218 Va. 264 CLERK
SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 760403

MARJORIE G. JACOBS,
Appellant,

v.

CHARLES G. JACOBS AND
CHERYL V. SILL,
Appellees.

JOINT APPENDIX

Calvin H. Childress
Kelberg and Childress
533 Newtown Road, Suite 101
Virginia Beach, Virginia 23462
Counsel for Appellant

Glenn B. McClanan
Attorney and Counsellor at Law
Kempsville Professional Center
425 South Witchduck Road
Virginia Beach, Virginia 23462
Counsel for Appellees

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12150 BOOK 1186 PAGE 482 # 2250

THIS DEED, Made this 18th day of December, 1970, by and between CHARLES G. JACOBS and MARJORIE G. JACOBS, husband and wife, parties of the first part, and MARJORIE G. JACOBS, party of the second part.

WITNESSETH:

That the said CHARLES G. JACOBS, for and in consideration of the love and affection which he has for his wife, MARJORIE G. JACOBS, does hereby grant and convey with general warranty, with English covenants of title, unto his wife, MARJORIE G. JACOBS, party of the second part, the following described property, to-wit:

> All that certain lot, piece or parcel of land, with the appurtenances thereunto appertaining, situate, lying and being in the City of Virginia Beach, Virginia, and designated and described on a certain plat or survey entitled "Subdivision of Aragona Village, Section 6, Princess Anne County, Va.", dated July, 1956, and made by Frank D. Tarrall, Jr. & Associates, Surveyors and Engineers, which plat is duly of record in the Clerk's Office of the Circuit Court of Virginia Beach, Virginia, in Map Book 44 at page 23, and designated and described on said plat as LOT NUMBERED TWENTY-ONE (21), in Block NUMBERED SIXTEEN (16), reference to which plat is hereby made for a more particular description of said lot.
>
> It being the same property which was conveyed to Charles G. Jacobs and Marjorie G. Jacobs, husband and wife, by deed from J. S. Gleason, Jr., Administrator of Veterans' Affairs, an Officer of the United States of America, by deed dated August 10, 1962, and recorded in the aforesaid Clerk's Office in deed book 744 at page 570.

This conveyance is made expressly subject to the lien of a first deed of trust from Charles G. Jacobs and Marjorie G. Jacobs, husband and wife, to Vernon L. Duncan and William G. Talley, Trustees, dated August 10, 1962, and duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, in Deed Book 744 at page 752, securing a certain note in the original principal amount of $14,950.00, the unpaid balance of which the party of the second part hereby assumes and agrees to pay as evidenced by her signature hereto.

MURPHY, BENNETT & GORRY, ATTORNEYS AT LAW, VIRGINIA BEACH, VIRGINIA

WITNESS the following signatures and seals.

Charles G. Jacobs (SEAL)
Charles G. Jacobs

Marjorie G. Jacobs (SEAL)
Marjorie G. Jacobs

STATE OF VIRGINIA,

CITY OF VIRGINIA BEACH, to-wit

I, Linda H. Phillips, a Notary Public in and for the City aforesaid in the State of Virginia, do hereby certify that Charles G. Jacobs and Marjorie G. Jacobs, whose names are signed to the foregoing writing bearing date on the 18th day of December, 1970, have acknowledged the same before me in my City and State aforesaid.

GIVEN under my hand this 18th day of December, 1970.

Linda H. Phillips
Notary Public

My Commission Expires:
September 24, 1974

VIRGINIA:
IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF VIRGINIA BEACH 31st DAY OF Dec 1970 AT 10:33 A.M.
THIS INSTRUMENT WAS RECEIVED AND UPON THE CERTIFICATE OF ACKNOWLEDGEMENT THERETO ANNEXED, ADMITTED TO RECORD.
THE TAXES IMPOSED BY § 58-54, (a) AND (b), OF THE CODE HAVE BEEN PAID
TESTE JOHN V. FENTRESS, CLERK BY Mary E. Cooper D.C.

Bruce Murphy, Atty
1/4/71

Teste: John V. Fentress, Clerk
Mary E. Cooper D. C.

THIS DEED, Made this 21st day of February, 1974, by and between MARJORIE G. JACOBS and CHARLES G. JACOBS, her husband, parties of the first part, and CHARLES G. JACOBS, party of the second part.

WITNESSETH:

That the said MARJORIE G. JACOBS, for and in consideration of the love and affection which she has for her husband, CHARLES G. JACOBS, does hereby grant and convey with general warranty, with English covenants of title, unto her husband, CHARLES G. JACOBS, party of the second part, the following described property, to-wit:

> All that certain lot, piece or parcel of land, with the appurtenances thereunto appertaining, situate, lying and being in the City of Virginia Beach, Virginia, and designated and described on a certain plat or survey entitled, "Subdivision of Aragona Village, Section 6, Princess Anne County, Va.", dated July, 1956, and made by Frank D. Tarrall, Jr. & Associates, Surveyors and Engineers, which plat is duly of record in the Clerk's Office of the Circuit Court of Virginia Beach, Virginia, in Map Book 44, at page 23, and designated and described on said plat as LOT NUMBERED TWENTY-ONE (21), in Block NUMBERED SIXTEEN (16), reference to which plat is hereby made for a more particular description of said lot.
>
> It being the same property which was conveyed to Marjorie G. Jacobs by deed of Charles G. Jacobs and Marjorie G. Jacobs, dated December 18, 1970, and recorded in the aforesaid Clerk's Office in Deed Book 1186, at page 482.

This conveyance is made expressly subject to the lien of a first deed of trust from Charles G. Jacobs and Marjorie G. Jacobs, husband and wife, to Vernon L. Duncan and William G. Talley, Trustees, dated August 10, 1962, and duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, in Deed Book 744, at page 752, securing a certain note in the original principal amount of $14,950.00, the unpaid balance of which the party of the second part hereby assumes and agrees to pay as evidenced by his signature hereto.

WITNESS the following signatures and seals.

Marjorie G. Jacobs (SEAL)
Marjorie G. Jacobs

Charles G. Jacobs (SEAL)
Charles G. Jacobs

MURPHY, BERNETT & GORAT, LTD., ATTORNEYS AT LAW, VIRGINIA BEACH, VIRGINIA

STATE OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit:

I, Frank C. Wittebourg, a Notary Public in and for the City aforesaid in the State of Virginia, do hereby certify that Marjorie G. Jacobs and Charles G. Jacobs, whose names are signed to the foregoing writing bearing date on the 21st day of February, 1974, have acknowledged the same before me in my City and State aforesaid.

GIVEN under my hand this 21st day of February, 1974.

Frank C. Wittebourg
Notary Public

My Commission Expires: 11-7-76

MURPHY, BENNETT & CROWN, ATTORNEYS AT LAW, VIRGINIA BEACH, VIRGINIA

VIRGINIA: In the Clerk's Office of the Circuit Court of Virginia Beach, 25 Feb February, 19 74 at 11:46, this instrument was received and upon the certificate of acknowledgment thereto annexed, admitted to record. The tax imposed by Par. 55-54.1 of the Code has been paid, in the amount of $ _____

TESTE: JOHN V. FENTRESS, Clerk By Mary E. Cooper D. C.

A Copy Teste: John V. Fentress, Clerk

By Mary E. Cooper D. C.

THIS DEED, Made this 21st day of June, 1974, by and between CHARLES G. JACOBS and CHERYL V. SILL, parties of the first part, and CHERYL V. SILL, party of the second part.

W I T N E S S E T H:

That the said CHARLES G. JACOBS, for and in consideration of the love and attention she has paid to the premises, does hereby grant and convey with general warranty, with English convenants of title, unto CHERYL V. SILL, party of the second part, the following described property, to-wit:

All that certain lot, piece or parcel of land, with the appurtenances thereunto appertaining, situate, lying, and being in the City of Virginia Beach, Virginia, and designated and described on a certain plat or survey entitled, "Subdivision of Aragona Village, Section 6, Princess Anne County, Va.", dated July, 1956, and made by Frank D. Tarrall, Jr. & Associates, Surveyors and Engineers, which plat is duly of record in the Clerk's Office of the Circuit Court of Virginia Beach, Virginia, in Map Book 44, at page 23, and designated and described on said plat as LOT NUMBERED TWENTY-ONE (21), in Block NUMBERED SIXTEEN (16), reference to which plat is hereby made for a more particular description of said lot.

It being the same property which was conveyed to CHARLES G. JACOBS by deed of Charles G. Jacobs and Marjorie G. Jacobs, dated February 21, 1974, and recorded in the aforesaid Clerk's Office in Deed Book 1404, at page 6.

This conveyance is made expressly subject to the lien of a first deed of trust from Charles G. Jacobs and Marjorie G. Jacobs, husband and wife, to Vernon L. Duncan and William G. Talley, Trustees, dated August 10, 1962, and duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, in Deed Book 744, at page 752, securing a certain note in the original principal amount of $14,950.00, the unpaid balance of which the party of the second part hereby assumes and agrees to pay as evidenced by his signature hereto.

WITNESS the following signatures and seals.

Cheryl V. Sill (SEAL)
CHERYL V. SILL

Charles G. Jacobs (SEAL)
CHARLES G. JACOBS

V

STATE OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit:

I, Martha C. Williams, a Notary Public in and for the City aforesaid in the State of Virginia, do hereby certify that CHERYL V. SILL and Charles G. Jacobs, whose names are signed to the foregoing writing bearing date on the 21st day of June, 1974, have acknowledged the same before me in my city and state aforesaid.

GIVEN under my hand this 21st day of JUne, 1974.

Martha C. Williams
Notary Public

My Commission Expires: May 20, 1977.

VIRGINIA: In the Clerk's Office of the Circuit Court of Virginia Beach 24 H 20
for June 19 74 at 9:04, this instrument was received and upon the certificate of acknowledgment thereto annexed, admitted to record. The tax imposed by Par. 58-54.3 of the Code has been paid, in the amount of $
TESTE: JOHN V. FENTRESS, Clerk By: Jeanette J. Jones

Mr. Cheryl V. Sill
4853 Holly Grove Rd
Va. Beach, Va. 23455

***

21 A Marjorie Grace Jacobs.

22 Q Are you the complainant in this matter?

23 A Yes, sir.

24 Q Are you married to the defendant, Charles

25 G. Jacobs?

A Yes, sir.

Q There is a divorce suit pending between you?

A Yes, sir.

Q Now, directing your attention to this marriage, could you tell us whether or not this was an easy marriage or turbulent marriage? Could you characterize it?

***

***

Q How would you characterize this marriage, the way your husband treated you?

A Well, he was mean and vicious. He was always beating me and the kids up.

Q Now, directing your attention -- was there any time in your marriage that he threatened your life?

A On quite a few times. When we were down in Georgia, he got a butcher knife at me. I had him arrested, put in jail and I will --

Q What happened? Did you get him out?

A Yes, I got him out because he told me if I didn't come and get him out he would come and kill me.

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CERTIFIED SHORTHAND REPORTERS
COURT REPORTERS
NORFOLK, VIRGINIA

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Q After he got out, how did he treat you?

A He was wonderful for a year then he started drinking, started beating us up again.

Q Did you -- did there come a time -- when you say "us" who is us?

A Me and the two girls.

Q Were their children adopted to this marriage?

A Yes, sir.

Q What are their names?

A Mae and Marie.

THE COURT: Their ages at the present time?

THE WITNESS: Twenty and twenty-one.

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Q Now, tell us what happened when you got

back here. How did he treat you?

A Well, he started beating us up again and I had to have him arrested and he would get out of it because I was supposed to appear in court on Thursday and they would try him on Monday.

Q Did there come a time in the seventies when you in fact separated and instituted a divorce?

A Yes, sir.

THE COURT: '70?

MR. CHILDRESS: 1970.

BY MR. CHILDRESS:

Q You got an a mensa decree?

A Yes.

Q You reconciled with him?

A Yes, sir, he was out of a job. He told me if I would take him back that he would give me the house, he would be good and not beat on us any more. That lasted about a week.

Q That's when?

THE COURT: This was dismissed. I assume they became reconciled?

MR. CHILDRESS: Yes, sir.

1 BY MR. CHILDRESS:

2 Q A mensa was vacated after that. Tell us

3 what happened.

4 A Well, he still drank a lot and every

5 weekend especially. He wasn't working. He would get

6 drunk and just sit and think of things to do and he would

7 beat us up. I won't forget our twenty-fifth wedding

8 anniversary.

9 Q Do you remember the date of that?

10 A Let me see. Seven or eight years ago --

11 I really don't remember but we were saving silver. He was

12 going to try and give me my weight in silver. Our friends

13 had a big party on that night. He didn't have enough

14 silver to give me my weight in silver. I only weigh

15 eighty-five pounds. After that, he beat me. I had to stay

16 in bed a week. He would beat me just to --

17 Q After he had given it to you at that

18 party?

19 A Yes, sir.

20 Q In relation to a birthday party that your

21 daughters gave you in 1972, tell us about that.

22 A Well, he said that they couldn't -- if

23 they couldn't give him a party, they wasn't going to give me

24 a party so he ran all our friends away and after they left,

25 he started beating on us.

Q Now, did there come a time when he got a shotgun around this period of time?

A Yes, sir, he did.

Q Tell us about the shotgun.

A He said he was going to kill me with it so we got home and she can tell you the whole story. When she moved there, he called me in there in the bedroom and I sat down. He flapped that gun on my shoulder and blew a hole in the wall.

Q Fired it while it was on your shoulder?

A Yes, sir, then he got afraid and took it apart and took it back the next day.

Q Now, this was all in 1972 and 1973?

A Yes, sir.

Q Did there come a time in '72 when he chased the daughters out of the house?

A Yes, sir.

Q And just quickly --

THE COURT: What were the ages in '73?

THE WITNESS: Eighteen and Nineteen.

BY MR. CHILDRESS:

Q In November, you rented a trailer for them to live in?

A Yes, sir.

Q Did you then remain with him?

A Yes, sir.

Q Why did you remain with him?

A Well, he said that it was the girls' fault because we were getting in such fights and said we would get along good after they left. It lasted a while until he met up with certain people that --

Q How long did it last?

A Well, from November until December.

Q And what happened in December?

A Well, I worked. I had a good job and I was working. I came home that night. As soon as I walked in the door, he grabbed me in my hair and he hit me right in the nose. He said I had been whoring around instead of working.

Q Was that New Year's Eve -- last day of '72?

A Yes, sir.

Q What did you do then?

A I ran outside and he came out and jerked me back in by my hair and finally I got loose and went across the street and that man came over and talked with him so I could get some clothes and get out of there.

Q Where did you move?

A With the girls.

JAMES & BROWNING
CERTIFIED SHORTHAND REPORTERS
COURT REPORTERS
NORFOLK, VIRGINIA

Q For the month of January 1974, how was the situation?

A It was wonderful. He didn't know where I was.

Q Then, could he find you in February of 1974?

A Yes, sir, he really did.

Q What happened then?

A He broke in my trailer a few times. He would come down where I was working. He got me fired from my job, pushed me around and cussed me out, so they fired me.

Q Did he call you?

A He used to take his girls over there at the house and they would call me and threaten me and ask me to meet them out -- oh, just terrible.

Q Did there come a time when he mentioned this real estate to you?

A Yes, sir, he bugged me for about a week and I said, "Jack, I am not going to sign it." That's all. One day, I had just gotten off work and I was laying down on the couch. He broke in and grabbed me and said, "You are going to sign this today or I am going to kill you." So, he drug me out, took me out and made me sign it.

Q Where did you sign it?

A Down at Green-Gifford.

Q Did he pay you anything?

A No, sir.

Q Why did you sign the deed?

A I was afraid because he said he was going to kill me and I am afraid of that man. He is --

Q Did you feel that this might give you some peace and quiet if you signed it?

A Yes, sir. When I signed it, the Notary Public will tell you -- if he would tell it -- I said, "Now, Jack, I have signed it. Please leave me alone." But he still would not leave me alone. Everytime he comes in town he has got to call me and cuss me and threaten me.

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JAMIE & BROWNING
CERTIFIED SHORTHAND REPORTERS
COURT REPORTERS
NORFOLK, VIRGINIA

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2 Q No, ma'am, did you know that what you were
3 signing was a deed?
4 A I understood him to say I was supposed to
5 be signing to put the house back in his name and my name.
6 That's what I was supposed to have signed, not to him only,
7 back in his and mine.
8 Q But I thought you testified that what you
9 told Judge Ackiss earlier that it was under these great
10 threats and fear for your life that you conveyed the property
11 to the husband.
12 A It was but it was still supposed to have
13 been in both of our names like it was.
14 Q Didn't you tell Judge Ackiss earlier that
15 it was under this fear of your life and so on that you conveyed
16 the property to your husband?
17 A Yes, sir.
18 Q That is your testimony. That was your
19 testimony to Judge Ackiss?
20 A Yes, sir.

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CERTIFIED SHORTHAND REPORTERS
COURT REPORTERS
NORFOLK, VIRGINIA

***

2 Q And Mrs. Jacobs, you-all went together
3 into the Green-Gifford business?
4 A He forced me. He practically drug me
5 in there.
6 Q I understand. Well, isn't the Green-
7 Gifford premises a rather busy place?
8 A Not that day, it wasn't.
9 Q What time of day was it?
10 A Let's see. I got off of work about
11 three-thirty. It was about four-thirty or five o'clock.
12 Q As I recall the premises, isn't it a
13 large, wide,open lot?
14 A Yes, it is, yes, sir.
15 Q Is it not an enclosed business, one
16 that is completely enclosed in glass?

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24 Q As I recall their showroom, it is a very
25 large area enclosed in glass.

1 A Yes, sir.
2 Q As I recall their offices, they are all
3 open offices without closed doors primarily.
4 A No, sir.
5 Q They are not?
6 A He took me back in -- back in there. It
7 was just me and him and this other guy was in there was all.
8 Q All right and you folks went in and you
9 asked if there was a Notary Public at Green-Gifford?
10 A Yes, Jack did, yes.
11 Q Then in the presence of the Notary Public,
12 you both proceeded to sign the deed?
13 A Yes, sir.
14 Q All right and was anyone holding your
15 hand at that time?
16 A Sir, I lived with my husband for thirty
17 years.
18 Q Yes, ma'am.
19 A Okay. He is mean, a drunkard and very
20 vicious. He has beat me and the kids. He said, "I will
21 kill you." He still says he is going to kill me. He will
22 get me one day. I wished he had have been here today.
23 Q Okay but was Mr. Jacobs holding your hand?
24 A No, he wasn't holding my hand.
25 Q Was he physically touching you in any way?

1 A He drug me out of my trailer and took me
2 in the car.
3 Q That day at Green-Gifford, was he
4 physically touching you in any way?
5 A No, but if you could look at him when he
6 was drunk, I think you would shudder.
7 Q Was he drunk that day?
8 A Yes, he was. He stays drunk all the
9 time.
10 Q How many times have you folks reconciled?
11 A Once.
12 Q You have only returned to live with each
13 other once?
14 A That's all.
15 Q Then you have lived together constantly,
16 I assume, for almost thirty years?
17 A That's right.
18 Q This conduct in which you are in such a
19 tremendous fear, has existed for this thirty years?
20 A No, not for thirty years.
21 Q Since when?
22 A Since they arrested him and put him in
23 jail in Georgia.
24 Q When did you live in Georgia?
25 A '67 -- '68 -- something like that. Down

1 there for about three years.

2 Q How about the wedding anniversary occasion?

3 A That was up here.

4 Q In Virginia Beach?

5 A Yes.

6 Q What year did that happen?

7 A I don't remember. I really don't.

8 Q Prior to this, I take it?

9 A Um-hum.

10 Q Five years before this -- four years?

11 A No -- seven or eight. I really don't

12 remember.

13 Q You folks lived together after that event;

14 didn't you?

15 A Yes.

16 Q So, six years after the event?

17 A Well, we adopted two girls. I didn't

18 have a job. I didn't have money to take care of my girls.

19 I tried to make a home and to live with my husband to take

20 care of my girls and at times he would be decent then he

21 wouldn't be decent but I was trying but as soon as they got

22 old enough, he kicked them out and I couldn't take any more

23 beatings so I left then too.

24 Q You did what?

25 A I left.

Q Where in Norfolk were you living on February 21, Mrs. Jacobs?

A 861 North Military Highway.

Q And where is that?

A It's not there anymore. It used to be a trailer park, Wayside Trailer Park.

Q Is it down almost at the intersection with Little Creek Road?

A No. You know where Military Mall is? Right across the street.

Q I understand. On the other side of Interstate 64 from Green-Gifford?

A Yes.

Q On the west side I suppose about four miles away from --

A I don't see what that's got any difference.

Q Is four miles a fair approximation?

A I really don't know.

Q Well, tell us in your own words the best that you are able to describe what the distance is.

A What?

Q Would you tell us the best that you can the distance from where you lived to the Green-Gifford business.

A I am not good in judging distance. I

1 really don't know. I would say about a mile.
2 Q And are you able to tell us the number of
3 people that were at the Green-Gifford on the day when you were
4 there?
5 A No. I wouldn't even recognize the
6 Notary Public because I was all shook up. I wouldn't even
7 know him.
8 Q Were other people there?
9 A I don't know.
10 Q You don't know if other people were there
11 or not?
12 A No, I don't.
13 Q Well, what were the circumstances under
14 which you and your husband conveyed the property to you in
15 1970?
16 A We were separated. He didn't have a job.
17 He begged me to come back and he said, "If you will take me
18 back, I will give you the home."
19 THE COURT: And it was conveyed to you
20 then?
21 THE WITNESS: Yes, sir.
22 THE COURT: Now, on the deed of February
23 21, 1974, who prepared that deed; do you know?
24 THE WITNESS: I don't know, sir.
25 THE COURT: When did you first see the

deed?

THE WITNESS: All I have seen was that piece of paper I signed and I didn't even read that.

THE COURT: You didn't read the deed?

THE WITNESS: No, sir.

THE COURT: Did the Notary Public ask you?

THE WITNESS: He didn't say nothing. He just put it down and said, "Sign it." And I signed it.

THE COURT: How far did you go in school?

THE WITNESS: Tenth grade.

THE COURT: You could read, couldn't you?

THE WITNESS: I was all shook up.

THE COURT: Would the Notary know whether you were crying or not?

THE WITNESS: He knew, yes, sir. He looked, you know, after I signed it when I said what I did. He turned around and looked at me real funny.

THE COURT: Did he ever tell the Notary that you didn't want to sign it?

THE WITNESS: No, sir.

THE COURT: All right. Go ahead.

***

2 Q Paragraph six, "That the defendant,
3 Charles G. Jacobs, is a man of violent temper and on numerous
4 occasions has severely beaten your complainant about her face,
5 body and extremities with his fists, the last such occasion
6 being in the evening of December 31, 1973; that in reasonable
7 fear of bodily harm, your complainant removed herself from the
8 home of the parties and since said date the separation between
9 the parties has been continuous and uninterrupted without
10 cohabitation; that, in addition, the defendant has committed
11 adultry in that he has openly and brazenly lived with another
12 woman in the former marital home of the parties such open
13 adultry commencing on or about the 22nd day of February, 1974
14 and continuing to the date of the filing hereof." Paragraph
15 seven says, "That the defendant continues to beat, strike and
16 physically abuse your complainant, that he continuously
17 enters into the premises solely owned by her, that he continues
18 to harrass, bother and call her at her prior employment -- "

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CERTIFIED SHORTHAND REPORTERS
COURT REPORTERS
NORFOLK, VIRGINIA

***

10 Q I do want to get one thing straight.
11 Your reference to a lover or paramour, has nothing to do
12 with Mrs. Sill?
13 A I don't know why he would give her the
14 house for nothing.
15 Q You are not making any allegations
16 against this lady?
17 A Somebody, I don't know.
18 Q You are not?
19 A I am not saying for sure it's her because
20 I don't know who it was, but it was some lady.

***

CERTIFIED SHORTHAND REPORTERS
COURT REPORTERS
NORFOLK, VIRGINIA

***

4 Q For the record, would you state your name?
5 A Sophia Marie Jacobs; 5056B Lauderdale
6 Avenue.
7 Q Are you the adopted daughter?
8 A Yes, sir.
9 Q How long have you lived in the house with
10 them?
11 A Until I was nineteen.
12 Q Prior to that time, how long?
13 A I don't understand.
14 Q Were you living in the house with them --
15 THE COURT: I didn't get the date. When
16 was she adopted?
17
18 BY MR. CHILDRESS:
19 Q When did you first start living with them?
20 A Six years old.
21 Q Were you living with them when they were
22 in Georgia?
23 A Yes, sir.
24 Q Could you tell us if there was an occasion
25 there regarding Mr. Jacobs and Mrs. Jacobs that was not in the

1 normal course of affairs?

2 A Yes, sir.

3 Q What was that?

4 A When I was about eleven years old, they
5 were supposedly taking him to the hospital to see a doctor
6 and when he came back it was about ten o'clock at night and
7 my two sisters and I were already in bed and we heard them
8 fighting and he had a knife and cut off all her clothes and
9 we started crying and he said if we didn't go back to bed he
10 would kill us too.

11 Q Did you live in the house when they came
12 back to Norfolk -- Virginia Beach area?

13 A Yes.

14 Q Now, back up here. Do you recall about
15 when they got back in the Virginia Beach area?

16 A It was about in 1968.

17 Q How did he treat her after that time?

18 A He still would beat up on her all the
19 time especially on weekends. He would always drink and stay
20 drunk all the time and he would argue about any little thing
21 he could find and he would start beating her and we would
22 start to help her and he would beat us too and threaten us
23 and everything.

24 Q Now, in the -- do you recall the
25 twenty-fifth anniversary of your mother and Mr. Jacobs?

1 A Yes, sir.

2 Q Could you tell us what happened on that

3 occasion?

4 A Well, we had saved up a lot of silver for

5 about two or three years and he was going to give it to her

6 for her twenty-fifth anniversary and they went to a party and

7 that night he came home and he said he wanted the money back

8 and he beat her up real bad and he kicked her and everything

9 and she was in bed for about a week.

10 Q Now, did there come a time in 1972 when

11 you and your sister gave a birthday party for your mother?

12 A Well, we had -- it was at her birthday

13 we had invited some friends over and he got real mad because

14 he said we never gave him a party or anything like that so he

15 made our friends go home and he started beating her.

16 Q Do you recall anything about a shotgun

17 blast?

18 A Yes, sir.

19 Q What was that?

20 A He had gone out one day and bought this

21 shotgun and he had threatened to kill her with it and we were

22 outside on the patio and he was -- at the time he had went and

23 got in bed and he shot it at her and it made a big hole in the

24 wall.

25 Q Did you see the hole in the wall?

A Yes, sir.

Q Did you hear the shot?

A Yes, sir.

Q Where were you at that time?

A Outside on the patio.

Q Did you go look at the wall?

A Yes, sir.

Q And how did he treat her, you say, on the weekends?

A He would always sit and get drunk all the time and she would cook supper or something and he would argue about what we cooked. He didn't like it and he would argue and throw it all over the place and start beating on her.

Q What would you and your sister do?

A We would take up for her and then he would get mad and throw us around.

MR. CHILDRESS: Answer any questions counsel might have.

CROSS-EXAMINATION

BY MR. McCLANAN:

Q I didn't get your address, ma'am.

A 5056B -- Apartment B Lauderdale Avenue.

Q In Virginia Beach?

A Um-hum.

Q Now, when did your mother and father separate prior to February 21, 1974?

A You mean before then?

Q Yes, ma'am.

A They separated once in 1970. For about six months, they were separated.

Q All right and what was their living pattern after that? I take it they reconciled in 1970?

A Yes, sir. He would always come by and bother us the whole time they were separated, call us on the phone all hours of the night, kept coming and kicking the door in and all that and he said he would be real good if she took him back and signed the house over in her name so that if he started on her again he wouldn't give the house away.

Q Okay. So, did they live together from that point until February of 1974?

A Yes, sir, until he started beating on her again.

Q But were they living together on February 21, 1974 or not?

A No, they separated in January. New Year's Eve is the last time he beat her up and she came and stayed with me and my sister.

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NORFOLK, VIRGINIA

1 Q Where did you and your sister live?
2 A In a trailer park over there on Military
3 Highway.
4 Q Where on Military Highway is the trailer
5 park?
6 A It's not there anymore. They built a
7 motel there.
8 Q Where was it now?
9 A It was right across -- I don't know the
10 number but it was right across from Military Circle.
11 Q All right. Now, do you know where the
12 Green-Gifford Motor Car Company is or Motor Company is?
13 A No, sir.
14 Q Do you know where the road is that turns
15 to go to the Norfolk Airport off Military Highway?
16 A Yes, sir.
17 Q How far was your trailer court from that?
18 A About a mile and a half.
19 Q All right. Well, did you have occasion
20 to be home on February 21, 1974?
21 A No, sir.
22 Q Was your sister at home?
23 A As far as I know, she was.
24 Q But you were not home?
25 A No, sir.

1 Q Does Mr. Jacobs have a criminal record?
2 A As far as I know he has been in the
3 insane asylum once.
4 Q I mean a criminal record. Has anyone
5 ever charged him with assault or disorderly conduct or cursing
6 and abusing, this sort of thing?
7 A Just my sister and my mom. He has been
8 to court several times for that.
9 Q But on each occasion, your mother has
10 continued to -- or after each occasion, Mrs. Jacobs continued
11 to live with Mr. Jacobs?
12 A Yes, sir.
13 Q In the same house?
14 A Because he always threatened her if she
15 left he would find her and kill her.
16 Q Didn't he have a job that he worked during
17 the day?
18 A Yes, sir.
19 Q And your mother was home all during every
20 day?
21 A Yes, sir.
22 Q And he was gone at least ten hours, I
23 take it, each day -- eight to ten hours?
24 A Yes, sir.
25 Q She was home during those hours?

A Yes, sir.

Q And you know nothing at all about February 21, 1974?

A No, sir.

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20 Q For the record, would you state your name
21 and present address, please?
22 A Mae Jacobs; Lauderdale Road with my
23 sister, Marie; Virginia Beach.
24 Q How old are you, Mae?
25 A Twenty.

1 Q Are you the adopted daughter of Marjorie
2 Jacobs and Charles G. Jacobs?
3 A Yes, sir.
4 Q When did you go to live in the home with
5 Charles G. Jacobs and Marjorie G. Jacobs?
6 A When I was six years old.
7 Q Were you living in the home when they
8 lived down in Georgia?
9 A Yes, sir.
10 Q Could you tell us what occurred down there
11 if anything unusual between the parties?
12 A Well, Uncle Jack sort of went crazy, I
13 guess. He was put in an insane asylum. He beat on Aunt
14 Marjorie and stuff.
15 Q Why was he put in a mental institution;
16 do you recall?
17 A One time when he pulled a knife on her,
18 we were all in the bedroom and Marjorie called for us. We
19 had our other sister with us then and we went in there. He
20 had a knife. He had already cut her clothes off of her and
21 he said if we went in there he was going to use a knife on
22 us. So, he ended up throwing her out that night. We used
23 to keep clothes out in the little room for her.
24 Q How did he treat your mother other than
25 normally?

1 A Sometimes he would treat her nice.
2 Q The rest of the time, what happened?
3 A He would be drinking too much or something.
4 Q What would he do?
5 A Beat her up.
6 Q Did there come a time when you-all came
7 back to Virginia Beach?
8 A Yes, sir.
9 Q Do you recall about when that was?
10 A I don't remember.
11 Q Do you remember when your mother and Mr.
12 Jacobs were separated for awhile in 1970?
13 A Yes, sir.
14 Q About how long were they separated?
15 A About six months.
16 Q Remember when they came back to live
17 together again?
18 A Yes, sir.
19 Q Could you tell us how he treated your
20 mother after that period of time from 1970 on?
21 A I think he treated her all right for
22 awhile but he always went back to the same thing.
23 Q And what was that?
24 A Beating her up again.
25 Q What would you and your sister do if he

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1 was beating on her?

2 A We would go in and try to help her so he

3 tried getting us all three.

4 Q Do you remember the situation of your

5 mother's and your father's twenty-fifth wedding anniversary?

6 A Yes, sir.

7 Q What happened on that time?

8 A Well, we saved up silver and stuff and

9 he saved up one hundred-dollar bills and he gave them to her

10 on her birthday. I mean on her anniversary. We went to

11 a party and then turned around and told her he wanted it back

12 and beat her up in that -- she ended up in bed for about a

13 week because he kicked her in the stomach and messed her up

14 in the face and everything.

15 Q Do you remember an occasion when you and

16 your sister were going to give a birthday party for her in

17 1972?

18 A Yes. He got mad and said we never

19 gave him one and we should have done that on her anniversary

20 and made our friends go home and started on her again.

21 Q When you say, "started on her," what did

22 he do?

23 A Beating on her.

24 Q Do you remember the incident of the

25 shotgun?

1 A He went down and got a shotgun. It was
2 like he was aiming it at her but he went over her shoulder and
3 through the wall -- through the next room.
4 Q Did you hear the explosion?
5 A Well, we were outside playing.
6 Q Did you come in and see the hole on the
7 wall?
8 A Yeah, later.
9 Q Did there come a time when you and your
10 sister no longer lived at this address on Honey Grove Road?
11 A Yes, sir.
12 Q When was that?
13 A I don't remember.
14 Q Around August 1973, in that period of
15 time?
16 A Yes, sir.
17 Q Where did you-all go then?
18 A Marjorie had gotten us a trailer that we
19 could stay in.
20 Q Did there come a time when your mother
21 joined you-all at the trailer?
22 A New Year's Eve a year ago -- two years
23 ago. Uncle Jack beat her up again and she came over.
24 Q Did you see what your mother looked like
25 when she came to join you?

1 A She was just bruised up as usual, not
2 anything different.
3 Q Did you remain in the trailer then with
4 your mother for awhile?
5 A Yes, sir.
6 Q How was the month of January of 1974 when
7 your mother was in the trailer?
8 A It was all right because he didn't know
9 where we lived for awhile.
10 Q Then what happened in February?
11 A He started coming back around and breaking
12 in on us and everything else. There was a department store
13 next to us and he would sit out there and just stare at the
14 trailer.
15 Q Were you at home when he broke in?
16 A I was there one time when he broke in.
17 Q And what was the reaction of your mother
18 if you could tell?
19 A We both were scared.
20 Q Did he harass you or bother you in any
21 other ways?
22 A Just sit down there. We would go out
23 dancing or something. He found out where we were dancing so
24 he came in there and he would sit across the room from us and
25 he would start hollering real dirty things at us and everything.

MR. CHILDRESS: Would you answer any questions counsel might have.

CROSS-EXAMINATION

BY MR. McCLANAN:

Q Miss Jacobs, were you home on February 21, 1974 at your trailer?

A I guess so because I was living there then.

Q Well, were you or were you not at home the day that Mr. and Mrs. Jacobs executed the deed that is at issue here?

A No, I wasn't there then.

Q You weren't there at all that day?

A I was there but I was probably gone by then because I worked at B P gas station across the street.

Q I see. So, you were not at home when they left to go execute the deed?

A No, sir.

Q Do you know of your own knowledge how many times your father and mother had bought and sold -- had bought and sold homes?

A No, I don't.

Q Did they buy a home in Georgia?

A I don't know whether they were buying or

1 renting it. We lived in two in Georgia.

2 Q Two different homes?

3 A Yes, sir.

4 Q You bought the home in Virginia Beach

5 that your parents -- your parents bought a home in Virginia

6 Beach?

7 A Yes, sir.

8 Q Then, you know of your own knowledge that

9 by a deed, the property was conveyed to your mother at one

10 point; is that true?

11 A Yes, sir.

12 Q About how far is the trailer or was the

13 trailer that you lived in from the Green-Gifford Motor Company?

14 A Where is that?

15 Q How far is it from the intersection of

16 the airport road, Military Highway and Airport Road?

17 A You mean when we first lived in the

18 trailer or the last place?

19 Q Wherever you lived on February 21, 1974?

20 How far is that from Airport Road or --

21 A It's down -- it's not that far down

22 Military Highway. About five or ten minutes drive I guess.

23 Q Five or ten minute drive away. And

24 after each occasion that you described to Judge Ackiss, your

25 mother continued to live with your father; is that right?

1 A Yes, sir.

2 Q And your father worked during the day --

3 your father worked at a job?

4 A Yes, sir.

5 Q And your mother was a homemaker?

6 A Yes, sir.

7 Q The events that occurred in February 1974

8 were similar to those that you had experienced earlier --

9 previously?

10 A They were all about the same. It depends

11 on how much he was drinking?

12 Q The events of February of 1974 were just

13 like the rest of your life?

14 A No, I mean he would come over because like

15 he would break in. He would come in to scare us and stuff

16 like that. There was one time I wasn't there but we had a

17 friend there that said he came in and pushed her around but

18 I wasn't there for that.

19 Q The same sort of conduct that you

20 experienced since Georgia?

21 A I didn't have because he would always

22 beat on me and he turned around and did it one night when we

23 got through dancing and stuff.

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15 Q Mr. Whitehurst, state your name, sir.

16 A Frank C. Whitehurst.

17 Q And Mr. Whitehurst, where do you work and

18 what is your position there?

19 A Green-Gifford Motor Corporation, secretary

20 and treasurer.

21 Q And how long have you been associated

22 with Green-Gifford firm?

23 A Sixteen years.

24 Q All right and you are secretary, treasurer

25 of that firm?

A Yes.

Q All right, sir. Is your firm located directly across the highway -- Military Highway from the road leading to the Norfolk Airport?

A Yes.

Q All right, sir and how far is your firm from Military Circle?

A I would say almost a mile.

Q All right, sir. Frank, would you describe for Judge Ackiss, the general layout of the Green-Gifford firm, the amount of area you have for car space.

A We have ten and three-quarter acres, seven hundred eighty feet on Military Highway.

Q All right, sir. Is the building situated in the middle -- basically in the middle of the main building?

A Yes.

Q And is your showroom encased in glass?

A Yes.

Q All right, sir and where is your office in the building?

A The general office is practically in the very center of the building.

Q And that's where your office is?

A Yes.

Q All right, sir. Is there a door on your

office at all?

A Yes.

Q All right, sir. I show you, Mr. Whitehurst, a certified deed and a copy of it and ask you if you can identify this deed.

(Shown to witness for examination.)

A Yes.

Q All right, sir and you are a Notary Public?

A Um-hum.

Q And you had the occasion to notarize this deed on Marjorie G. Jacobs and Charles G. Jacobs?

A Yes, sir.

Q All right, sir. Would you tell us now what you recall about these folks coming to your business?

A Evidently they came into the building and asked someone if we had --

MR. CHILDRESS: Your Honor, if he didn't see it, I would object to hearsay.

THE COURT: All right. It's what you know.

THE WITNESS: I know they entered the main office requesting a Notary.

BY MR. McCLANAN:

Q All right, sir and was the request for the Notary a joint request?

A I don't recall.

Q All right, sir and then what happened, Frank?

A I asked them what there was to be notarized and they showed me the deed and both signed it and notarized it.

Q You saw them both sign?

A Yes.

Q Did anyone -- did Mrs. Jacobs force Mr. Jacobs to sign the deed?

MR. CHILDRESS: If Your Honor please I think that is a leading question.

THE COURT: He can ask what he did, if anything.

BY MR. McCLANAN:

Q What did Mr. Jacobs do, if anything?

A I think that he showed Mrs. Jacobs where to sign on the deed.

Q What did Mrs. Jacobs do, if anything?

A Nothing other than signing it.

Q They both signed it then?

1 A Yes.
2 Q Did Mr. Jacobs touch Mrs. Jacobs --
3 MR. CHILDRESS: Again your Honor, I
4 think that is a leading question.
5 MR. McCLANAN: I don't believe that is
6 a leading question, Judge.
7 THE COURT: Rephrase it.
8
9 BY MR. McCLANAN:
10 Q All right. Were the persons separated
11 when they did their execution of the deed -- physically
12 separated?
13 A What do you mean? Like on one side of
14 a desk or other side of a desk?
15 Q It would probably be best to tell us how
16 they were placed.
17 A I think Mr. Jacobs was standing if I
18 recall and Mrs. Jacobs was sitting down at the desk.
19 Q Okay and they jointly requested that you
20 notarize the signature?
21 A To the best of my knowledge, yes.
22 Q Did Mrs. Jacobs say anything out of the
23 ordinary?
24 A Not to me. At the time, I think that
25 she seemed a little irritated with him but they were only in

the office maybe three minutes, I don't know.

Q Was she crying?

A No.

Q Did she say anything that you heard?

A No.

Q Let me inquire precisely, Frank, did she say, "Now that I have signed it, just leave me alone?"

A I don't recall.

Q You would recall --

MR. CHILDRESS: Your Honor, he is trying to -- of his own witness. The witness said he didn't recall.

THE COURT: That's as far as he can go. If he doesn't remember --

MR. McCLANAN: You don't remember her saying that?

THE COURT: Was anyone else in the office at the time?

THE WITNESS: No, there wasn't, your Honor.

THE COURT: Did you see anything to force his wife to sign this instrument?

THE WITNESS: No.

MR. McCLANAN: That's all there is to it. Was she shaking?

THE COURT: He said she appeared to be irritated.

MR. McCLANAN: Yes, I know.

THE COURT: He already answered it. He said she wasn't.

BY MR. McCLANAN:

Q And your response, Frank, to Judge Ackiss' question was no; is that right?

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Q You say the parties were in there a minute or two?

THE COURT: He said three minutes.

A About three minutes.

044

1 Q At the most, three minutes. Could it
2 have been as little as one minute?
3 A No, it would have taken longer than that.
4 Q A minute, two to three minutes?
5 A Yes.
6 Q You didn't really notice what the parties
7 were doing or what they were looking at; did you?
8 A No.
9 Q This was over a year ago and you don't
10 really recall; do you?
11 A I recall the incident.
12 Q But you don't really recall any of the
13 details; do you?
14 A No.
15 MR. CHILDRESS: I have no further
16 questions.

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5 Q And you remember notarizing deeds as
6 quite unusual?
7 A Yes.
8 THE COURT: You said she was irritated.
9 Did she appear to be frightened?
10 THE WITNESS: Not to me, your Honor, but
11 I don't think you could tell that unless you know
12 a person.
13 THE COURT: I see. Did you read her
14 the deed?
15 THE WITNESS: Did I read the deed?
16 THE COURT: Um-hum.
17 THE WITNESS: No, your Honor.
18 THE COURT: Did she seem to know that it
19 was a deed?
20 THE WITNESS: Yes, I think she did.
21 THE COURT: All right. Are you
22 through, gentlemen?
23 MR. McCLANAN: One further question.
24
25

BY MR. McCLANAN:

Q Mr. Whitehurst, how many people would you estimate were on the Green-Gifford floor at the time this occurred? How many sales persons and so on?

A Possibly anywhere from seven to ten people in that general area of the building.

Q And at the time this signing, was your door opened or closed?

A No, the office door stays closed all the time.

Q All right. But you have to go through the entire showroom or through the showroom to get to your office?

A Either through the showroom or through the main doors that cross the building.

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8 THE COURT: Mr. Childress, I don't have
9 any corroboration of her testimony that induced
10 her to sign this deed. I don't have any other
11 than her statement.

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1 THE COURT: Why don't you ask the court
2 to set aside a deed based solely on her testimony.
3 Isn't that what it amounts to?

THE COURT: I am not convinced, Mr. Childress. I am just not convinced based on her testimony. Now, she had all the opportunity in the world. They were married thirty years. All the opportunity in the world to get out of this situation. Now, she waited until after she had signed the deed, some two months, then she instituted the divorce suit and they apparently left from this area.

MR. CHILDRESS: No, sir, he was here at that time. He filed pleadings in the divorce action and he was here for a hearing.

THE COURT: That's the reason I wanted to take it down. I am going to dismiss your bill of complaint. I am going to give you an exception to the court's ruling and the reason I am dismissing it, I don't think you have proved satisfactory to the chancery that this deed should be set aside after she has signed it before a Notary in which the Notary said he saw no force

being used.

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I hereby certify that on or before the 16th day of August, 1976, I served a copy of the foregoing on all counsel of record by deposit in the mails postage prepaid.

Calvin H. Childress