first time you saw Mr. Hayes?

17 A March 1st was my first office visit with him.

18 Q Now, when did he first call you?

19 A That was when Mrs. Ferguson got in touch with

20 him. And then all of a sudden he was in there asking to

21 see us. That was my first contact with him.

22 Q When was that?

23 A March 1st.

1 Q And this March the 1st of this year?

2 A Yes.

3 Q Now, at that time -- up to that time had you

4 known anything about that adoptive procedure that the

5 Welfare Department was going ahead with in regard to his

6 child?

7 A He had not been contacted by our agency, no.

8 Q And so on March the 1st of this year was the

9 first time he had?

10 A Of what?

11 MRS. POWELL: Your Honor, I am going to object

12 to this question. The witness can't testify as to what

13 Mr. Hayes has knowledge of.

14 THE COURT: Mr. Delaney, rephrase the question.

15 BY MR. DELANEY:

16 Q The first time he had knowledge as to that was

17 the 1st of March, 1973, that he talked to somebody in the

18 agency?

19 A Yes.

20 Q All right.

21 Now, when did he first talk with you after the

22 1st, in '73?

23 A March 13th.

1 Q March 13th?

2 Now, where was this conversation held?

3 A I called up at work.

4 Q And where was he working at that time?

5 A Crown Warehouse.

6 Q Where?

7 A Crown Warehouse.

8 Q And did you check which time he had been working

9 there, how long he had been working there?

10 A No, I did not.

11 Q And did you determine what type of work he was

12 doing there?

13 A I was aware that he was loading and unloading

14 trucks.

15 Q Did you determine how much he was being paid a

16 week?

17 A No, I didn't.

18 Q Did you make any investigation of Mr. Hayes at

19 all then?

20 A No.

21 Q As of March the 13th, during the month of March

22 of '73?

23 A I made some investigations into it.

1 Q All right.

2 Tell us what type of investigation you made of

3 Mr. Hayes at that time.

4 A During March of '73 it was with my conversations

5 with Miss Ferguson and also looking at our records within

6 the agency on the family.

7 Q That was a sort of one-sided investigation that

8 went all against Mr. Hayes.

9 MRS. POWELL: Your Honor, this is argumentative.

10 It calls for a conclusion of the witness.

11 THE COURT: Okay. Sustained.

12 BY MR. DELANEY:

13 Q All right.

14 Now, but you didn't make any investigation other

15 than talking about the adoptive mother, the mother of the

16 child that placed the child in the adoptive home?

17 A Right. It is in the records within the agency.

18 I can check with the juvenile court.

19 Q Now, do you have any records of the agency with

20 you today?

21 A No, I do not.

22 Q And do you have any records indicating anything

23 about Mr. Hayes before March the 13th, 1973?

1 A The only record is to say that I have from the
2 juvenile court where he was ordered to pay for another
3 illigitimate child support.
4 Q That was in regard to another child. But in
5 regard to this child I am talking about.
6 A No.
7 Q And when did you make that investigation to
8 determine about this other child that you are referring
9 to, bringing that to the Court's attention at this time?
10 A What did I find out about that?
11 Q You didn't know about it in March, did you?
12 A Yes.
13 Q And how did you know about it in March?
14 A Because it is an open record.
15 Q And how did you happen to check this record?
16 You didn't know anything about Mr. Hayes until March, did
17 you?
18 A Until March, right.
19 Q All right. Fine.
20 And since back in December of '72 the child has
21 been in an adoptive home at this time for three months. Is
22 that right?
23 A Yes.

1 Q And where was the adoptive home located?

2 A I don't think I can divulge that.

3 MRS. POWELL: Your Honor, I would like to object

4 to any specifics as to location or anything other than the

5 State of Virginia or a general area where the adoptive home

6 is. I think, should the child be allowed to remain in that

7 adoptive home it would be very difficult if the child

8 could be located by the natural parents.

9 MR. DELANEY: If Your Honor please, now, this is

10 going just a little bit too far, as the old saying is.

11 Here they are complaining about his home, but we are barred

12 from any information about the home that the child is in.

13 And I don't recall them saying that, "We will check into

14 his home and see what a bad home, bad environment it is,

15 that we can't furnish that information to further investi-

16 gate the home in which the child is in at the present time."

17 MRS. POWELL: Your Honor, we have a witness who

18 will testify as to the characteristics of that home. My

19 only objection is to the information such as the street

20 address, the street address that will allow the natural

21 parents to subsequently after this hearing locate the

22 child in the adoptive home where she has been placed. I

23 think this is a --

1 THE COURT: (Interposing) Objection as to the
2 address is sustained.
3 MR. DELANEY: All right, sir, exception noted.
4 BY MR. DELANEY:
5 Q In your conversation with him at work on
6 March the 13th what was said at this time by you to
7 Mr. Hayes?
8 A I think that he wanted to clarify because he said
9 he was going to think about that. I asked him what he
10 planned to do about the entrustment. Did he plan to entrust
11 the baby to us or not? And I asked him and he said he
12 would like to wait and decide, that he wanted to try to
13 gain custody of the child and not to sign any papers.
14 Q Do you have any notes in regard to these
15 conversations that you had with him?
16 A Those in my dictation in the record and with the
17 dates of contact.
18 Q Well, do you have them here today?
19 A I have the date as 3/13/73; telephone
20 conversation.
21 Q May I see that?
22 (The witness hands document to Mr. Delaney.)
23 MRS. POWELL: Are these your actual dictation

1 notes?

2 THE WITNESS: No, these notes are just the dates

3 right there that I listed with my telephone contact with

4 Mr. Hayes.

5 BY MR. DELANEY:

6 Q Now, you don't have any references to the

7 conversations at all then?

8 A My dictation in the record.

9 Q In the record? You have that with you today?

10 A No.

11 Q Where is that?

12 A That's in the Social Services.

13 Q May we have an opportunity to examine that

14 record?

15 MR. DELANEY: If Your Honor please, can she

16 bring that back? It looks like we might be going until

17 after lunch.

18 THE COURT: What would be the purpose of that?

19 MR. DELANEY: I would like to see the full

20 conversation with her notes that she made as to the

21 conversation between she and Mr. Hayes.

22 THE WITNESS: I don't have this full

23 conversation; just notes. That was a telephone call; that's

1 all. And I summarized my context. There is no word for
2 word conversation of what was said.
3 BY MR. DELANEY:
4 Q No context of conversation put down at that
5 time?
6 A The context are in dictation. But then we
7 generally summarize what happened between those contacts
8 we had. There was no word for word conversations said.
9 MR. DELANEY: Well, I would like to see the
10 context that she summaried, if Your Honor please, if she
11 could bring it back when we return after lunch.
12 THE COURT: My notes indicate that Miss Drury
13 said that when she first contacted him his first answer was
14 no, he did not want the child to be adopted; that he would
15 think about it. And he thought about it, and he told her
16 he wanted what was his, and that the child was his and that
17 he wanted it.
18 MR. DELANEY: That is right, sir.
19 THE COURT: Well, I think we have to go no
20 further than that.
21 MR. DELANEY: I just wanted to see whether there
22 was any comment made besides that. That is all.
23 THE COURT: Let's go on to something else.

1 BY MR. DELANEY:

2 Q Now, did he advise you when you last talked to
3 him in March of this year that his girl friend is the
4 mother of the child, who informed him that the child was
5 dead?

6 A Yes.

7 Q And when did he tell you he received this
8 information from the mother?

9 A I guess after the child was born.

10 Q Did he tell you then that he received a small
11 picture like the one that has been introduced into
12 evidence?

13 A I was not aware of any picture until the
14 juvenile court hearing.

15 Q I see.

16 And at that time was any attempt made by you
17 or your agency to ask Mr. Hayes to contribute anything
18 toward the support of the child from the birth of the
19 child up to and including March the 13th, 1973?

20 A There was no need to since the child was being
21 provided for in an adoptive home.

22 Q So prior to the time that Mr. Hayes had been
23 informed that the child was there, and until that time

1 there had been no request for assistance from Mr. Hayes
2 by the Welfare Department, had there?
3 A In this type of case there never would be.
4 Q So the situation of the Commonwealth Attorney
5 that no effort was made by Mr. Hayes to take care of his
6 child certainly couldn't apply in this case, could it?
7 A It is my understanding that the child was three
8 months old when he became aware of it. The child's
9 parents knew at that time that the child was not dead,
10 and at that time he did not inquire about the child. He
11 could have made an inquiry into the child; yes, he would
12 have been able to do that.
13 Q But from the time that the child was approximately
14 three months of age the child was in a foster home. And
15 when was he actually placed in this adoptive home?
16 A December the 7th.
17 Q December 7th. So that was approximately when
18 the child was 10 months of age?
19 A Seven months.
20 Q Seven months of age.
21 And after March the 13th when was your next
22 contact with Mr. Hayes?
23 A May 23rd.

1 Q And when, on May 23rd?

2 A He came in and I don't remember a lot about the
3 conversation. He was just wondering, I think, at that
4 time. He had received a summons for the court hearing
5 that was to come. And he said, I think, at that time that
6 he had retained a lawyer.

7 Q Now, has he ever had an opportunity to see the
8 child?

9 A He has never asked to see the child. And because
10 the child is in an adoptive home we would not have the
11 opportunity, no.

12 Q We will say that from December through May,
13 even if he had requested permission to see the child,
14 would he have probably been able to see his child?

15 A That would have been considered at the time.

16 Q What was that?

17 A That would be considered at the time. I don't
18 know the answer.

19 Q And, nevertheless, after you had had
20 conversations with Mr. Hayes he indicated his desire to
21 have his child and he wanted to raise his child. Was
22 any request made subsequent to March, say, going to the
23 end of May, for him to support the child?

1 A There would be no need to since Mr. Hayes had
2 not been a party in the adoptive home.
3 Q And you have never been to his home, have you?
4 A No.
5 Q And have you contacted his mother in any way?
6 A No, I have not.
7 Q Do you know whether Mr. Hayes has ever been in
8 any trouble of any kind?
9 A I know he does not have any kind of record;
10 that the only record that he has is a truancy record of
11 when he was in the 10th grade, and he was allowed to quit
12 school and support his family.
13 Q And he has been doing this ever since, right?
14 A Right.
15 MR. DELANEY: That is all.
16 Your Honor, do I understand the ruling that we
17 are not going to be able to establish the criteria to see
18 if this adoptive home meets this criteria?
19 THE COURT: I don't think so. I don't think it
20 is necessary.
21 MR. EVANS: I want to know what the adoptive home
22 is like.
23 THE COURT: I suppose under certain circumstances,

1 Mr. Evans, the criteria would be of some help. But the
2 Court having five children of its own, I think it ought to
3 be able to determine what the criteria should be,
4 Mr. Evans.
5 MR. EVANS: Thank you, Your Honor. I have no
6 questions.
7 MRS. POWELL: I have no further questions of
8 this witness.
9 (Witness excused)
10 MRS. POWELL: I call Miss Jean P. Beasley.
11 THE COURT: What time is it now, Mr. Clerk?
12 THE CLERK: It is 11:50.
13 THE COURT: 11:50?
14 THE CLERK: Five of, yes, sir.
15 THE COURT: How many witnesses besides
16 Miss Beasley?
17 MRS. POWELL: Miss Beasley is the last of the
18 witnesses, as far as the Social Services is concerned.
19 And then we have the mother of the child, and a Miss
20 Terrace Hall and this gentleman who has personal knowledge
21 in the Hayes case.
22 THE COURT: I understand you have another Social
23 Services case.

1 MRS. POWELL: Yes, this is the Debra Coleman
2 case, and she is here represented by Mr. Westerman and her
3 foster mother is present.
4 THE COURT: We will recess at 12:00 o'clock and
5 we will resume at 2:00 o'clock. You have these two cases
6 left?
7 MRS. POWELL: I believe so, Your Honor.
8 THE CLERK: That is correct.
9 MRS. POWELL: I am not sure. We merged dockets
10 but I think the rest of them --
11 THE COURT: (Interposing) I understand that some
12 arrangements and some agreements in this case has been made.
13 You are not familiar with that? All right.
14 Mr. Moore indicated to me that this was so. This
15 shouldn't take too long.
16 How many witnesses do you have, Mr. Delaney?
17 MR. DELANEY: About four, sir.
18 THE COURT: All right. We will hear this late
19 one, this last witness, and we will recess until 2:00
20 o'clock.
21 Whereupon,
22 JEAN D. BEASLEY,
23 was called as a witness for and on behalf of the Commonwealth

1 of Virginia and, having been previously duly sworn, was
2 examined and testified as follows:
3 DIRECT EXAMINATION
4 BY MRS. POWELL:
5 Q State your name, please?
6 A Jean Beasley.
7 Q Mrs. Beasley, where are you employed?
8 A Social Services Childrens Unit, Richmond.
9 Q Have you been working with a baby girl Ferguson?
10 A Yes.
11 Q And what services have you been providing to
12 this child?
13 A After the child was placed by the adoptive home
14 she has been supervised by our agency.
15 Q And are you the individual in the agency that
16 has been working with this home?
17 A Yes.
18 Q Now, I wonder if you will tell the Court, first
19 of all, is this home approved by your agency as an adoptive
20 home?
21 A It has been approved by a staff and executive
22 director.
23 Q And will you tell the Court something about that

1 adoptive home?

2 A These are outgoing, friendly people. They are

3 responsive. They are gainfully employed.

4 MR. DELANEY: Can you speak a little louder?

5 THE WITNESS: They are hard working, honest,

6 generous people. Mister has been employed seven years.

7 He is a machine operator. Misses has recently been

8 employed part-time where she works at a sporting goods

9 company. She is off; she works four days a week. Annual

10 income for both is about 12-13,000 per year. They live

11 in a 5-room home. The child has been provided with a

12 bedroom alone. The child is progressing well and she has

13 developed normally; no problems at all. We feel very

14 pleased that the child has done so well in this home.

15 BY MRS. POWELL:

16 Q You mentioned that both the adoptive parents

17 work. Is it necessary for there to be any day care in

18 this situation?

19 A The child is being care for by Mrs. Cousin and

20 this is right around the street from the home. She keeps

21 the child until 2:00. Mister works from 3:00 to the 11:00

22 shift and she gets off at 5:00. She picks the child up,

23 so about two to three hours a day of day care is provided.

1 Q And how many days a week does Misses work?

2 A She works four days a week.

3 Q Is that three days a week that the baby would be

4 in day care?

5 A No.

6 Q Are these people active in any activities in the

7 community?

8 A He is a bowler, and he belongs to a league, and

9 they travel around on tournaments. They fish; they have

10 cook outs; they attend church activities and that is about

11 all they do.

12 Q They're active in their church?

13 A Right.

14 Q How many children are there in this home?

15 A Just this one.

16 Q Can you describe the home? You say it had five

17 rooms.

18 A Yes. It is a row house. It has a ranch style

19 kitchen, two bedrooms, a den, a family room.

20 Q Is there a large yard?

21 A Huge back yard; very shallow front yard.

22 Q What is the educational level of the individuals?

23 A Mister is a high school graduate and Misses is a

1 10th grade dropout. She is going to take some courses in
2 cosmetology very soon.
3 Q Is the atmosphere and emotional climate in the
4 home stable?
5 A Yes, I feel it is very stable.
6 Q And you have already said that this is an
7 approved home. Is this approved by your agency for the
8 adoptive home?
9 A Right.
10 MRS. POWELL: I have no further questions.
11 CROSS EXAMINATION
12 BY MR. DELANEY:
13 Q How old are these proposed adoptive parents?
14 A Mister is 38 and Misses is 32.
15 Q How long have they been married?
16 A They were married 24 April of '66.
17 Q April of '66.
18 Where were they married?
19 A Petersburg.
20 Q Petersburg, Virginia?
21 A As far as I can recollect.
22 Q Have they ever had any children?
23 A One miscarriage.

1 Q Miscarriage.

2 Have they ever adopted any children prior to this?

3 A No.

4 Q And how long have they been on the approved list

5 of adoption, do you know, in Richmond?

6 A I beg your pardon?

7 Q How long have they been on the approved list for

8 adoption down in Richmond?

9 A They were approved around February of last year,

10 I think.

11 Q Around February of last year.

12 And what type of construction is their home?

13 A Brick.

14 Q Brick.

15 And do you know what type of heaters in the home?

16 A No.

17 Q Do you know how many bathrooms in the home?

18 A Yes. They have one bath.

19 Q One bath.

20 And you say he works where?

21 A Brian and Williamson Tobacco.

22 Q And what type of work does he do there?

23 A He is a machine operator.

1 Q And how much does he make a week?

2 A Well, he makes 8100 per year.

3 Q Eighty-one hundred per year by working?

4 A She works at Jefferson Sporting Goods.

5 Q Jefferson what?

6 A Sporting Goods.

7 Q And what does she do there?

8 MRS. POWELL: Your Honor, I am sorry, I'm going

9 to object.

10 THE COURT: Objection sustained.

11 MR. DELANEY: She is asking all these questions.

12 I'm just trying to get some further information.

13 THE COURT: They are trying to prevent this,

14 Mr. Delaney. That is the only thing.

15 MR. DELANEY: Your Honor, if Your Honor please,

16 that places us in a position of sort of having our hands

17 tied behind our backs.

18 THE COURT: I think she already told you how

19 many days she works and in what fashion she works. She's

20 just simply not telling you what she does there. So you

21 can have anything else but that is all.

22 BY MR. DELANEY:

23 Q I'm just trying to find out if she is working;

1 what is the background of this party.

2 A Are you speaking to me?

3 Q What is the background of the baby sitter?

4 A This is a cousin. She doesn't work; she has two

5 or three children of her own.

6 Q How old is she?

7 A I really don't know how old she is.

8 Q And she has the child four days a week. Is that

9 right?

10 A Right.

11 Q From what hours?

12 A From about 2:00 to 5:00.

13 Q 2:00 to 5:00.

14 Then does the mother work just half a day, a full

15 day, or what?

16 A She works a full day.

17 Q Who takes care of the child from, say, the hour

18 that the mother goes to work in the morning until 2:00

19 o'clock?

20 A Mister doesn't go to work until 2:00. He keeps

21 the child in the home until 2:00 o'clock.

22 Q I see.

23 A Then he takes her to his cousin, who is in the

1 community right there around the corner. And she picks
2 the child up at 5:00. He works a late shift; he works
3 3:00 to 11:00.
4 Q All right. Thank you.
5 Would you please tell the Court, Miss Beasley,
6 what kind of emotional response did you find or have you
7 observed?
8 A She had no trouble adjusting to this family.
9 The family has accepted her as their natural child. She
10 has been accepted by the family also. She has a great
11 attachment for them. She is a "daddy's" girl, but they
12 both have extended services and great care for this child.
13 Q And, in your observation, have you seen love and
14 tender care for this child?
15 A Right.
16 Q Did I understand you to testify that they were
17 buying their own home?
18 A They are buying.
19 MR. DELANEY: That is all. Thank you.
20 BY MR. DELANEY:
21 Q Now, in regard to your schooling, how much
22 schooling do you have?
23 A How much schooling do I have? I am a college

1 graduate, BA, Bachelor of Arts, a sociology degree.

2 Q All right.

3 That is a degree you have?

4 A Yes, BA degree, Bachelor of Arts degree.

5 Q And what is your major?

6 A Sociology.

7 Q And in regard to the sociology degree that you

8 obtained, you didn't get the degree in psychiatry, did

9 you? And as far as the responses of the child to the

10 parents and all like this is concerned, did you?

11 MR. EVANS: I am going to object, Your Honor.

12 This is an improper question. And this is a human

13 observation. And you don't have to have a degree to tell

14 love. I'm going to object to the whole thing.

15 MR. DELANEY: If Your Honor please, I'd like to

16 put on an expert witness in regard to this field and she

17 certainly isn't qualified in this respect. She just

18 testified as one individual.

19 THE COURT: All right, Mr. Delaney.

20 How long has this child been in this home?

21 THE WITNESS: The child was placed December the

22 7th, 1972.

23 MRS. POWELL: I have no further questions of the

1 witness.

2 THE COURT: Mr. Sheriff, call all the witnesses

3 in here.

4 (Whereupon, all the witness appeared in the

5 courtroom.)

6 THE COURT: We are taking a lunch recess in this

7 case. We will resume at 2:00 o'clock. You may come back

8 at 2:00 o'clock and go to the witness room.

9 (Whereupon, at 12:05 o'clock p.m., a luncheon

10 recess was taken.)

11 AFTERNOON SESSION (2:00 P.M.)

12 THE CLERK: Miss Bigalke is here and she wants

13 to know if she is excused. She has come back.

14 THE COURT: Do you need her any more,

15 Mr. Delaney?

16 MR. DELANEY: No, sir.

17 THE COURT: She is excused.

18 MISS BIGALKE: Well, is this the same for all of

19 us?

20 MR. DELANEY: All of those that haven't testified.

21 THE COURT: All of those who have testified are

22 excused.

23 Is Judge Wright taking the other case?

1 MRS. POWELL: Yes, he is.

2 I call Miss Ferguson.

3 Whereupon,

4 ANNABEL FERGUSON,

5 defendant, was called as a witness by and in her own

6 behalf, and having been previously duly sworn, was

7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MRS. POWELL:

10 Q Will you tell the Court your name?

11 A Annabel Ferguson.

12 Q And -- Annabel Ferguson.

13 How old are you, Miss Ferguson?

14 A Twenty.

15 Q And are you the mother of the child in

16 question in this case?

17 A Yes, I am.

18 Q And when was that baby born?

19 A The 2nd of May of 1972.

20 Q Now, who is the father of that child?

21 A George Hayes.

22 Q I want you to tell the Court as nearly as

23 possible during your pregnancy with the child when you

first realized that you were present, did you tell George Hayes?

A Yes.

Q And what was his reaction?

A It was as if he didn't care. About a few weeks or a month after I told him he stopped coming around; he just stopped.

MR. DELANEY: I can't hear. Could you speak a little louder, please?

THE WITNESS: About a few weeks or a month after I told him I was pregnant he stopped coming to see me.

BY MRS. POWELL:

Q And did you have any discussion with him at that time about the baby that was coming?

A Yes. I asked him if he would help me to support it. I told him he didn't have to pay the hospital because I have a Medicaide program. I wanted him to help me get things like Pampers, and clothes, and milk, and he never said he would. He just stopped coming around and he didn't really care.

Q So it was at this point in time that you did what?

A I started talking to Miss Bigalke from the

1 Social Services. I was only 19, and I had another small
2 baby, and I had to continue my education, and get a job
3 and support to the best of my knowledge. And we discussed
4 the possibility of adoption, and it seemed a proper thing
5 to do because I know I couldn't support two children with
6 no education.
7 Q Now, you mentioned you have another child. Are
8 you -- or do you have that child with you now?
9 A Yes.
10 Q And what is her name?
11 A Yolanda Ferguson.
12 Q Did you talk to George about the baby again
13 before the baby came?
14 A No. I saw him a few times around. I saw him in
15 my sister's house, but we spoke maybe just a light,
16 friendly conversation, but we never talked about the
17 baby.
18 Q Now, after the baby was born did you talk to
19 George about the baby then?
20 A I saw him the second day that I was home from
21 the hospital and I told him that the baby had died.
22 Q And you told him the baby had died?
23 A Because it was a little rough for me after I

had given the baby up for adoption, you know. That when I came home, and everything, I had given the baby up for adoption, that the people, they would be asking me questions, and say that it wasn't right, and that I was no good. And it took me some time to adjust to it myself.

Q Did there come a time that you told George the baby was alive?

A Yes.

Q When was that?

A It was between -- it was from three and a half to four months after the baby was born.

Q How did this come up?

A Well, a few friends of mine had put it out in the street that the baby didn't really die and that I gave it up for adoption. So before somebody else got to tell him I told him myself.

Q And was there a picture of the baby that you gave George?

A Yes.

Q Where did this picture come from?

A The agency. The agency gave it to me. I am not sure if it was Miss Bigalke or someone else who did it, but she gave it to me in May.

1 Q And do you know what happened to that picture?
2 A I gave it -- the original, I gave the original
3 to George, and he went to Henry's Camera Shop, in
4 Alexandria, and had some pictures made.
5 Q So you had a copy and George had some copies?
6 A Yes. And I gave George the original.
7 Q Now, what conversation did you have with George
8 when you told him that the baby was alive?
9 A I told him that the baby didn't die, that I gave
10 it up for adoption. He sat and listened. When I had
11 finished he looked a little sorry but he didn't tell me
12 that he was sorry and he didn't talk about it after that.
13 It just seemed as if he still didn't care to have a baby.
14 Q Now, was that the conversation telling George
15 that the baby was still alive before you heard from the
16 Social Services about looking for George again?
17 A Yes.
18 Q Now, do you know the Hayes family very well?
19 A Yes.
20 Q What kind of contacts and relationship have you
21 had with the Hayes family?
22 A At the time I told George that the baby didn't
23 die I was living with him at the time because me and my

1 sister was having difficulties, and Mrs. Hayes told me that
2 I could stay there until I found a place to stay and I
3 stayed there for about two or three months.
4 Q You liked the Hayes pretty much?
5 A Yes.
6 Q In other words, you're not angry with them at
7 this point?
8 A No. I just wanted what is best for my baby.
9 Q Now, how many people are there in the Hayes
10 family?
11 A To my knowledge, there is 11.
12 Q And are they all living at home?
13 A As far as I know, yes.
14 Q And do you know how the money comes in, how the
15 support for this family is derived?
16 A To the best of my knowledge, through Mr. Hayes.
17 He is receiving Veterans, or something. And I don't know
18 if he is working but Mr. Hayes isn't.
19 Q Do you know if they have or receive any public
20 assistance?
21 A They was at one time. I don't know if they still
22 are or not.
23 Q What state of health is Mr. Hayes, Sr. in?

1 A To the best of my knowledge, he had a heart
2 condition. He had heart attacks. And he, at that time
3 that I was living there, was kind of sick and he used to
4 go to the doctor every Friday. He wasn't supposed to be
5 in too much noise or to get too upset.
6 Q What are the ages of the other children in the
7 house? Is George the oldest?
8 A Yes.
9 Q And then what are the other children's ages?
10 Do you know?
11 A 16, 15, 10, 9, 6. I think there was one 17 and
12 the baby is about 9 or 10 months old.
13 Q There is a 9 or 10 month old baby there?
14 A Yes.
15 Q What is Mrs. Hayes' condition of health?
16 A When I was down there there was a physical
17 condition; they was a little sick; she had arthritis.
18 Q Does she do day care for children from outside
19 the family?
20 A Yes, she does.
21 Q For awhile she looked after Yolanda, didn't she?
22 A Yes.
23 Q Does she look after Yolanda now?

1 A No.

2 Q Did you stay or did you take Yolanda out of

3 there?

4 A Well, yes. About a week -- I guess it was about

5 a few days or a week before I got the letter that we was

6 coming to the court on the 20th.

7 Q Who looks after these children that come in for

8 day care, children from the family?

9 A They're under Mr. Hayes' care. But the younger

10 kids, they look after the children and they tend to them

11 a lot. They help with the Pampers, and they fix bottles

12 and stuff.

13 Q Have you ever talked with Mr. Hayes, George Hayes,

14 the father, about placing her over for adoption?

15 A The first day that I was telling George about

16 it we talked for awhile and he said --

17 MR. DELANEY: (Interposing) Your Honor, I object

18 to any conversation unless --

19 BY MRS. POWELL:

20 Q (Interposing) Was Mr. Hayes present when you

21 spoke with his mother?

22 A Was George Hayes present? Yes.

23 MRS. POWELL: May she answer the question then?

1 THE WITNESS: It was the day that I told George
2 that the baby was dead, and why didn't he just sign the
3 papers, and let her stay where she is, and so on. And
4 then his mother came in and said she don't think that it
5 is right because what is George's she thinks he should
6 have it. And then, in turn, said, "Son, I'm your mother
7 and I think you need to think about this some more, and
8 then not make a difficult decision to change your mind."
9 BY MRS. POWELL:
10 Q Okay.
11 What is the size of the house that the Hayes
12 live in?
13 A It is four bedrooms, a kitchen, a living room.
14 Q Is it a one- or a two-story?
15 A Two.
16 Q Do you know if George has any other children?
17 A Yes. There was a son by Therese -- her last
18 name is -- I am not sure.
19 Q Do you know when that baby was born?
20 A I'm not sure what date. It is about five months
21 after my baby was born.
22 Q Do you know if George was working?
23 A To the best of my knowledge, yes.

1 Q Where does he work?

2 A I'm not sure if it is a Crown warehouse or what.

3 Q And is George working in the same place?

4 A Yes. That was a part-time job in the afternoon

5 from 6:00 to 10:00.

6 Q Is George going with anybody now?

7 A I don't know if it is a permanent thing but he

8 was talking to a girl that was a friend of mine.

9 MR. DELANEY: Unless she knows of her own

10 knowledge --

11 THE COURT: (Interposing) Objection sustained.

12 BY MRS. POWELL:

13 Q Is George still living at home?

14 A Yes, as far as I know.

15 Q Do you want your baby to be raised by the Hayes?

16 A No.

17 Q What do you want the Court to do with the child?

18 A I would like for her to stay where she is because,

19 as far as I know, she is getting nice care, and it is a lot

20 more than she, or George and his family can do for her,

21 I think.

22 Q What have you been doing with your life since

23 you gave the baby up?

1 MR. DELANEY: Your Honor, if you please, this is
2 THE COURT: Objection sustained.
3 BY MRS. POWELL:
4 Q Is it -- and I know this is a difficult question
5 for you, but is it your opinion that George is a fit father
6 for your child?
7 MR. DELANEY: If Your Honor please, this is up
8 to the Court to determine that.
9 THE COURT: Objection sustained.
10 MRS. POWELL: I have no further questions of
11 the witness.
12 CROSS EXAMINATION
13 BY MR. DELANEY:
14 Q Now, Mrs. Ferguson, when you were going with
15 George is it not a fact that the reason that the two of
16 you broke up is that you were going with other men at the
17 same time that you were going with George?
18 A No, it is not.
19 Q And, before the baby was born or at any time, did
20 you have dates with other men?
21 MRS. POWELL: Your Honor, I am going to object
22 to this. This isn't a proper time to determine the lady's
23 fitness as a mother.

THE COURT: Objection sustained.

MR. DELANEY: If Your Honor please, the only reason I am bringing this out is the question is asked here whether he took any further interest. And the reason is, it seems to me, was that she was going out with other people.

THE COURT: Well, you made that point, Mr. Delaney.

MR. DELANEY: All right, sir.

BY MR. DELANEY:

Q Now, you, in regard to your statements, when did you tell George the baby had died?

A The day -- the second day that I came home from the hospital.

Q Now, was that the earlier part of May? Is that correct?

A That is correct.

Q Now, when did you have this picture taken of the child?

A It was sent to me about from one to two weeks; I am not very certain if it was, or maybe three weeks after the baby was born.

Q After the baby was born?

1 A Yes.

2 Q Now, that is after the baby had been temporarily

3 placed by the Welfare Department. Is that right?

4 A I don't know whether she was placed by the

5 Welfare Department.

6 Q And then you gave that picture, which has been

7 marked in evidence, to George Hayes?

8 A Yes, I did.

9 Q You told him it was a picture of the child

10 before the funeral. Is that correct?

11 A No. I simply gave him the picture and then said,

12 "Here is the picture of the baby." I don't remember

13 saying that she was dead, and this was the funeral, or

14 anything like that.

15 Q And what was the reason of you giving him the

16 picture?

17 A Because I thought he might like to have a

18 picture.

19 Q And at that stage of your remarks to him was it

20 ever indicated to him that this was a picture of the dead

21 child? Isn't that right?

22 A I don't know what he assumed, but I didn't tell

23 him that that was a picture of a dead baby. I just gave him

1 a picture of the baby.

2 Q But about two or three weeks before you told him

3 that this child had died. Is that correct?

4 A Yes.

5 Q And then you signed the statement later on this

6 year, or several months after the child was born, you then

7 told him that the child was alive. Is that right?

8 A That is correct.

9 Q Do you recall what month of the year that was?

10 A It was between the last of August and the first

11 of September. I'm not sure what date.

12 Q And were you living with Mr. Hayes down at his

13 home at that time?

14 A Yes, I was.

15 Q You stayed with Mr. Hayes about three months you

16 said. Is that right?

17 A Yes.

18 Q What months did you live at their home?

19 A From the last of August until around November.

20 Q And September?

21 A I don't know if that is right. I know, certainly,

22 that I left the last of October or the month after that.

23 But I was there about three to three and a half months.

1 Q I see.

2 And you and Mr. Hayes are on friendly terms?

3 A Yes.

4 Q And, in other words, Mr. Hayes would give the

5 custody of the child and Mrs. Hayes act as a baby sitter?

6 Do you feel that she would give the child good care and

7 attention from your experience with her? Is that right?

8 A Yes; if she is in good health, I suppose so.

9 Q I see.

10 And during the time that you were living there

11 at the time was George Hayes working regularly during this

12 period of time?

13 A Yes; to the best of my knowledge he was.

14 Q He was a very steady worker was he not?

15 A Yes.

16 Q Do you know of any trouble that George has been

17 in since he became or reached his majority of 18?

18 A No, I don't know of any.

19 Q Now, he has stayed with the family. Isn't that

20 right?

21 A As far as I know, yes.

22 Q Have you ever personally asked him for any

23 advice, yourself, after the baby was born?

1 A There was a few times I asked him for help.
2 Q Did he give you any help at that time?
3 A No.
4 Q Did he complain about you being out with anyone
5 else?
6 A Pardon?
7 Q Did he complain about you having other friends?
8 A No.
9 Q Does Mr. Hayes work at all?
10 A George or his father?
11 Q Yes.
12 A No, not as I know of.
13 Q Is he retired?
14 A I suppose so if he is not working.
15 Q And you said something about you are satisfied
16 with the condition of where the child is now. You haven't
17 seen the conditions of your child where your child is
18 living, have you?
19 A No. When the baby stays with the agency you
20 don't get to see her.
21 Q I see.
22 And you have never met the people who have your
23 child, have you?

1 A No, I didn't get to do that.

2 MRS. POWELL: Your Honor, I am going to object.

3 THE COURT: Okay, just answer the questions.

4 She has indicated that she was satisfied with where the

5 child was and, obviously, they don't know where the child

6 is nor the conditions.

7 MR. DELANEY: All right, sir. That is all, sir.

8 REDIRECT EXAMINATION

9 BY MRS. POWELL:

10 Q Has Miss Drury and other people with the agency

11 told you anything about where the child is?

12 A They told me that she was in a nice environment

13 with middle aged people and that she was doing fine.

14 MR. DELANEY: I think as to where she is basing

15 her opinion, or for her satisfaction with the condition of

16 the child is, it is completely on a pipe dream as far as

17 possessing information is concerned.

18 MRS. POWELL: I have no further questions of the

19 witness.

20 May she be excused.

21 MR. DELANEY: I would like to hold her for awhile,

22 if possible.

23 THE COURT: All right.

1 MRS. POWELL: My next witness is Miss Ferris
2 Hall.
3 Whereupon,
4 FERRIS HALL,
5 was called as a witness for and on behalf of the
6 Commonwealth of Virginia and, having been previously duly
7 sworn, was examined and testified as follows:
8 DIRECT EXAMINATION
9 BY MRS. POWELL:
10 Q Will you state your name?
11 A Ferris Hall.
12 Q And how old are you, Ferris?
13 A Seventeen.
14 Q Ferris, are you the mother of a child named
15 Teddy Alfonzo Hall?
16 A Yes.
17 Q And who is the father of that child?
18 A George Hayes.
19 Q When was Teddy born?
20 A October 2nd.
21 Q Of last year?
22 A (Witness nods head affirmatively.)
23 Q Does George Hayes support Teddy?

1 A Uh huh.

2 Q How much support does he have?

3 A Ten dollars. Ten dollars.

4 Q Is this $10.00 a week?

5 A Uh huh.

6 Q Now, did you have George Hayes to give you that

7 money?

8 A Uh huh.

9 Q Did you go to court about it?

10 A (Witness nods head affirmatively.)

11 Q Do you get some money from somewhere else?

12 A Other than from him? Uh huh.

13 Q Who do you live with, Ferris?

14 A My sister.

15 Q And is there some people from the Welfare that

16 help you with the baby?

17 A (Witness nods head negatively.)

18 Q Do you see George and his family quite a bit?

19 A Well, they baby sit for me while I go to school.

20 MR. DELANEY: I can't hear you at all.

21 THE WITNESS: They baby sit while I go to

22 school.

23

1 BY MRS. POWELL:

2 Q So you leave Teddy over at the Hayes' house?

3 A (Witness nods head affirmatively.)

4 Q Do you pay Mrs. Hayes to look after the baby?

5 A (Witness nods head negatively.)

6 Q Where are you in school now?

7 A The 11th grade.

8 MRS. POWELL: I have no further questions of the

9 witness.

10 THE CLERK: Algie Wright.

11 Whereupon,

12 ALGIE WRIGHT,

13 was called as a witness for and on behalf of the

14 Commonwealth of Virginia and, having been previously duly

15 sworn, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MRS. POWELL:

18 Q Will you tell the Court your name?

19 A Algie Wright.

20 Q And where do you live?

21 A 430 North Patrick Street, Alexandria.

22 Q And who lives there with you?

23 A Three children -- four children and my sister.

1 Q And what is your sister's name?

2 A Ferris Hall.

3 Q Does Teddy Alfonzo Hall live there?

4 A Yes.

5 Q How old are you?

6 A Twenty-eight.

7 Q And what is your relationship to Ferris and

8 Teddy?

9 A Well,he is my nephew and she is my sister, plus

10 I am a legal guardian and --

11 Q (Interposing) You are her legal guardian and --

12 A (Interposing) Yes.

13 Q When were you made her legal guardian?

14 A Well, she is 17 now, and I have been ever since

15 she was five.

16 Q Now, do you look after the money for her?

17 A Yes.

18 Q Does she have some income in relation to Teddy?

19 A Yes.

20 Q Can you tell the Court about that?

21 A Well, she has $10.00 coming in from the baby's

22 father, and I puts the rest to it, plus takes care of my

23 kids.

1 Q And does she get any help from the Department of
2 Social Services?
3 A No.
4 Q Do you know the Hayes family, the family of
5 George Hayes here?
6 A Well, I know him.
7 Q And how do you know him?
8 A Well, I know him by him dating my sister.
9 Q And Ferris was telling us that Teddy stays over
10 at the Hayes' house. Have you seen him there?
11 A Yes.
12 Q What is the baby sitting situation over there?
13 A Well, lat year -- last winter the Welfare was
14 paying her $7.00 or $8.00 to be a baby sitter when she was
15 at school, but this year I don't think they are going to
16 give her anything for child care. In fact, I haven't got
17 any money or statements that they was paying the baby
18 sitter.
19 Q Have you had occasion to go by there when Teddy
20 was there?
21 A Yes.
22 Q And what situations have you found there?
23 A Well, I just got as far as the back door. That's

as far as I have gotten in the house.

Q Have you found Mrs. Hayes in charge of the child all the time?

A Well, I never been in there but once.

Q And what was the situation when you found Teddy there?

A Well, she was there, and another girl was there and another little baby.

Q Was there ever a time that you found Mr. Hayes left by himself to care for the child?

A No, not to my knowing.

MRS. POWELL: I have no further questions of the witness.

MR. DELANEY: No questions.

THE COURT: You may step down.

(Witness excused)

MRS. POWELL: I have no further questions, Your Honor. I think the Commonwealth will rest at this point.

THE COURT: All right.

Mr. Delaney?

MR. DELANEY: Reverend Lowery.

1 Whereupon,

2 MATT LOU LOWERY,

3 was called as a witness for and on behalf of the plaintiff

4 and, having been previously duly sworn, was examined and

5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. DELANEY:

8 Q Will you state your full name, sir?

9 A Matt Lou Lowery.

10 Q Have your seat, sir.

11 And where do you live?

12 A 440 North Royal Street.

13 Q And what is your occupation?

14 A I work in the City Hall.

15 Q And are you also a minister of one of our

16 churches of the city?

17 A Yes, sir.

18 Q And what church is that?

19 A 437 North Columbus Street, First Pentecostal

20 Holiness Church.

21 Q And how long have you been a minister of that

22 church?

23 A Well, we have been there pretty close to about

1 four years.

2 Q Now, do you know Mrs. Rose Hayes?

3 A Yes, I do.

4 Q And you also know her son, George Hayes?

5 A I do.

6 Q And what is your basis of your acquaintance with

7 Mrs. Hayes and her son?

8 A Yes, the mother was attending the church

9 regularly. That was before her husband got so sick or the

10 difficulties of the family occurred. But she was quite a

11 good member of the church.

12 Q What do you know about George?

13 A Oh, George, he a good boy and a working boy. He

14 also holding down a good job, a settled job. Also, he

15 tends to his business, if you will, and he's a peaceful

16 boy and he comes in occasionally with his mother. He

17 don't come every time she comes but he visits and what

18 have you.

19 Q And have you visited in the home of Mrs. Hayes?

20 A I have. Well, I've been there several times in

21 prayer.

22 Q And what sort of housekeeper is Mrs. Hayes?

23 A Mrs. Hayes is a wonderful housekeeper.

1 Q And, from your own observation, can you tell me
2 what degree of neatness was the home in when you went
3 there?
4 A Well, I can't find no fault in it. It was nice --
5 kept up nice and clean. And we would stop downstairs in
6 the front room and have prayer. And if there was any
7 refreshments or anything after the prayer like Kool Aide
8 or cake or something she served it -- and it was
9 wonderful -- and we would finish up. And we went on about
10 our business.
11 Q What do you know about George? What was his
12 manner towards you and others when you visited in the home?
13 A Well, George always sit in the corner like he is
14 now. He always was quiet. He always had a controlled
15 manner. He didn't have too much to say; always a quiet
16 one.
17 Q And have you ever known George to be in any
18 trouble of any kind?
19 A I have never heard of it.
20 Q Now, you say he is a steady worker?
21 A Sir?
22 Q You say he is a steady worker?
23 MR. EVANS: I object. We know that he is

1 working regularly. I object to it.

2 THE COURT: Sustained.

3 BY MR. DELANEY:

4 Q Now, you stated that you work down in the

5 City Hall. What sort of work do you do down there?

6 A I'm a custodian, a janitor at night, for eight

7 years.

8 Q I see.

9 And do you also know Mrs. Ann Ferguson?

10 A Mrs. Ferguson? Yes, I do.

11 Q Did you know her?

12 A Yes, sir.

13 Q Did you know them when George and Ann were

14 going around together?

15 A I met them occasionally as lovers on the street.

16 And they come into church, and pay their tribute, and

17 after a short while they went out.

18 Q I see.

19 Did you receive any direct information from her

20 that the child that she had born died shortly after its

21 birth?

22 A Never heard of it before today.

23 MR. DELANEY: I see. That is all.

CROSS EXAMINATION

BY MR. EVANS:

Q You said that they went to church regularly until her husband got sick and she had some more trouble.

A Yes, she had occasional trouble with one of her kids before her husband got down with a heart attack. The kids had spasms and things like that, epilepsy.

Q How long ago was this?

A That was back in 1967 when I was going around there. And she had this child that would have -- they would have falling out spells, and epilepsy and things like that.

Q So the last time you were in the house was in 1967?

A That is right.

MR. EVANS: No further questions.

BY MRS. POWELL:

Q Did you ever have occasion to do any counseling with the family?

A Ma'am?

Q Did you ever have occasion to do any counseling with the family?

A No. No more than to have prayer in the home.

MRS. POWELL: I have no further questions, Your Honor.

MR. DELANEY: I don't believe he understands the question.

BY MR. DELANEY:

Q Have you been to the Hayes' home from -- any time from back here, back to '67? Was '67 the last time that you were there?

A No, sir. See, she moved from -- on Gibbons Street and I lost track of her after she moved from over on Gibbons Street. And she was going over to a church over there on Fourth Street. That's where I lost track of her.

MR. DELANEY: Thank you, sir.

MRS. POWELL: I have no further questions.

THE COURT: All right.

(Witness excused)

MR. DELANEY: Rosa Lee Hayes.

Whereupon,

ROSA LEE HAYES,

was called as a witness for and on behalf of the plaintiff and, having been previously duly sworn, was examined and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. DELANEY:

3 Q Mrs. Hayes, will you state your full name?

4 A Rosa Lee Hayes.

5 Q And where do you live, Mrs. Hayes?

6 A 406 North Patrick Street.

7 Q And are you the mother of George Hayes?

8 A Yes.

9 Q And how long have you been living up on North

10 Patrick Street?

11 A Four years.

12 Q And are you married?

13 A Yes, sir.

14 Q What is your husband's name?

15 A George L. Hayes.

16 Q So this George Hayes is George Hayes, Jr.?

17 A Yes, sir.

18 Q And how many other children do you have besides

19 George?

20 A Six.

21 Q And what are their names and ages?

22 A Parry Lee Hayes; he is 17. Wilhemina Hayes;

23 she is 15. James Hayes is 13. Rosa Michele Hayes, she is

11. And Frances Delores Hayes, she is 9. And Michael, he is 6.

Q I see.

Now, did the older children help you with the cooking and housework and doing chores around the home?

A I beg your pardon?

Q Did the older children help you with doing the housework and the cooking around the home?

A Yes, sir, they helps me.

Q Now, how many bedrooms are there in the home?

A Four.

Q In regard to -- do you have adequate space for the members of your family there now?

A Yes, sir.

Q Now, George has indicated to you that he wishes to ask the Court to award him the custody of his child, Ann Ferguson, and you stated that he wishes to get other quarters away from your home.

Now, is it my understanding that you are willing to baby sit for the child while George is working?

A Yes, sir.

Q And is your health sufficiently good so that you can take care of this child properly?

1 A Yes, sir. I am a baby sitter.

2 Q Now, your husband has a slight problem in regard

3 to illness.

4 A It was a heart attack.

5 Q How is he getting around now?

6 A Well, he is feeling fine now. He just, you know,

7 round the house.

8 Q He is not working at all?

9 A No, sir.

10 Q I see.

11 Now, is George regularly employed?

12 A Yes, sir. You mean George, Jr. Yes, sir.

13 Q No problem about getting him to go to work? He

14 works steadily?

15 A Works steadily. I don't have to call him or

16 nothing.

17 Q Now, from your conversations with George, do you

18 feel that he is sufficiently responsible to take good care

19 of this child if it was awarded to him to custody?

20 A Yes, sir.

21 Q And, from your further conversations with him,

22 do you feel that he has a full desire and intent to raise

23 this child properly and take care of the child?

1 A Yes, sir.

2 Q And he has asked you, if he gets this child, to

3 help him out while he is working. Is that correct?

4 A Yes, sir. Yes, sir.

5 MR. DELANEY: Your witness.

6 CROSS EXAMINATION

7 BY MRS. POWELL:

8 Q Mrs. Hayes, how old are you?

9 A How old am I?

10 Q Yes.

11 A Forty-seven.

12 Q You are 47.

13 And how old is your husband?

14 A Fifty-two.

15 Q And your youngest child is six?

16 A Yes.

17 Q Is it true that you have arthritis, that you have

18 some trouble with arthritis?

19 A Well, that is what the doctor said, in one knee.

20 But I am a baby sitter; I do baby sitting for the Welfare.

21 I did last year.

22 Q How many children do you keep for the Welfare?

23 A Well, I am only keeping one child now.

1 Q Is this as a foster home or day care?

2 A This is day care.

3 Q Is there anyone else living at home besides

4 members of your family?

5 A Well, sometimes my niece, she is there. Sometimes

6 she spend the night; maybe just come spend a weekend or

7 something like that. My mother do sometime.

8 Q Now, does your husband have some income as a

9 result of his disability?

10 A Yes, he do.

11 Q What kind of income is that?

12 A Well, he has his Veteran check coming in and he

13 has his disability check coming in.

14 Q Is it that he is categorized as totally

15 disabled?

16 A Yes, that is what the doctor said.

17 Q And do you receive any assistance in addition

18 to this?

19 A You mean, do I receive anything from anywhere

20 else, or anything? Well, the Welfare give me $20.00.

21 Q Now, is that for baby sitting or is that for your

22 own children?

23 A Well, that was just for my own children. I'm

1 not getting anything right now for baby sitting because
2 when school was out then I notified them that I was not
3 baby sitting. And I told Miss Clara Davis to cut my check
4 off because I don't want them to pay me for something that
5 I wasn't doing.
6 Q But did you receive some assistance because of
7 the total disability of your husband from the Federal
8 Government?
9 A Well, they sent a check to the house, they say,
10 for him and for 175.
11 Q And how often does that come?
12 A Every month. And he gets his Veterans check
13 and the kids get their check.
14 Q The kids get their check from where?
15 A From the disability.
16 Q Is that the same thing as the Aid to Dependent
17 Children? Is that what they call these checks?
18 A No, they call it -- they just told me it is a
19 disability check for the children because it is by itself
20 and the kids are by itself.
21 Q Now, does George contribute money to keeping the
22 family?
23 A George? Well, before he started taking care of

1 his kid. I mean, he always did -- would help me. But
2 after he got -- now, he take care of his kid. I don't
3 look for him to help me with my responsibility unless I
4 get behind or something. And --
5 Q (Interposing) I'm not asking you about what might
6 happen.
7 A I am not saying what might happen. I am saying
8 what already has happened.
9 Q When did George, Jr. quit school?
10 A Well, I don't remember the date.
11 Q Do you remember what grade he was in before he
12 quit?
13 A I don't remember. I think maybe it was the
14 ninth.
15 Q How did it come about that he quit school in the
16 ninth grade?
17 A How did it come about? Because he was working
18 at night.
19 Q And he was permitted to quit because he was
20 working?
21 A No, he just didn't go some days. And they got
22 on me and they turned it over to Miss Pancoast. And I went
23 out there, and she asked me why he wasn't going and so I
told her why he wasn't going.

1 Q And what happened to him back there when he was
2 in the ninth grade, when he came home with the pay check?
3 Did that pay check go into helping support the family?
4 A Well, if he give me any money he did. If not --
5 he was just a child, so I never asked for my kid to give
6 me all their money. If they give me some I take it as a
7 mother would.
8 Q Now, I'm asking you along through the years,
9 up until now, has George given you money toward the
10 family support?
11 A Yes, he has give me money.
12 Q Regularly, has he given you money?
13 A Yes.
14 Q Do you know how much he is making now?
15 A Well, I couldn't say, no more than just what I
16 heard him say.
17 Q Well, about how much does he give you?
18 A Well, I couldn't definitely say because sometimes
19 it probably might be that I ask him for more money than
20 others.
21 Q How often do you look after Teddy Hall?
22 A Mostly every day: I mean, if his mother's going
23 to school. If she is not, I don't.

1 Q And do you know if he is a small baby? He is, is
2 he not?
3 A That is right.
4 Q Your youngest child is six years old?
5 A Yes.
6 Q And can you -- most days you have Teddy there
7 as well?
8 A No, my boy goes to school.
9 Q You have Teddy there mostly in your house there?
10 A Yes, if the mother is in school.
11 Q Now, you answered Mr. Delaney that there was
12 plenty of space for 11 people to sleep in a 4-bedroom
13 house. Would you tell us where these people sleep?
14 A You mean nine. I said, "Nine kids in one house."
15 Q All right, nine, and you and your husband.
16 A Seven kids. I have seven kids.
17 Q All right. And you and your husband.
18 A Yes.
19 Q Where do these people sleep?
20 A Well, my girls sleep in one bedroom, the boys in
21 one bedroom, and me and my husband sleep in a bedroom.
22 Q Mrs. Hayes, are you really prepared to raise
23 another child from infancy?

1 A Well, just as prepared as I have ever been.

2 Q Do you know that George plans to be married?

3 A I never hear him say.

4 Q So what, in effect, you are saying is that

5 you're prepared to take a less than 2-year old baby and

6 raise it up?

7 A That is right.

8 MRS. POWELL: I have no further questions.

9 MR. DELANEY: That is all.

10 BY MR. EVANS:

11 Q Did anyone else, other than the people in your

12 family, sleep there in the last week, Mrs. Hayes?

13 A Well, my mother visit me, but she went back.

14 Q Anybody else?

15 A Nobody but my sister. She visit me and she went

16 back.

17 Q Has George, Jr., to your knowledge, looked around

18 for an apartment or some place to live?

19 A Well, I definitely couldn't say. I don't know.

20 Q You don't know is what you are saying, that you

21 definitely couldn't say?

22 A I really don't know.

23 MR. EVANS: I have no further questions.

1 MRS. POWELL: May I ask the witness one more
2 question?
3 BY MRS. POWELL:
4 Q Mrs. Hayes, do you expect that George is going
5 to move out and live in an apartment by himself with this
6 baby?
7 A Well, he said once before that he was going to
8 get him apartment. He has said that he is going to move
9 out, because I tell them that they getting older now so
10 I know they not going to live with me always. So if he
11 get him apartment and live in it with his baby, it is fine
12 with me, because, just like I say, I will baby sit while he
13 works.
14 Q Isn't it true that you have been telling people
15 in the neighborhood, "Getting the house ready for a new
16 baby to come in"?
17 A In the neighborhood? No. Why I don't even talk
18 with nobody in the neighborhood. I don't visit with anybody
19 in the neighborhood. That can't be true.
20 MRS. POWELL: I have no further questions.
21 MR. DELANEY: That is all.
22 THE COURT: This lady has been sitting in the
23 courtroom, the Sheriff tells me. What are you going to say?

MR. DELANEY: I didn't realize that she has been here. She has only been here since lunch time.

MR. EVANS: I'm going to object to her testifying today. And I almost mentioned something about it myself. I just decided, well, she is just a friend of the family or something.

MR. DELANEY: I didn't know she was here. I assumed that she was back in the witness room.

THE COURT: What relationship is Mrs. Henry to the family? Is she a neighbor or a relative or a friend?

MR. DELANEY: She is a friend.

THE COURT: Well, I think, under our rule, if she is in the courtroom she cannot testify.

THE SHERIFF: She wasn't sworn in either.

THE COURT: I am sure. Have a seat.

MR. DELANEY: Roy Blackwell. He didn't come back.

THE COURT: No other witnesses, Sheriff?

THE SHERIFF: No other witnesses, Your Honor.

THE COURT: All right.

There is one out in the hallway. There are two witnesses in the hallway. I think they have been excused. Mrs. Ferguson is still here for the Commonwealth. All right.

1 Whereupon,

2 GEORGE HAYES,

3 plaintiff, was called as a witness for and on his own

4 behalf and, having been previously duly sworn, was

5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. DELANEY:

8 Q Will you state your full name?

9 A I am George Hayes, Jr.

10 Q And where do you live, Mr. Hayes?

11 A 406 North Patrick.

12 Q And with whom are you living?

13 A Living with my mother.

14 Q And that is the Mrs. Hayes who has testified?

15 A Yes, sir.

16 Q How old are you now?

17 A Eighteen.

18 Q When will you be 19?

19 A Next month.

20 Q What day?

21 A Twenty-third.

22 Q How far in school did you go?

23 A Tenth grade.

1 Q Are you employed at this time?

2 A Yes, sir.

3 Q By whom are you employed?

4 A Crown Supply.

5 Q And what type of work are you doing for them?

6 A Well, I am a stock clerk.

7 MR. DELANEY: Speak up. I can't hear you.

8 THE WITNESS: I am a stock clerk.

9 BY MR. DELANEY:

10 Q What is your take-home pay a week?

11 A One hundred twenty.

12 Q Now, in this job that you are working in, is

13 there any opportunity for promotion for you?

14 A Yes, sir.

15 Q And directing your attention to your request to

16 be awarded the custody of your child, will you tell the

17 Court in your own words what is the reason that you are

18 making this request?

19 A Well, number one --

20 MR. DELANEY: (Interposing) Speak up now.

21 THE WITNESS: It is my own flesh and blood and

22 I would like to have the opportunity to raise my child

23 just like everyone else would. There, nobody else wouldn't

1 want them to give their child away if they had one. I
2 know I wouldn't myself. I don't think nobody would.
3 BY MR. DELANEY:
4 Q Have you talked to the Welfare people about having
5 your right to the interest in the child?
6 A Well, I just talked with -- I don't know her name,
7 but I just talked with her and she just asked me was I
8 going to sign the papers and everything. And I told her,
9 "No, I wasn't going to sign no papers."
10 Q Now, you feel that you can properly provide for
11 and support this child?
12 A Yes, sir.
13 Q Are you willing to do so?
14 A Yes, sir.
15 Q Do you realize that you will be fully
16 responsible as a father for her for her food, and clothing,
17 and housing and all the other problems that come with a
18 young child?
19 A Yes, sir.
20 Q And you are willing to assume this obligation?
21 A (Witness nods affirmatively.)
22 Q Did you notify the lady from the Welfare
23 Department? When did she ask you this question?

1 A I think about March of this year.

2 Q Did you tell her the same thing?

3 A Yes, I did.

4 Q Did you further advise her that if you had the

5 child that you would get quarters and housing separate and

6 apart from where you are living now with your mother and

7 father?

8 A I did.

9 Q And if you do that you would be working. Now,

10 who would look after the child when you went to work?

11 A My mother.

12 Q Have you discussed this with your mother?

13 A I have.

14 Q Has she agreed to do this?

15 A Yes.

16 Q Do you feel your mother is in good enough health

17 to take care of this additional obligation?

18 A Yes, I do because, well, she took care of them,

19 Miss Ferguson's little girl when she be working. And I

20 don't see how come she can't take care of mine.

21 Q Now, George, have you been in any type of

22 trouble, in courts or anything else, since you have grown

23 up?

1 A No, not more than when I went to the court for
2 truancy.
3 Q Now, who was this last child that was born?
4 Right?
5 A Yes, sir.
6 Q And you also want to take care of this child?
7 A That is right.
8 Q In accordance with the Court order, and as far
9 as this child here, can you understand the fact that
10 Miss Ferguson has indicated that she doesn't want you or
11 she doesn't wish you to have the child?
12 A Yes, sir.
13 Q Now, at some point this was brought up by you and
14 Miss Ferguson that she said after she became pregnant you
15 stopped seeing her. Can you tell us why that was?
16 A Well, after I found out that she was pregnant and
17 everything -- well, she told me she was; I guess it was
18 about three months later -- well, she told me she was
19 talking with someone else and she didn't want me to come
20 around no more. And I said I wouldn't if she didn't want
21 me to.
22 Q She was the one that broke it off, not you. Is
23 that correct?

1 A Yes, sir. Because, well, myself, I begged her.
2 I begged her not to quit because I had become very fond of
3 her and her little girl, too. And it was after that we
4 just went on and broke up anyway.
5 Q Now, in regard to the time that the baby was
6 expected, did you know that the baby was going to be born?
7 A No, she didn't tell me none of that because,
8 well, sometimes I just had to get off work at night. I
9 was working at night and I would be home in the daytime.
10 And she called, like today, and tell me she had to go to
11 the clinic tomorrow morning. Well, I would come and take
12 her. So I would take her every time she called me and
13 told me I would be there to take her and everything. But
14 she didn't never tell me nothing.
15 Q Now, after the baby was born what did she tell
16 you at that time?
17 A Well, she came to the house and, first, told me
18 and my mother that the baby was dead. And my mother told
19 me and then I went. And she told me that the baby was
20 dead.
21 Q And did you think that the baby died?
22 A She told me the baby had died in the hospital.
23 Q And then did she give you this picture that we

1 have introduced here today? Is that right?

2 A Yes, sir.

3 Q And did she say anything when she gave you that

4 picture? Did she say that that picture indicated --

5 A (Interposing) She just said, "This is the

6 picture of your daughter." That is all.

7 Q And that was all she told you, that your

8 daughter was dead? Is that right?

9 A Yes, sir.

10 Q And when was the next time after that that you

11 knew your baby was alive?

12 A It was close around -- whenever I found out it

13 was around Christmas time, yes, sir.

14 Q Is this Christmas of '72?

15 A Yes, sir.

16 Q She didn't tell you in September?

17 A No, sir. Because, well, let me see. We was --

18 went back together then. But she still said everything,

19 you know, was still there, and everything. And she just --

20 I guess she figured she had to tell me before someone else

21 did. And that is how I found it out then.

22 Q She had been staying in her mother's home up

23 through November, hasn't she, about three months prior to

1 that?

2 A Yes, she stayed there a little bit longer than

3 three months.

4 Q I see.

5 And was it around Christmas time that you found

6 out the child was still living? Is that right?

7 A Yes, sir.

8 Q Had she ever asked you for any money?

9 A Oh, yes, sir.

10 Q I mean, for the child.

11 A Not for the child she haven't.

12 Q Had she asked for money for herself though?

13 A Well, yeah.

14 Q And did she ever say she needed any support or

15 maintenance or help to feed the child?

16 A No.

17 Q Did the Welfare Department ever call upon you

18 for any help or assistance in regard to the child?

19 A No, sir.

20 Q And then the first time that you knew anything

21 in reference to this case was when you decided to sign the

22 adoption of the child. Is that right?

23 A Yes, sir.

1 Q At that time you refused. Is that right?

2 A Yes, sir.

3 Q And you informed them that you would like to

4 have this child?

5 MRS. POWELL: Your Honor, excuse me. I am

6 going to object. This is a series of questions and the

7 answer is obvious. These are too leading at this point.

8 THE COURT: The questions have been too leading

9 for the last half hour.

10 MRS. POWELL: Yes, Your Honor.

11 BY MR. DELANEY:

12 Q In regard to this or all of the situation, you

13 have never been given an opportunity to see the baby by

14 anybody, have you?

15 MRS. POWELL: Your Honor, I am going to object.

16 This is too leading a question.

17 MR. EVANS: In my view, Your Honor, the testimony

18 is crystal clear that he has never seen the child.

19 BY MR. DELANEY:

20 Q Have you ever had any knowledge of where your

21 baby was?

22 A No. No, sir. No more than they said it was in a

23 home. That was all.

1 Q Did you ever see any information from the
2 Welfare Department of what home it was or where the baby
3 could be seen?
4 A No, sir.
5 MR. DELANEY: Your witness.
6 CROSS EXAMINATION
7 BY MR. EVANS:
8 Q How much do you make an hour, Mr. Hayes?
9 A I make 3.11.
10 Q Three eleven.
11 And do you work a 40-hour week, sir?
12 A Mostly. Sometimes 45.
13 Q That is about what you gross, isn't it?
14 A Yes, sir. Because sometimes I work 40 or 45
15 hours a week.
16 Q Did you testify at the last hearing that you took
17 home $80.00 a week?
18 A No, I didn't.
19 Q You did not testify?
20 A I testified that I took over $80.00 a week.
21 Q How much did you get paid last Friday?
22 A I don't remember just exactly what the amount
23 was. I don't remember in my pay check just what I took home.

1 Q Do you have payroll stubs with you in your
2 wallet?
3 A No, I don't.
4 Q What do you take home?
5 A Right offhand I can't say without my looking at
6 my check stubs.
7 Q Do you have a savings account?
8 A Yes, I have one.
9 Q How much money have you saved?
10 A Not much.
11 Q Not much?
12 A Right, not much.
13 Q Do you have a hospitalization policy where you
14 work?
15 A Yes.
16 Q Do you pay for that out of your salary?
17 A Well, I am not union. They take it out every
18 week -- every month.
19 Q Now, this boy, this Teddy Hall. Is that the
20 Ferris Hall boy? He was born in October of '72, wasn't he?
21 A Yes.
22 Q So that, of course, before this baby was
23 probably about nine months old or so you had fathered

1 another child before and this one was born, hadn't you?
2 A Uh huh.
3 Q I will repeat my question. You fathered
4 Teddy Hall before Anita Ferguson was born. Isn't that
5 correct?
6 A Yes.
7 Q Now, have you looked for any apartment in any
8 place?
9 A No. Well, really, I have been just waiting to
10 see what the Court is going to come off with.
11 Q But you have no idea what it is going to cost
12 you for an apartment?
13 A I think it is going to run me about 180 or 200
14 a month.
15 Q And do you have a car?
16 A No.
17 Q So then if your mother is going to baby sit
18 when you move into an apartment she is going to have to be
19 right nearby your home. Isn't that right?
20 A No.
21 Q Are you going to buy a car?
22 A Yes, I will buy one.
23 Q But have you done anything else at all as far as

1 getting ready to learn how to take care of a baby or
2 anything at all in preparation for taking custody of this
3 child? Have you looked for an apartment, for clothing, for
4 anything at all?
5 A No.
6 MR. EVANS: That is all.
7 BY MRS. POWELL:
8 Q Is it true, Mr. Hayes, that your education
9 stopped with ninth grade?
10 A I was in the tenth.
11 Q It was the tenth grade.
12 And have you been going to any classes or in any
13 way attempted to finish high school?
14 A No, I haven't.
15 Q Have you ever had the care of an infant? Have
16 you ever looked after a baby?
17 A Well, no more than my son, Teddy, that is all,
18 when he was born. I have him around with me.
19 Q Have you ever taken care of a child who is ill or
20 sick?
21 A Well, I have took care of my brother when he was
22 growing up. I have helped take care of him.
23 Q What kind of a thing does a father do, George, for

his family? What is a father supposed to do?

A Well, I don't know just how to tell you that. He really is someone who takes care of his family. So I really couldn't come out and just tell you how it would be.

Q What do you think fathers ought to do?

A Keep a place for the child to stay, food, clothes.

Q Have you made any plans to marry a girl that you are going with now?

A No.

Q Are you going with a girl now?

A No, not right offhand.

Q Do you plan some day to be married?

A One day I might.

Q Have you thought about explaining that with the girl that you may marry about this child? Did you anticipate any problems from this?

A Well, see, I'm not talking to no one so I don't have no one to talk to about a child or anything with.

Q Do you foresee any problems in any way for Anita or yourself as far as the relationships should she come back with you about being raised by her mother? Do you

1 have any problem with planning any difficulty for her?
2 Are you going to tell her that Teddy is her brother?
3 A I will wait until she gets older and then plan
4 on that.
5 Q How do you plan to explain that?
6 MR. DELANEY: If Your Honor please, this is
7 going too far afield. She is talking about sometime 10 or
8 15 years from now.
9 MRS. POWELL: I withdraw the question, Your Honor.
10 I have no further questions.
11 THE COURT: Mr. Delaney?
12 MR. DELANEY: That is all, if Your Honor please.
13 THE COURT: Sheriff, are there other witnesses
14 outside? Is anybody outside connected with this case?
15 Two?
16 MISS FERGUSON: Bring them in.
17 THE COURT: Well, I'm going to start the motion
18 with this case. I think Mrs. Powell said it was a novel
19 issue, the case of Anita Ferguson, and, indeed, it is.
20 I have dealt with the supreme court case with respect to
21 the right of the illigitimate father in routine adoption
22 cases that we have had, but this is the first time that
23 the punitive father has requested custody. Unlike most

1 custody cases I found today that most of the witnesses
2 were being very candid, very open and very direct. And I
3 don't have any doubt that they have all been very sincere
4 here.
5 Now, the Court is faced with a very extremely
6 difficult decision. I think there is no question about
7 this little baby girl being well taken care of where she
8 is; not the slightest. But I question that for that
9 reason alone. What is so refreshing about this father's
10 position is that we have got on the docket today about
11 five other cases where we have got men in the city jail
12 who refuse to support their children. And here is a man
13 who is not even married. And I don't condone that. I
14 think he has been guilty of antisocial, immoral and
15 illegal conduct. So, you say, why then is he entitled to
16 his child? And the supreme court has said he is entitled
17 to his child. I am going to give the child to the father.
18 And this is going to create a mechanical problem for the
19 Welfare Department, I understand this.
20 MRS. POWELL: Your Honor, at this point,
21 Miss Ferguson has released her right to custody of this
22 child for the purpose of placing it for adoption. She has
23 not relinquished all claims and I am sure that she may wish

1 to contest this should custody go to George Hayes. This
2 matter has not been litigated yet.
3 THE COURT: Do you represent her?
4 MRS. POWELL: No, Your Honor, but I am asking
5 that the Court give this some consideration.
6 THE COURT: Well, that's not before me. Before
7 me now is the father's claim to the child. The mother has
8 released the child. Perhaps in later proceedings she may
9 be entitled to some consideration,but that is not before
10 me now and I am not going to pass upon it.
11 MR. EVANS: Your Honor, will you consider a
12 stay in attorney over this child? I would like to give it
13 a little thought.
14 THE COURT: I am not ordering immediate
15 turnover, but I'm not going to forget a stay. You're
16 going to have to get it from the supreme court. A citing
17 here today would be one of my problems. That being the
18 fact that there has been some time elapsed, I think this
19 case should have been adjudicated prior to today. I have
20 been sitting here trying to evaluate how these adoptive
21 parents are going to feel wherever they are located and
22 I would not want them to become further attached to this
23 child. I do not want that responsibility. So I think --

1 and I'm telling you not to pursue this; I don't know what
2 your thoughts are -- but if you want to stay for the
3 purpose of appeal you're going to have to get it from the
4 supreme court and they well might grant that. But if my
5 decision is well founded then the sooner this child is
6 turned over to the father the better off all persons are
7 concerned in this final analysis.
8 After two or three years of litigation you'll
9 have done the child a lot of harm, I believe, a lot of
10 harm to be done to this child. When the child has not
11 become so attached to the adoptive parents then it can't be
12 changed. The child is 16 months old, I think, now, so I
13 don't want to leave this open. I think that there ought
14 to be an orderly transfer and it shouldn't be overnight.
15 But for the purpose of my ruling I am going to put in a
16 10-day limit on it. And the young lady from the Welfare
17 Department keeps sitting there shaking her head and she
18 appears very distraught about this decision. And I already
19 said perhaps that she ought to be outside, that this may
20 cause some problems. But this is a problem of logistics,
21 and it is mechanical, and I have no problem as to the
22 soundness of the decision, and it is not an easy one.
23 MR. DELANEY: I will prepare the order.

1 THE COURT: Anything further, Commonwealth?

2 MRS. POWELL: No, sir, Your Honor. I don't

3 believe so.

4 THE COURT: The Court will recess until 10:00

5 o'clock tomorrow morning.

6 (Whereupon, the hearing in the above-entitled matter

7 was concluded.)

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CERTIFICATE OF REPORTER

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3

I, Laurie Wince, do hereby certify that the testimony

4 of the witnesses in the foregoing proceedings was taken by

5 me in stenotypy and thereafter reduced to typewriting under

6 my supervision; that said proceedings are a true record of

7 the testimony given by said witnesses; that I am neither

8 counsel for, related to, nor employed by any of the parties

9 to the action in which these proceedings were taken; and

10 further, that I am not a relative or employee of any

11 attorney or counsel employed by the parties hereto, nor

12 financially or otherwise interested in the outcome of the

13 action.

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Laurie Wince, Court Reporter

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23

V I R G I N I A :

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

COMMONWEALTH OF VIRGINIA	:	
vs	:	NUMBER M-2697
ANITA GEORGIANNA FERGUSON	:	

O R D E R

THIS CAUSE came on to be heard this 20th day of September, 1973, upon the matter regarding the custody of Anita Georgianna Ferguson, an infant, and upon the request of the putative father, George Harris Hayes, Jr., to have the custody of the child placed with him.

The office of the Commonwealth Attorney was represented by Mrs. Elsie Powell, and H. Bradley Evans was appointed and acted as guardian ad litem for the infant child, and the father, George Harris Hayes, Jr., was represented by Paul Lyne Delaney.

Evidence was presented by the parties to the suit in regard to the custody of the infant child, and after consideration of all the evidence, it was determined by the Court that the custody of the said child should be awarded to the father, George Harris Hayes, Jr., and the custody of the said infant child, Anita Georgianna Ferguson, is hereby awarded to George Harris Hayes, Jr.

It is further ORDERED that the Alexandria Department of Social Services arrange to transfer the said child, Anita Georgianna Ferguson, within a period of ten (10) days from September 20, 1973, to the custody and control of the said George Harris Hayes, Jr.

/s/ George M. Giammittorio
GEORGE M. GIAMMITTORIO, Judge

Entered: September 20, 1973

REQUESTED:

/s/ Paul Lyne Delaney
Paul Lyne Delaney
Attorney for George Harris, Hayes, Jr.

EXCEPTED AND OBJECTED TO:

/s/ John B. Delaney for Elsie Powell
Elsie Powell
Assistant Commonwealth Attorney

/s/ H. Bradley Evans
H. Bradley Evans
Guardian ad litem for Anita Georgianna Ferguson

V I R G I N I A :

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

COMMONWEALTH OF VIRGINIA	)	
	)	
vs.	)	M-2693
	)	
ANITA G. FERGUSON, an infant	)	

NOTICE OF APPEAL

AND

ASSIGNMENTS OF ERROR

Pursuant to Rule 5:6 of the Supreme Court of Virginia, notice of appeal by the guardian ad litem and the Commonwealth of Virginia is hereby given and the following errors are assigned:

1. The Court's decision was in error as a matter of law.

2. The Court's decision was not supported by the evidence.

3. The Court's decision constituted an abuse of discretion.

4. The Court erred in refusing to allow representatives of the Department of Social Services to testify as to the standards and conditions required in adoptive homes.

5. The Court erred in refusing to allow the proposed adoptive parents to intervene and re-open the case.

JOHN E. KENNAHAN
Commonwealth Attorney

By /s/
Elsie Powell

/s/
H. Bradley Evans, Jr.
Guardian ad Litem to
Anita Georgianna Ferguson, an infant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was delivered to counsel to George Hayes, Paul L. Delaney, this ____ day of October, 1973.

H. Bradley Evans, Jr.