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SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE

# Supreme Court of Virginia

AT RICHMOND

RECORD NO. 760406

BONNIE J. BROOKER

Appellant

v.

JAMES E. BROOKER

Appellee

JOINT APPENDIX

Bentley Hite
17 East Franklin Street
Christiansburg, Virginia

Counsel for Appellant

W.R.L. Craft, Jr.
CRAFT & MCGHEE
3 North Franklin Street
Christiansburg, Virginia

Counsel for Appellee

FRED R. SURFACE & ASSOC. INC., HERITAGE BUILDING, RICHMOND, VA. (804) 643-7789

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JAMES E. BROOKER )
)
)
V. ) BILL OF COMPLAINT
)
)
BONNIE J. BROOKER )
908 South Main Street )
Blacksburg, Virginia 24060 )

TO THE HONORABLE W. S. JORDAN, JUDGE OF SAID COURT:

Your complainant would respectfully show unto the Court as follows, to-wit:

I

Your complainant, James E. Brooker, was lawfully married unto the respondent, Bonnie Jean Brooker, whose maiden name was Bonnie Jean Replogle, on September 8, 1947, at Wayne, Michigan; and,

II

Your complainant and the respondent last lived together as husband and wife in the Town of Blacksburg, Montgomery County, Virginia, on November 1, 1971, and that the complainant is now and has been a bona fide resident in and a domiciliary of Montgomery County, Virginia, for more than one (1) year next preceding the institution of this suit; and

III

That neither your complainant nor the respondent are members of the Armed Forces of the United States nor have they been a member of the same for a period of ninety (90) days prior to the commencement of this suit; and,

IV

That there were five (5) children born of said marriage, to-wit: Cynthia Anne Brooker, born January 31, 1951; James Edwin Brooker, Jr., born May 25, 1952; Stephen Charles Brooker, born January 11, 1954; Margery Jean Brooker, born June 23, 1956 and Rosemary Althea Brooker, born January 31, 1962; and,

V

That both of the parties hereto are members of the white Caucasian race; and,

VI

That notwithstanding your complainant's provision of an adequate home and standard of living commensurate with their station in life, said respondent has inflicted mental anguish and extreme cruelty on your complainant by refusing to dwell in the home provided by your complainant; by obligating your complainant to pay rent on two (2) homes; by wrongfully purchasing, on your complainant's credit and good name, unneeded duplicate items of household goods and other chattels; by creating other needless debts which have in the past and presently cause your complainant extreme anguish and fear of losing his means of gainful employment because of said debts; and,

VII

ne 25, '72.

That on the 1st of November, 1971, the respondent, without just cause, reason or provocation, willfully deserted and abandoned your complainant and the home which he was providing for her in the Town of Blacksburg, Virginia; that notwithstanding the fact that your complainant has tried to bring about a reconciliation, the respondent has refused and

continues to refuse to return and live with your complainant; that they have not lived together as husband and wife since November 1, 1971; and your complainant believes that a reconciliation is improbable.

WHEREFORE, your complainant humbly prays that he may be granted a divorce a vinculo matrimonii on the grounds of extreme cruelty and desertion; that he may be awarded the custody of his said infant children; and that he may have such other and further relief as the nature of his case may require.

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

JAMES E. BROOKER

By s/ William R. L. Craft, Jr.
Of Counsel

Craft & McGhee
Attorneys at Law
Christiansburg, Virginia

JAMES E. BROOKER

vs.

BONNIE J. BROOKER
610 Ascot
Windsor Hills Apartments
Blacksburg, VA 24060

and

BONNIE J. BROOKER

vs.

JAMES E. BROOKER
908 South Main Street
Blacksburg, VA 24060

ANSWER AND RESPONSIVE
PLEADINGS
and
CROSS BILL

TO THE HONORABLE W. S. JORDAN, JUDGE OF THE ABOVE NAMED COURT:

Your Respondent, Bonnie J. Brooker, comes now and files this her Answer, Responsive Pleadings, and Cross Bill in the above named chancery matter, now pending in the Circuit Court of Montgomery County, Virginia, and would show unto Your Honor as follows:

1. Your Respondent, Bonnie J. Brooker, admits the allegations as set out in Paragraph One (1) of the original Bill.

2. Your Respondent admits the allegations as set out in Paragraph Two (2) of the original Bill.

3. Your Respondent admits the allegations as set out in Paragraph Three (3) of the original Bill.

4. Your Respondent admits the allegations as set out in Paragraph Four (4) of the original Bill.

5. Your Respondent admits the allegation as set out in Paragraph Five (5) of the original Bill.

ENTLEY HITE
NEY & COUNSELLOR AT LAW
RISTIANSBURG, VIRGINIA

6. Your Respondent denies each and every allegation as set out in Paragraph Six (6) and calls for strict proof of the same. Your respondent denies that her said husband has provided for her and her children an adequate home and standard of living commensurate with their state in life. Your respondent denies that she has inflicted mental anquish and extreme cruelty on her said husband by refusing to dwell in the home provided by him, but would show unto Your Honor that her said husband is a retired Chief Petty Officer of the United States Navy; that he has a retirement pay in excess of $600.00 a month and that he is an electrical engineer, employed as a Chief Engineer at the Pulaski Hospital, Inc., and is drawing in excess of $500.00 a month, in addition to his Navy pay; and, that Your respondent's husband forced her and their four (4) children to live in a one-room apartment in the Town of Blacksburg for several months, forced the children to sleep on the floor, and to live under conditions which were not condusive to the best interest of the said infant children, or to any member of the family.

Your respondent will show unto Your Honor that her said husband refused to maintain and support her and her infant children, forcing them to do without and forego the essentials of life to such an extent that it has affected the mental attitude of their two (2) infant daughters, who are now in school and has forced their son, Stephen Charles Brooker, to drop out of school.

Your respondent denies that she has wrongfully purchased on her husband's credit and good name, unneeded household goods and other chattels, but will show that her husband is and has

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been for many years extremely tight and penurious, and has failed and refused through the years to support his family as he should in keeping with his income.

Your Respondent denies that she has needlessly created debts, past or present, which would have caused him extreme anquish and fear of losing his means of gainful employment, but she would show unto Your Honor that her husband is retired from the Navy and has other gainful employment.

7. Your Respondent denies each and every allegation as set out in Paragraph Seven (7) of the said original Bill; denies that she willfully deserted and abandoned her husband and their home, but would show that her said husband deliberately and without just cause, deserted and abandoned Your respondent and their children and moved from their quarters, leaving them almost penniless. Your respondent will show that the conduct of her husband in forcing her and their children to live under such conditions as above set out, without adequate food and clothing, was sufficient to cause Your respondent a serious nervous breakdown, necessitating hospital treatment.

8. Your Respondent denies that her said husband ever made any effort to become reconcilled, but on the contrary, persisted in his desertion and has refused to discuss the matter with Your respondent. Your respondent further denies that she and her said husband have not lived together since November, 1971, but would show unto Your Honor that they had continued to live as man and wife, as in the past, until June 28, 1972, which at that time, her said husband deliberately and without just cause left their home in Blacksburg and established his domicile elsewhere.

ENTLEY HITE
RNEY & COUNSELLOR AT LAW
HRISTIANSBURG, VIRGINIA

9. Your Respondent denies that her said husband is entitled to a Divorce A Vinculo Matrimonii on the grounds of extreme cruelty and desertion, or on any other grounds; denies that her said husband is entitled to the custody of their two (2) infant children, or for any other relief whatsoever under the said Bill.

Now having fully answered the said Original Bill, denying each and every allegation specifically, denying the said allegations generally, and calls for strict proof of the same.

CROSS BILL

Your Cross-Complainant, Bonnie J. Brooker, comes now and files this her Cross Bill against the said James E. Brooker, and adopts the allegations as set out in Paragraph One (1), Two (2), Three (3), Four (4), and Five (5), in the Original Bill as her allegations being true and correct and would show unto Your Honor as follows:

1. That her said husband is a retired Chief Petty Officer of the United States Navy, and was retired a year or so ago on a retirement pay in excess of $600.00 a month; that her said husband is likewise an electrical engineer and has been steadily and continually employed as such since his retirement from the United States Navy; that he is now employed by the Pulaski Hospital, Inc. and is drawing a salary in excess of $600.00 a month, making a total income of $1,200.00 per month, or more.



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2. Your Cross-Complainant would further show unto Your Honor that her said husband has forced your Cross-Complainant and their children, two of whom are of tender years, being girls 11 and 15 years of age, to live and sleep in a one-room apartment with their brothers, being 19 and 20 years of age, all Four (4) of them sleeping on the floor for long periods of time; that Your Cross-Complainant's husband refused to provide adequate quarters for his family or to maintain and support them in keeping with their state and station in life; and that her said husband has never actually supported his family as he should, and that his negligence in supporting his family has caused Your Cross-Complainant to suffer a mental breakdown and has affected the mental attitude of their two (2) younger daughters to such an extent that they have done very poorly in school and have shown signs of nervousness due to conditions in which they were forced to live; that Your Cross-Complainants husband did on the 28th day of June, 1972, willfully, deliberately, and without just cause, desert and abandoned Your Cross-Complainant and their family and moved his clothing and personal belongings from their apartment and has persisted in his desertion until this day, notwithstanding the fact that Your Cross-Complainant has on numerous occasions tried to persuade him to return to his home and take care of his family as he should, but to no avail.

Your Respondent is advised that she is entitled to the relief prayed for in her Cross-Bill and that she is entitled to a Divorce A Mensa et Thoro from her said husband on the grounds of desertion and prays that Your Honor will so decree; and she is further advised that Your Honor will decree the custody of her infant children, being two (2) young girls, unto

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her since it is apparent from all circumstances that their father is not a suitable person to have the care and custody of their infant daughters; and that he is not in a position to look after them and that Your Honor will so decree.

Your Cross-Complainant is further advised that Your Honor will decree unto her alimony for herself and a reasonable sum for support of their two (2) daughters and a reasonable sum as attorney's fee for her attorney of record.

Therefore, being without remedy save in a court of equity where matters of this kind are properly cognizable, Your complainant prays that she may be granted A Divorce A Mensa et Thoro from her husband, James E. Brooker, on the grounds of desertion; that proper process may issue; that she may be awarded care and custody of their infant children; that she may have decreed unto her a reasonable sum of alimony and support for herself and her children; and a reasonable sum for her attorney of record and her costs in this behalf expended.

And may Your complainant have all other general and specific relief as the nature of her case may require to the equity may seem meet.

And in duty bound, Your Cross-Complainant will ever pray, etc.

BONNIE J. BROOKER

BY _____
Counsel

_____
Bentley Hite
Attorney at Law
Christiansburg, VA



NTLEY HITE
Y & COUNSELLOR AT LAW
STIANSBURG, VIRGINIA

I, Bentley Hite, Attorney at Law, Christiansburg, Virginia, hereby certify that I have this the 27th day of April, 1973, mailed a copy of this Answer, Responsive Pleadings, and Cross Bill to W. R. L. Craft, Jr. of Craft & McGhee, Attorneys at Law, Christiansburg, Virginia, Counsel for James E. Brooker.

Bentley Hite
Attorney at Law
Christiansburg, VA



ENTLEY HITE
NEY & COUNSELLOR AT LAW

| | | |
|---|---|---|
| JAMES E. BROOKER<br><br>V.<br><br>BONNIE J. BROOKER<br>610 Ascot<br>Windsor Hills Apartments<br>Blacksburg, Virginia 24060<br><br>and<br><br>BONNIE J. BROOKER<br><br>V.<br><br>JAMES E. BROOKER<br>908 South Main Street<br>Blacksburg, Virginia 24060 | ) | ANSWER AND RESPONSIVE PLEADINGS TO CROSS-BILL |

TO THE HONORABLE W. S. JORDAN, JUDGE OF SAID COURT:

Comes now James E. Brooker, respondent in said Cross-Bill and in answer and response to the Cross-Bill filed against him in this cause answers and says as follows, to-wit:

I

James E. Brooker, the respondent to said Cross-Bill, admits the allegation in said Paragraph 1 wherein it is alleged that he is a retired Chief Petty Officer of the United States Navy and by reason of said retirement receives certain income as a retired Chief Petty Officer but he denies all other allegations as alleged in said paragraph.

II

Your cross-respondent, James E. Brooker, denies the allegations in said Cross-Bill as set forth in Paragraph 2 wherein the cross-complainant alleges misconduct, neglect and wrongdoing; and does deny each and every allegation therein that would entitle the cross-complain-

ant to the relief prayed for.

Now having fully answered said Cross-Bill, your cross-respondent prays to be hence dismissed with his costs.

And in duty bound, your cross-respondent will ever pray, etc..

JAMES E. BROOKER

By _____
Of Counsel

Craft & McGhee
Attorneys at Law
Christiansburg, Virginia

I, William R. L. Craft, Jr., hereby certify that I have this 30th day of April, 1973, mailed a copy of the foregoing Answer and Responsive Pleadings to Cross-Bill to Bentley Hite, Attorney at Law, Christiansburg, Virginia, Counsel for Bonnie J. Brooker.

_____
William R. L. Craft, Jr.

JAMES E. BROOKER )
)
)
V. ) AMENDED BILL OF COMPLAINT
)
)
BONNIE J. BROOKER )
908 South Main Street )
Blacksburg, Virginia 24060 )

TO THE HONORABLE W. S. JORDAN, JUDGE OF SAID COURT:

Your complainant would respectfully show unto the Court that the original bill of complaint filed in this cause alleges facts upon which the complainant sought a divorce from the respondent on the grounds of desertion and that your complainant would respectfully amend said original bill of complaint as follows, to-wit:

I

Your complainant respectfully adopts the allegations set forth in the original bill of complaint and in addition thereto, would supplement Paragraph VII of said bill of complaint as follows, to-wit:

That your complainant and the respondent have lived separate and apart without any cohabitation and without interruption for more than two (2) years, last having lived together as husband and wife on November 1, 1971, and that by reason of said two (2) year separation, your complainant is entitled to a divorce from the respondent from the bonds of matrimony as specifically provided for in Paragraph 20-91 of the Code of Virginia of 1950 as amended; and,

WHEREFORE, your complainant prays that he be granted a divorce from the respondent on the grounds that they have lived separate and apart without any cohabitation and without interruption for a period of two (2)

years since November 1, 1971; and that said Court will so order and decree.

JAMES E. BROOKER

By _____
Of Counsel

Craft & McGhee, p.q.
Attorneys at Law
P. O. Box 240
Christiansburg, Virginia 24073

CERTIFICATE

I, William R. L. Craft, Jr., hereby certify that I have this ___ day of _____, 1974, delivered a copy of the foregoing Amended Bill of Complaint to Bentley Hite, Attorney at Law, Christiansburg, Virginia, Counsel for Bonnie J. Brooker.

_____
William R. L. Craft, Jr.

VIRGINIA: IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

JAMES E. BROOKER, Complainant

VS.

BONNIE J. BROOKER, Defendant

ANSWER AND RESPONSIVE PLEADINGS TO AMENDED BILL OF COMPLAINT

Your respondent, Bonnie J. Brooker, comes now and files this her Answer and Responsive Pleadings in the above named amended chancery matter now pending in the Circuit Court of Montgomery County, Virginia, and would show unto Your Honor as follows:

1. Your respondent would show that her said husband filed a bill of divorcement against her on April 10, 1973; that an Answer was filed therein; that depositions have been taken and filed herein; and that this matter should be judged on its merits.

2. Your respondent admits that she and her said husband have lived separate and apart without cohabitation and without interruption for more than two (2) years; but would show that her said husband on November 1, 1971, willfully, deliberately and without just cause or excuse deserted and abandoned her and her two infant children, namely, Margery Jean Brooker, born June 23, 1956, and Rosemary Althea Brooker, born January 31, 1962; and that he has not returned to live with them and has not been supporting them in the manner in keeping with his state and station in life.

BILL OF COMPLAINT

Filed Nov. 1971

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2. Your respondent would show unto Your Honor that on the afternoon of November 1, 1971, her said husband came home in an upset and mad condition; that he, without any provocation whatsoever, became enraged at your respondent, grabbed her by the throat, choked her, and threatened to kill her, and would have probably choked her to death if it had not been for the intervention of their two sons, who pulled him off of your respondent; that he had on numerous occasions before beat and abused her; threatening to kill your respondent and forcing her to live under such conditions that it had broken her health and spirit, and had necessitated treatment at St. Alban's Hospital, Radford, Virginia, for a nervous condition created by the conduct of her said husband.

3. Your respondent would show unto Your Honor that she is afraid of her said husband, afraid that he will do her serious bodily harm and prays that she may be granted an absolute divorce from her said husband on the grounds of cruelty and actual desertion which has existed for more than one year preceding the institution of this suit.

4. Your respondent would further show unto Your Honor that her said husband has a retirement income from the United States Navy in excess of $650.00 per month; that he is now working for a Pulaski Hospital, Pulaski, Virginia, and is receiving approximately $700.00 a month, making a total of approximately $1,300.00 per month, but has only been paying your respondent and infant children approximately $300.00 per month, which is not sufficient under the circumstances.

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EY & COUNSELLOR AT LAW
ISTIANSBURG, VIRGINIA

5. Your respondent would further show unto Your Honor that she is now working, but that she is not sure how long she will be physically able to maintain her job, and that she has Rosemary, who is now 12 years of age, with her, to maintain and support.

THEREFORE, your respondent prays that she may be granted a divorce from the bonds of matrimony from her said husband on the grounds of desertion, which has existed for more than one year, as alleged in her Cross-Bill and supported by evidence filed therein, and that Your Honor will direct that her said husband pay her a reasonable sum for alimony and support for herself and infant daughters, and a reasonable sum for her attorney of record.

Now, having fully answered the said amended Bill of Complaint as fully as she is advised it is necessary, prays that said amended Bill may be dismissed, and that she may be granted a divorce on the grounds of desertion, and that she may have all further relief as her case may require.

And, she will ever pray, etc.

Respectfully submitted,
BONNIE J. BROOKER

BY _____
Counsel

_____
Bentley Hite, p.q.
Attorney at Law
Christiansburg, VA 24073

NTLEY HITE
Y & COUNSELLOR AT LAW
STIANSBURG, VIRGINIA

JAMES E. BROOKER )
)
)
V. ) DECREE
)
)
BONNIE J. BROOKER )

This cause came on this day to be heard upon the original bill of complaint; upon the answer and responsive pleadings and cross-bill; upon the answer and responsive pleadings to the cross-bill; upon the amended bill of complaint filed by the complainant; upon the answer and responsive pleadings to the amended bill of complaint; upon the notice to take depositions lawfully served upon counsel for the respondent; upon depositions taken on behalf of the complainant on September 21, 1973, and on April 11, 1975, and filed herein; and upon the depositions taken on behalf of the respondent on January 3, 1974, and filed herein; and was argued by counsel.

In consideration of all of which, and it appearing unto the Court from all the evidence, independently of the admissions of either party hereto, in the pleadings or otherwise, that the parties hereto were lawfully married on September 8, 1947, in Wayne, Michigan; that they have been actual bona fide residents of the State of Virginia and have been domiciled in and residents of Montgomery County, Virginia, for more than one (1) year next preceding the institution of this suit; that both parties hereto are members of the Caucasian race; that neither of the parties hereto are now nor have they been a member of the active armed forces of the United States for ninety (90) days next preceding the institution of this suit.

It appearing unto the Court that the complainant and the

respondent last cohabited together as husband and wife in Montgomery County, Virginia, on November 1, 1971; and that said complainant and the respondent have lived separate and apart without cohabitation and without interruption since November 1, 1971; therefore, the Court is of the opinion that the complainant is entitled to a divorce from the bonds of matrimony from the respondent on the amended bill of complaint on the grounds that the complainant and the respondent have lived separate and apart without cohabitation and without interruption for a period of more than two (2) years, to-wit: November 1, 1971, and the Court doth, therefore, ADJUDGE, ORDER and DECREE that James E. Brooker be, and he is hereby awarded a divorce a vinculo matrimonii (from the bonds of matrimony) from the said Bonnie J. Brooker on the grounds that they have lived separate and apart continuously and without interruption since November 1, 1971, as specifically provided for in Paragraph 20-91 of the Code of Virginia of 1950 as amended; and that the marriage between the parties be, and the same is hereby, DISSOLVED.

The Court is of the opinion that Bonnie J. Brooker is not entitled to the relief prayed for in her Cross-Bill, and it is ADJUDGED, ORDERED and DECREED that said Cross-Bill be, and the same is hereby, DISMISSED.

It appearing unto the Court that there were five (5) children born of said marriage, to-wit: Cynthia Anne Brooker, born January 31, 1951; James Edwin Brooker, Jr., born May 25, 1952; Stephen Charles Brooker, born January 11, 1954; Margery Jean Brooker, born June 23, 1956 and Rosemary Althea Brooker, born January 31, 1962; and that only Rosemary Althea Brooker is now a minor and is presently in the custody of Bonnie J. Brooker who appears to be the proper person to have custody of said infant child; therefore, it is ADJUDGED, ORDERED and DECREED that custody of

Rosemary Althea Brooker be, and it is hereby awarded unto Bonnie J. Brooker, subject to the right of the complainant to visit with said child and have said child visit with him at reasonable times and places.

It is ADJUDGED, ORDERED and DECREED that James E. Brooker pay unto Bonnie J. Brooker the sum of $300.00 per month beginning on the 6th day of January, 1976, for the support and maintenance of the infant child, plus $250.00 to Bentley Hite for her attorney's fee.

It is further ORDERED that pursuant to Virginia Code Section 20-79(c) all further matters pertaining to custody, visitation and support of the infant child are transferred to the Montgomery County Juvenile and Domestic Relations District Court for the enforcement of the decrees of this Court. The following information is furnished relative to the parties:

Complainant

Full name: James E. Brooker
Mailing address: F-9 Apartment Heights Drive, Blacksburg, Va. 24060
Address of place of abode: F-9 Apartment Heights Drive, Blacksburg, Va.
Address of place of work or business: Pulaski Community Hospital, Pulaski, Virginia

Respondent

Full name: Bonnie J. Brooker
Mailing address: 610 Ascot Lane, Blacksburg, Va. 24060
Address of place of abode: 610 Ascot Lane, Blacksburg, Va. 24060
Address of place of work or business: Self-employed, Court Reporter, Box 311-B, Route 1, Blacksburg, Va.

The Clerk of this Court is hereby directed to forthwith transmit a certified copy of this decree to the Clerk of the Montgomery County Juvenile and Domestic Relations District Court.

It appearing unto the Court that there is nothing further remaining to be done in this cause, it is ADJUDGED, ORDERED and

DECREED that it be stricken from the docket but subject to the right of either party hereto to have the same reinstated only for the purpose of further orders as may be authorized in reference to custody and support payments for the infant child.

I ask for this Decree.

Counsel for James E. Brooker

I have seen this Decree but object and except to this decree.

Counsel for Bonnie J. Brooker

Enter this Decree on this the 6 day of June, 1976.

Judge

Recorded in Chy. O. B. 41, Pg. 549.

VIRGINIA: IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

| | | |
|---|---|---|
| JAMES E. BROOKER, Complainant | ) | |
| VS. | ) | |
| BONNIE J. BROOKER, Respondent | ) | NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR |
| AND | ) | |
| BONNIE J. BROOKER, Cross Complainant | ) | |
| VS. | ) | |
| JAMES E. BROOKER, Cross Respondent | ) | |

TO: THE HONORABLE J. B. MYERS, JR., CLERK OF THE SAID COURT:

Bonnie J. Brooker, Respondent and Cross-Complainant in the above styled suit for divorce, the final order of which was entered on the 6th day of January, 1976, hereby gives Notice of Appeal from the final order entered on the 6th day of January, 1976, and assigns as error the following:

1) The Court erred in entering a decree under the provisions of Code Section 20-91 (a) herein on the 6th day of January, 1976, without awarding alimony to the wife.

2) The Court erred in entering this decree since there was no evidence of record that the misconduct or fault of the wife caused the separation, and hence there was no showing of the cause of the separation.

3) The Court erred in granting the decree without awarding alimony to the wife since the Chancellor did not predicate the divorce on the wife's fault or misconduct.

4) The Court erred in granting a "no-fault decree" to the husband, and denying the wife alimony without finding that the wife was at fault in deserting her husband or guilty of misconduct that would support a decree against her.

BENTLEY HITE
RNEY & COUNSELLOR AT LAW
RISTIANSBURG, VIRGINIA

5) The Court erred in entering said decree since the husband is not relieved of his obligations to support his wife unless it be shown that the separation was caused by her fault or misconduct which the Court failed to do in said decree.

6) The Court erred in failing to ascertain or determine the husband's financial ability to support his said wife or to ascertain or determine the wife's needs for support.

7) The appellant will file other incidents of the case hereafter in this cause if so advised.

Respectfully submitted,
BONNIE J. BROOKER

BY: _____
Counsel

Bentley Hite
Attorney at Law
17 N Franklin Street
Christiansburg, VA 24073

C E R T I F I C A T E

I, Bentley Hite, Attorney at Law, Christiansburg, Virginia, do hereby certify that I have this the 4th day of February, 1976, prior to the filing of the Notice of Appeal and Assignments of Error with the Clerk of the Circuit Court of Montgomery County, Virginia, mailed a true copy of same to William R. L. Craft, Jr., P. O. Box 240, Christiansburg, Virginia, of Counsel to James E. Brooker.

Bentley Hite
Attorney at Law
Christiansburg, VA 24073

BENTLEY HITE
ORNEY & COUNSELLOR AT LAW
HRISTIANSBURG, VIRGINIA

JAMES E. BROOKER )
)
)
V. ) DEPOSITIONS
)
)
BONNIE J. BROOKER )

The depositions of James E. Brooker et al taken in the law offices of Craft & McGhee at 12 South Franklin Street, Christiansburg, Virginia, at 2:00 o'clock p.m. on September 21, 1973, which depositions are to be read on behalf of James E. Brooker in that certain divorce suit as styled above now pending in the Circuit Court of Montgomery County, Virginia, wherein James E. Brooker is the complainant and Bonnie J. Brooker is the respondent.

PRESENT: James E. Brooker in person and by Henry A. Whitehurst, of counsel; Bonnie J. Brooker in person and by Bentley Hite, of counsel.

James E. Brooker, a witness of lawful age, after first being duly sworn, deposes and says:

HENRY A. WHITEHURST:

Q. What is your full name?

A. I'm James E. Brooker.

Q. What is your wife's full name?

A. Bonnie Jean Brooker.

Q. Where were you married?

A. In Wayne, Michigan, on the 8th of September, 1947.

Q. Where do you now live, sir?

A. I live at F-9, Apartment Heights Drive, Blacksburg, Virginia.

Q. Where does your wife live?

A. 610 Ascot Lane, Blacksburg, Virginia.

Q. How many children were born of this marriage?

A. Five (5).

Q. What are their names and ages?

A. Cynthia Anne Brooker was twenty-two (22); James Edwin Brooker, Jr. was twenty-one (21); Stephen Charles Brooker who was nineteen (19); and Margery Jean Brooker who is seventeen (17); Rosemary Althea Brooker who is eleven (11).

Q. Where do the infant children of this marriage now reside?

A. The infant children reside at 610 Ascot Lane.

Q. Have you been a resident of and a domiciliary in Montgomery County, Virginia, for more than one (1) year next preceding the institution of this suit?

A. I have.

Q. Has your wife been a resident of and a domiciliary in Montgomery County, Virginia, for more than one (1) year next preceding the institution of this suit?

A. Yes.

Q. Are you the complainant in this divorce suit?

A. I am.

Q. Have you or your wife been members of the armed forces of the United States within ninety (90) days next preceding the institution of this suit?

A. No.

Q. Are you and your wife members of the white Caucasian race?

A. Yes.

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

county?

A. Montgomery County.

Q. Is that Virginia?

A. Yes.

Q. What date did your wife remove herself from the residence you last shared as man and wife?

A. I believe this was 1 November, 1971.

Q. Has your wife returned to live with you since 1 November, 1971, as man and wife?

A. She had to....

BENTLEY HITE:

We wish to object to the question just before that. "When did she withdraw herself?" is a leading question and we object to it.

HENRY A. WHITEHURST:

On what grounds, counsel, I'm sorry.

BENTLEY HITE:

It is a leading question and we object.

HENRY A. WHITEHURST:

In what way was it leading, counsel?

BENTLEY HITE:

You said, "When did she withdraw herself?". He hadn't said she withdrew herself. (To secretary) Read it for us please.

SECRETARY:

What date did your wife remove herself from the residence you last shared as man and wife?

BENTLEY HITE:

It's a leading question. Objection.

Note the exception.

Q. Has your wife returned to live with you since 1 November, 1971 as man and wife?

A. She had...She returned to the apartment that I had, yes, because she had to and so did the children.

Q. What causes or provocation did you give your wife to abandon and desert you?

A. I wasn't managing my affairs or her affairs in the same manner, or the manner that she felt was suitable to her state in life. This was the explanation that she gave me.

Q. What kind of home had you provided your wife during the marriage?

A. Well, most of my married life was spent in the United States Navy and we occupied naval housing in most cases; and I was the Chief Petty Officer, P-8, and we were provided a brand new four (4) bedroom apartment in Norfolk, fully furnished, all utilities paid.

Q. Are you asking the Court to grant you a complete divorce from the bonds of matrimony?

A. I am.

Q. What was your occupation for most of the time that you and your wife lived together?

A. I was in the United States Navy.

Q. In your Bill of Complaint, you allege that during the last several years your wife had done many acts which caused you much anguish. Is that a true statement?

A. It is.

Q. All right. I am handing you a paper and would ask you to identify this

paper, please sir.

A. This is a summons for me to appear in the Montgomery Court over here from Sears, Roebuck and Company, to answer a claim for a back sum of $263.42. This is another one for a subpoena or a summons to appear in the same court for a sum of $150.00...$157.80 to Simpkins Oil and Coal Company. This is one from Chesapeake and Potomac Telephone Company to appear in this court to answer to a backcharge of $62.33 for our telephone bill that was...the phone was put in our house against my better judgment.

Q. In whose names were these accounts initially taken out?

A. James E. Brooker.

Q. Did you take out these accounts?

A. No.

Q. Who took out these accounts?

A. My wife.

Q. Was this after she left you on 1 November of 71?

A. No. The C & P Telephone bill was...the phone was put in before she left H-5, Apartment H-5.

Q. What objections did you make to her at the time the phone was put in?

A. I told her we couldn't afford it.

HENRY A. WHITEHURST:

All right, if I may counsel, I would like to enter these as Exhibit No. 1 if you would so mark them please.

(Entered as Complainant's Exhibit 1)

Q. Did these summons' and warrants cause you much anguish and grief and worry?

A. That's right.

Q. Mr. Brooker, I'm handing you another packet of documents. Would you please identify them for the Court? Just identify them.

A. O. K. This is an electric bill, a back due electric bill, for the apartment at 610 Ascot Lane in the amount of $64.98, final warning with an attached note from my wife indicating that she has no money to pay this. Notice that the bill is in her name.

HENRY A. WHITEHURST:

Would you please mark this as Exhibit No. 2.

(Entered as Complainant's Exhibit 2)

Q. Did these dunning letters and warnings cause you much anguish and grief?

A. A great deal.

Q. What payments did you make on this?

A. That bill there shows that I made the payment on that on a specified date, it's written out on the check...on the stub.

Q. Mr. Brooker, I'm handing you another packet of documents. Would you please identify those? Just identify them so that I can show them to counsel.

A. This one from a collection service in Roanoke, Virginia. It refers to an account that my wife opened at Rice's Fashion Corner in Norfolk and the amount that they are interested in here is $42.76. Here is another one from a collection agency in Roanoke from Norfolk again, this thing is in my name and they are talking about the same account in this case. It's another dun on a different date. Here's a letter from Rice's Fashion Corner, Norfolk, Virginia, which I received on 16 October 72, again, demanding payment on this account. And again, Rice's Fashion Corner more duns. And more letters from Rice's Fashion Corner.

HENRY A. WHITEHURST:

Please enter this as Exhibit No. 3.

(Entered as Complainant's Exhibit 3)

Q. Did you open these accounts?

A. I did not.

Q. Did you approve of these accounts?

A. No.

Q. Did they cause you anguish?

A. They did.

Q. Did they worry you constantly?

A. When I started receiving letters like that, it definitely worried me.

Q. I'm handing you another packet of documents, sir. Would you please identify them?

A. These letters are from Sears, Roebuck and Company referring to our account being behind and so forth, that particular one is and I have statements here... phonograms which are little things that they send you saying that we have a balance of $304.00 and there was $65.00....

BENTLEY HITE:

How much was that?

Mr. Brooker: What's that?

Mr. Hite: Dollars... how much?

Mr. Brooker: On this one, it's $304.23. This is dated March 9th, 1972, and it's to Mr. James Brooker.

HENRY A. WHITEHURST:

Please mark this as Exhibit Number 4, if you would.

(Entered as Complainant's Exhibit 4)

Q. Mr. Brooker, who originally took out this account at Sears and Roebuck?

A. What is the amount? 304?

Q. Yes sir.

A. This was an account that we opened..my wife had this account on the revolving charge. We had no money at Christmastime. The only way that we could obtain any gifts for the children was to utilize this account of hers.

Q. Is it still current and owing?

A. It is paid off.

Q. Who paid it off?

A. I did.

Q. At the time that the purchases were made, what was your response to these purchases?

A. In this case, this was a Christmas shopping thing. There was no other way in the world to get Christmas funds. So, I went down with my wife and we opened it. It was an obligation that I have accepted and I did pay off.

Q. Mr. Brooker, I'm handing you another pack of documents. Would you please identify them, sir? Just merely identify them so I can show them to counsel.

A. This is an electric utility bill from the V.P.I. for $50.00 addressed to James E. Brooker for 908 South Main Street.

HENRY A. WHITEHURST:

Would you mark that as Exhibit No. 5?

(Entered as Complainant's Exhibit 5)

Mr. Hite: How much is that?

Mr. Brooker: Fifty ($50.00) Dollars.

Q. Mr. Brooker, what is the name on this account bill?

A. James E. Brooker, Apartment H-5.

Q. Who took out this account?

A. My wife. 908 South Main Street.

Q. Was this during the period of time that she had removed herself from your dwelling?

A. That's right.

Q. Did this bill cause you much anguish?

A. Collectively, with all the other, it tore me up. This bill, incidentally, was paid off here.

Q. Mr. Brooker, I'm handing you another pack of documents. Would you please identify them...just identify them.

A. This is a letter from my wife typed up indicating her requirements to survive as an independent unit at 908 South Main Street. The total monthly support requested is $357.00 and how this money is to be used is detailed here and then there is a little note on the back of it indicating that she'd provided me with a wifely invitation to return.

HENRY A. WHITEHURST:

Mark this as the next exhibit please.

(Entered as Complainant's Exhibit6)

Q. Was this during the period that she had deserted you, Mr. Brooker?

A. That's right.

Q. What was your response to this letter setting forth her demands?

A. Well, at this time there was no official request for support in writing or anything like that. I was providing funds to the family to the best of my ability voluntarily and there was no feeling on my part that any kind of reconciliation could occur.

Q. Mr. Brooker, I'm handing you some more documents. Would you please merely identify them?

A. This is a letter from Virginia National Bank in Norfolk in connection with an account that my daughter, Cynthia Anne Brooker opened and I co-signed for her indicating that they had not received payment for several months and that I would have to start payments.

Mr. Hite: How much is it?

Mr. Brooker: It's down there at the bottom or the top somewhere.

HENRY A. WHITEHURST:

Would you please mark this Exhibit No. 7?

(Entered as Complainant's Exhibit 7)

Q. Mr. Brooker, in connection with Exhibit No. 7, did this letter cause you anguish and concern?

A. It did because before I got the letter, I received a visit by a gentleman up at the place where I was working, he wanted to know what I was going to do about this, which I wasn't even aware of that she had defaulted on this loan and then I received this official notification.

Q. Then this account owing was not your wife's debt?

A. No.

Q. It was... Whose debt, Mr. Brooker?

A. Cynthia Anne Brookers.

Q. Would you say that this letter taken with all the other evidence presented so far was causing you much mental anguish?

A. I felt like the world was caving in on me.

Q. Mr. Brooker, I'm handing you another pack of documents. Please identify them.

A. This is an overdue telephone bill from Apartment H-5 for $55.09. I received this after Bonnie moved to Blacksburg. I wasn't able to pay it at the time and one of these warrants that we discussed here a few minutes

ago was issued. I settled this by making two (2) $30.00 payments.

HENRY A. WHITEHURST:

Would you please mark this Exhibit No. 8?

(Entered as Complainant's Exhibit 8)

Q. All right, sir, would you please identify these papers? Just identify them.

A. This is a letter from VEPCO down in Norfolk, Virginia, indicating that our outstanding balance there is $110.48.

HENRY A. WHITEHURST:

Would you mark this Exhibit No. 9 please?

(Entered as Complainant's Exhibit 9)

Q. All right, Mr. Brooker, next is Exhibit No. 9. What was the substance of the letter sent to you by VEPCO.

A. Our records show past balance of $110.48 outstanding on your account. We are holding a check written by Mrs. Bonnie J. Brooker in the amount of $72.80 which was returned to us by her bank noted "Insufficient Funds" and which is included in the above amount.

Q. What was your response to this letter?

A. I wasn't surprised about the check but the fact that I owed $110.00 and suddenly they demanded it was very upsetting.

Q. Mr. Brooker, what was the net effect of all of this and similar types of dunning letters that were sent to you?

A. I think if you looked at the dates on most of these letters, you'd see they all came at just about the time that I had left the service and was up in Blacksburg trying to establish myself in this job here which again was not a very well paying job and the result was that it was simply a calamity.. I felt invaded by all these debts and duns and so forth, so I was reluctant to move out and extend myself until I was sure that I could pay all these

bills off.

Q. What accounts, Mr. Brooker, did your wife put in your name without your knowledge once she had deserted you?

A. Well, of course, the electric bill at V.P.I. that you saw there was put in my name.

Q. All right, Mr. Brooker, I'm handing you another packet of documents, sir, would you please identify them?

A. O. K. This is from the Clover Creamery Company in Christiansburg. This is also from them, several different letters. Your account with Clover Creamery is overdue. Please protect your credit. The amount is $39.32.

Q. Just identify them, Mr. Brooker.

A. And it's in my name.

Q. How about the rest of them?

A. They are all the same.

Mr. Hite: $39.32 that's all.

HENRY A. WHITEHURST:

Would you please mark this as Exhibit No. 10?

(Entered as Complainant's Exhibit 10)

Q. Mr. Brooker, did you take out this account with the creamery?

A. I did not.

Q. Who... Do you know who took the account out?

A. My wife did.

Q. Was it in your name?

A. Yes, it is.

Q. What period of time was this account taken out?

A. This was during the time that she had moved to 908 South Main Street,

Blacksburg.

Q. Mr. Brooker, was your position in the Navy ever threatened by any of these acts of your wife?

A. Definitely.

Q. All right, Mr. Brooker, I'm handing you a packet of documents. Would you please identify them sir for the counsellor?

BENTLEY HITE:

Objection. The question is leading.

HENRY A. WHITEHURST:

Withdraw the question. Let me re-phrase it.

Q. What acts by your wife, Mr. Brooker, while you were in the Navy threatened your position?

A. Well, in the Navy, the writing of bad checks is an offense for the person.. personnel in the Navy and also it is a reflection on the man himself if his family, any member of his family writes bad checks. So, I was faced with this situation many times.

Q. Would you please identify this?

A. This here is a letter to my commanding officer.

Q. And what is attached to the back of this letter?

A. A check signed by my wife, endorsed by her to the commissary.

HENRY A. WHITEHURST:

Counsel, would you like to see that?

BENTLEY HITE:

Yes, I would.

HENRY A. WHITEHURST:

Please mark this as Exhibit No. 11.

(Entered as Complainant's Exhibit 11)

Q. Mr. Brooker, what are the consequences of misconduct by naval dependents on the rank and status of a professional, career Navy person?

A. It jeopardises his chance for advancement and, in many cases, he can be discharged from the service.

Q. How many occasions did this sort of conduct happen?

A. Oh, I would have to speculate....at least, maybe 6 or 7 times. I was called to see the commanding officer in connection with bad checks. Letters that were mailed directly to the legal officer or the commanding officer on my ship.

Q. What type of disciplinary action was threatened against you?

A. Being a Senior Petty Officer, I was told to sit down at the table there and go ahead and write a response to these people and tell them how I intended to repay this money. What steps I would take.

Q. Mr. Brooker, what is the date on this letter? Excuse me, it hasn't been properly introduced. I withdraw that question.

Would you please identify this document?

A. This is a letter from my wife dated October 9, 1967. It says, "Just a brief note to let you know that I have taken care of....

HENRY A. WHITEHURST:

Counsellor, would you like to see that?

BENTLEY HITE:

Uh huh.

HENRY A. WHITEHURST:

Please mark that as Exhibit 11-a.

(Entered as Complainant's Exhibit 11-a)

Q. Mr. Brooker, again, what was the date on this?

A. October 9th, 1967.

Q. What was the content of this letter from your wife?

A. It's her explanation as to why she had written a bad check. She claims that she thought she had this money on her account and she didn't.

Q. How many other times had this sort of thing occurred...bad checks?

A. As I dindicated, about 6 or 7 times.

Q. Mr. Brooker, have any of the recent dunning letters and all threatened your job here locally?

A. Yes, they have.

BENTLEY HITE:

Objection. It is a leading question.

HENRY A. WHITEHURST:

Note the exception. Continue.

Q. What type of threats have you had to your work as a result of these accounts?

A. I have received threats to garnishee my wages.

Q. What type of debt was it for?

A. The debt was an account with Simpkins Oil Company of Blacksburg.

Q. Who incurred this debt?

A. My wife.

Q. In whose name was the debt?

A. James E. Brooker.

Q. Did you consent to this debt?

A. No.

Q. What period of time did this debt occur?

A. This occurred during the time that she had left me and gone to 908 South Main Street, Blacksburg.

Q. Mr. Brooker, what acts has your wife ever done in connection with

falsifying your name on certain documents?

A. She always seemed to have a tremendous insatiable desire for extra money so she took it upon herself to apply for a loan on my life insurance in my name and signed the application.

Q. Mr. Brooker, I'm handing you a packet of documents. Would you merely identify them for the record?

A. These are photostats and so forth of a loan that she took out on my life insurance.

Q. Just identify them. Counsellor.

HENRY A. WHITEHURST:

Would you please mark this as Exhibit 12?

(Entered as Complainant's Exhibit 12)

Q. Mr. Brooker, on Exhibit No. 12 I'm handing you that you've already identified, whose signature is that signed at the bottom of that document?

A. It's not my signature.

Q. Whose name is it?

A. James Edwin Brooker.

Q. You say that is not your signature?

A. It is not my signature and the amount here....

Mr. Hite: What is it. Identify it.

Mr. Whitehurst: Exhibit 12.

A. The amount of this loan and the check that was sent was $1,483.88. It was sent to our address. Along with this address is my oldest daughter's address in Norfolk, Virginia.

Q. What efforts have you made to repay this loan?

A. There is no question in the world that I can pay that loan back.

Q. What efforts has your wife made?

A. She made promises but...

Mr. Hite: I didn't see that.

Mr. Whitehurst: It's the same one I showed you a minute ago.

Mr. Hite: I didn't get the amount.

Mr. Brooker: $1,483.00.

Q. What did your wife say when you confronted her with this forged note?

A. You notice it was a year before I realized that I had taken out this loan and I received a little notice that there was a considerable amount of interest due on a loan that I had taken out. This was when I first became aware of the existence of this loan. I confronted her with it and she asked me to please not upset the children.

Q. Were the children ever made aware of the fact of this transaction?

A. They found out about it.

Q. And you state that the loan has not been repaid?

A. No.

Q. Has your wife ever written letters to other persons falsely condemning you?

A. She's written one to my parents.

Q. How many times?

A. One (1) that I know of.

Q. What was the content of this letter?

A. Well, it was a letter that was indicating to my parents that their son was a drifter and a no-good individual and that my own children were going to testify against me in court.

Q. Were the allegations contained in that letter true?

A. They were not.

Q. Where did your wife move to when she left your residence on 1 November 1971?

A. She moved to 908 South Main Street, Blacksburg.

Q. Is that Montgomery County, Virginia?

A. Uh huh.

Q. How was she on paying her bills at this new address?

A. Well, I think what we've seen here in evidence so far would indicate that she didn't. She felt that they were all my obligations.

Q. When did the family return to you?

A. They returned to me on the 5th of March. 1972.

Q. For the record, would you state some of the circumstances surrounding this return?

A. As you've seen in evidence, the Simpkins Oil Company had lost patience since the fuel bill was so high, they told her that they would cut off the fuel, the landlord had notified her that they would evict her from this apartment, the official word that I received that this situation existed was when my little daughter, Rosemary, came up to my door and knocked and came in and told me that the family would have to move back in with me, that they were going out on the street.

Q. Did you permit them to return?

A. I explained to Rosemary that it would be a very bad situation but I certainly would not stand in the way of the family moving back in since they had no other place to go.

Q. When the family returned, did you condone and forgive your wife's desertion?

A. I certainly did not.

Q. At that time, did you and your wife resume marital cohabitation?

A. In the normal sense of the word, no.

Q. What was the nature of your relationship at this point?

A. We rarely spoke to one another. I'd come in and she would be sitting with her back to me looking at television and I'd go get something to eat and go read a book maybe. Virtually no communication between us.

Q. How would you characterize the relationship that existed between you and your wife from the latter part of March, 1972, through the latter part of June, 1972?

A. A period of rising tension, threats of violence to suicide, the purchase of a revolver which no direct threat was made to use it on me but...

Q. Who purchased the revolver?

A. My wife purchased the revolver. I have a revolver.

Q. What date did you subsequently remove your belongings?

A. I believe it was the 26th of June.

Q. Where had you been staying from time to time prior to that?

A. Prior to that.

Q. At nighttime.

A. You mean afterwards. Afterwards, I stayed at the maintenance shop at the hospital over there for a period of about a month until I could get a deposit on an apartment.

Q. Mr. Brooker, you're the defendant in a cross-bill filed by your wife.

A. I understand that.

Q. Have you always provided an adequate home and a standard of living.... adequate standard of living for your family?

A. I feel I have.

Q. In her Answer and Cross-Bill, your wife has charged that you "forced her and their four (4) children to live in a one (1) room apartment for several months, forced the children to sleep on the floor and to live under conditions that were not condusive to the best interest of the children". What

is your response to that allegation?

A. Well, I think we should consider the circumstances under which this condition prevailed for maybe two (2) weeks at the most. This was when I realized that we were not in any position to afford this house at Price's Fork that rented for $235.00 a month plus utilities.

Q. What was the date?

A. The date of what?

Q. Of this allegation that you all lived in...

A. This was around the 23rd of August, 1971. This was when my wife and children had come up to Blacksburg for the first time to actually make a home here.

Q. Your wife in her Responsive Pleadings, on Page 2, charges that you forced the family to do without and forego the essentials of life. Now what is your response to that?

A. This is not true.

Q. Has your children or wife ever gone without food, clothing or shelter?

A. No.

Q. Your wife, Mr. Brooker, charges you on Page 3 of her Responsive Pleadings of being penurious and tight. Are you?

A. I like to pay my bills. I have a tendency to resist incurring bills but when I do incur them, I try to pay them and this sometimes results in a certain amount of denial on my part and I hope my family's part.

Q. What is your present job, sir?

A. I'm the maintenance engineer at Pulaski Community Hospital.

Q. What was your job during the period of time from approximately the latter part of the summer of 71 through, perhaps, the latter part of June 72?

Q. Mr. Brooker, at the time that she alleges you were penurious, tight, etcetera, what, in fact, was your overall financial situation?

A. Desperate.

Q. Mr. Brooker, I'm handing you a document. Would you please merely identify it?

A. This is a demand by Internal Revenue Service for money...taxes, back-taxes for the periods 1967, 68 and 70 in the amount of $652.91.

HENRY A. WHITEHURST:

Would you please enter this as Exhibit No. 14.

(Entered as Complainant's Exhibit 14)

Q. Mr. Brooker, what time of the year did this arrive...this notice of delinquent taxes?

A. This arrived just about the same time that my wife moved to 908 South Main Street, Blacksburg.

Q. What was the cumulative effect of this demand by IRS that you pay this nearly $650.00 back taxes?

A. Well, I think, if you notice an attached note there from the Internal Revenue officer which was slipped under my door when I got home from work I found that, and it was another bombshell.

Q. At this time, how would you describe your family's financial situation?

A. Absolutely chaotic.

BENTLEY HITE:

That's when it became what? Chaotic?

Mr. Brooker: That's right.

Q. Mr. Brooker, since you and your wife have been living separate and apart, have you provided support money to her monthly?

A. Yes, I have.

Q. Mr. Brooker, I'm handing you a packet of documents. Just merely identify them if you would, please sir.

A. These are checks dating back til November of 71 for monies that I provided my wife. In many cases, voluntarily before any written settlement was established.

BENTLEY HITE:

What's the number of this? It's not numbered here.

HENRY A. WHITEHURST:

Exhibit 15. It's Exhibit No. 15.

(Entered as Complainant's Exhibit 15)

Since July of 1972, Mr. Brooker what has been the net monthly support payment you have sent your wife?

A. My wife sat downstairs in this office and we agreed upon a sum of $300.00.

Q. How have you been sending her that sum of money?

A. Prior to her moving to Windsor Hills, I paid it directly to her. After moving to Windsor Hills, the lease was put in my name, consequently, I felt an obligation to pay that one separately. It is paid out of the $300.00.

Q. What reasons do you have for paying the rent directly other than that?

A. Again, the lease is in my name and, from past experience, I realize that if I didn't pay the rent, it wouldn't get paid.

Q. Mr. Brooker, what do you attribute your wife's alleged nervous trouble to?

A. Past or present or what? The nervous condition you are referring to?

Q. Within the last few years.

A. I think she shares my apprehension about our financial situation.

Q. Do you know, of your own knowledge, what the total family financial situation is today? Both yours and hers?

A. I'm slowly paying off most of these debts. I'm not familiar with what she's doing. I never have been.

Q. Mr. Brooker, in her Cross-Bill your wife states that your retirement income is in excess of $600.00 a month. Is that true?

A. No, and I can furnish evidence from the United States Navy to show exactly what that was. In fact, it was on my statement here, copied directly.

Q. Would you know of your own knowledge right offhand what approximately your net is?

A. $550.00, Net, now?

Q. Gross.

A. Gross, $550.00.

Q. What comes out of that $550.00 before you ever get it?

A. Internal Revenue, taxes, federal taxes, payment to the Great Lakes Credit Union of $106.00 for past bills including an automobile which now is almost 10 years old, miscellaneous little things that come up, plus what we call a family protection plan which is an annuity type thing for your wife in case you die, your wife would get a portion of your retirement. This is $36.00 a month. This comes out of my gross retirement.

Q. What would you estimate the....

A. Plus insurance, life insurance policy payments..premiums.

Q. What would you estimate the net to be of your retirement pay?

A. At what time?

Q. At this time period we've been working, September of 71 through June of 72.

A. I think I indicated there, it was $265.00.

Q. Not $600.00?

A. No.

Q. Mr. Brooker, what exactly was your station in life when you were in the Navy?

A. I was a Senior Petty....Chief Petty Officer in the Navy.

Q. What was your family receiving as a result of your rank and status in the Navy?

A. Well, they were entitled to a...what we called a housing allowance. For my particular grade, it was $120.00. This doesn't sound like very much nowadays but we simply forfeited this for a house on the naval base. And again I've emphasized it was a new house. It was four (4) bedrooms, fully furnished, all utilities paid.

Q. What type of an allotment was your family entitled to as a result....

A. She received a check from the government in which I put a portion of my pay and the government put the rest in.

Q. This was in addition over and above your standard pay?

A. The part that I put in was out of my pay plus the government gave us a percentage too. Her check, I believe, was $280.00 a month.

Q. What type of medical and dental treatment did they receive?

A. They received free medical and dental care.

Q. What was the net effect of a transition....

Mrs. Brooker: Dental care was not included.

Mr. Brooker: That's correct. I'm sorry. I made an error here. Dental care was not furnished to naval dependents or any other military.

Q. Did you pay for any dental care that was necessary?

A. If it was necessary, I paid for it.

Q. What was the net effect, Mr. Brooker, of a transition for a family after having spent...after you having spent 20 years in the Navy coming out to

civilian life?

A. Well, most men had a house and they had furniture in the house and so forth...their furnishings. Their house, in many cases, was paid for after at least 20 years in service. We had nothing. We had no home. We had no furnishings, because again the Navy provided these things. We had no money to buy them in advance in anticipation of getting out. When we left the Navy, we had absolutely nothing but our suitcase and maybe a television set.

Q. What fears did this cause in you as a father and one whose...

A. Well, instantly we were confronted when we moved into our house in Chesapeake, an empty house. We went out together and tried to find beds and things like this that we would purchase and we realized right now that we couldn't do it so what we ended up doing was renting furniture during the time that we lived in Chesapeake, Virginia, and we did this to the tune of $88.00 a month for rental furniture and I realized that someday we were going to have to buy our own furniture and it would be a very expensive proposition. We would have to do it slowly.

Q. Did you realize what the financial burden was of coming into civilian life?

A. I definitely did.

Q. Mr. Brooker, do you desire custody of the infant children?

A. Yes.

Q. Why?

A. Because I feel that the youngest child particularly would be under a tremendous psychological disadvantage if she continues to live. . . . .

Q. What is her name again for the record?

A. Rosemary Brooker.

Q. And her age?

A. She's eleven (11).

Q. And your teenage girl?

A. That's Margery Brooker.

Q. And her age?

A. She's seventeen (17).

Q. All right. Continue, sir.

A. The reason I say this is because from prior, under prior circumstances, my wife has threatened suicide and she's gone to a great deal of trouble to indicate by demonstrations how she planned to sever her wrists and so forth, and the child has been in sort of mortal terror of this happening, which later on proved to be justified.

Q. Have there been occasions that the children have, in fact, heard these threats?

A. Definitely.

Q. Since January of 1972, has your wife expressed a desire to you for a reconciliation?

A. January of 72. I can't recall.

Q. During the time, Mr. Brooker, that you and your family shared an apartment, from March of 1972 through sometime during the month of June of 72, was reconciliation ever discussed?

A. No.

Q. Did reconciliation during this period seem probable?

A. Absolutely not.

Q. Why did it not seem probable?

A. As I indicated before, there was no communication between us at all.

Q. What physical contact did you and your wife have during this period of from March 72 through June of 72?

A. None whatsoever.

Q. What was the reason that you allowed her back?

A. Because she had no place to go and neither did the children.

Q. What have you told the children in respect to them returning to you?

A. During this period?

Q. And now.

A. That they could anytime they wanted to.

Q. Mr. Brooker, in your wife's Cross-Bill, she states that you forced the four (4) children to sleep together in a room on the floor for a long period of time? How long...what was the longest period that they were forced to sleep in this one room?

A. To my recollection, no more than two (2) weeks. And this was during an interim period when we had tried to obtain a two (2) bedroom which was the only thing available.

Q. Were you at that time seeking a larger apartment?

A. Definitely.

Q. Why didn't you rent the house at Price's Fork?

A. Because it was way beyond my means. As I said before, $235.00 a month plus utilities.

Q. What were the utilities?

A. Of course, I never moved into the place but the prior tenant had indicated to me that in the coldest winter, he had paid something like $180-190.00 a month for utilities, electric heating and so forth.

Q. What was the water quality standards?

BENTLEY HITE:

Objection to what somebody told him.

HENRY A. WHITEHURST:

Objection noted.

Q. What was the quality of...what was the water standard quality?

A. When I went into to move, actually move in, I'd made a deposit on this house. I came in, the tenant was there, and I noticed a large milk can sitting in the middle of the kitchen floor. I asked him, you know, what are they doing here, and he said, "We went to Mr. Adams' house down the road to get this water becuase we have discovered that this water is contaminated. We have a small child and we do not want to take any chance". He said, "We have found that it is contaminated". He had got lab samples, sent samples to the lab and they had concurred that the water was contaminated. Mr. Adams indicated he was treating the water to remove this problem. So my feeling at the time was that I would rather sacrifice a $50.00 deposit than move into a situation like that.

Q. What happened to the $50.00 deposit?

A. We got it back.

Q. What efforts were you making at this time to obtain a bigger dwelling?

A. Since we had no furniture and it's been my feeling...it was my feeling then and it has always been my feeling that we would have to be in a furnished apartment, so I put my name on a waiting list for a three (3) bedroom apartment at the University...

Q. When did the three (3) bedroom apartment become available?

A. It became available shortly before my wife...or left the last time.

Q. Had there been a prior occasion that a three (3) bedroom apartment was available?

A. Well, it's true I put my name on the waiting list prior to Bonnie coming up here in August of 71.

Q. Do you consent, Mr. Brooker, for the secretary and notary public before whom you are giving these depositions to sign your name to them once

they are typed?

A. Yes, I do.

Q. Answer any questions Mr. Hite may have.

BENTLEY HITE:

Q. Mr. Brooker, how long were you in the United States Navy?

A. Twenty-six (26) years.

Q. And you were retired as a CPO?

A. That's right.

Q. What duty did you have while you were in the Navy?

A. I was an Interior Communications Electrician.

Q. All the time?

A. Uh huh.

Q. Were you afloat at any time?

A. Most of the time.

Q. What type of ship?

A. Various types of ships, destroyers, mine sweepers, aircraft carriers, air ships.

Q. Mr. Brooker, when were you retired from the Navy?

A. The 4th of January, 1971.

Q. And you retired as a CPO?

A. Uh huh.

Q. And what was your pay, gross pay, at the time?

A. As I've indicated, at the time I retired, the gross retirement was something like $550.00 gross.

Q. Has it been raised since then?

A. Cost of living, right.

Q. What is it now?

A. I'm not sure about the gross. But as I've indicated in this statement here.

Q. I want the gross if you can.

A. I can get it for you. I think I have it in my car down there but I can tell you what the net is.

Q. Isn't the gross better than $600.00 a month?

A. I can't answer that. I don't know right now. This just happened, we just had an increase here recently.

Q. You can't tell us what your pay is now?

A. I can if I can refer to some documents and so forth. I have nothing to hide.

HENRY A. WHITEHURST:

Let the record show that we will stipulate that his correct....

BENTLEY HITE:

Will you give Mr. Whitehurst your gross retirement pay from the Navy?

A. You mean get it now or what?

Q. No, later.

A. Yeah sure. It's all right.

Q. Now, when you came out of the Navy, I believe you said you had a lot of debts pending.

A. That's right.

Q. Lot of debts hanging over your head and you and your wife had not been able to purchase a home or any furniture because...

A. Oh, we had a few items.

Q. Well, most of your furniture as I know was furnished by the Navy. Now, you came to Blacksburg from Norfolk.

A. That's right.

Q. At what time?

A. You mean when the family moved up?

Q. No, when you first moved.

A. I came here the first of May, 1971.

Q. And your family I believe stayed in Norfolk.

A. They did, at Chesapeake.

Q. Well, we consider that the same.

A. Right.

Q. Did you find employment as soon as you got here?

A. I did. I tried to. I experienced considerable difficulty at that time of the year around the first of the year, January, wintertime. I eventually took employment at the Virginia Carolina Electric Company, wholesale company.

Q. And your wife and children stayed in Chesapeake?

A. That's correct.

Q. The children were in school.

A. That's correct.

Q. Was your wife working at that time?

A. Yes, she was.

Q. And then did you secure a house so your wife and children could come later?

A. In this area here?

Q. Yes.

A. I did not secure a house. This is the point of contention that we've been talking about, the $235.00 house which my wife felt was the only one suitable to, she says, her station in life. I didn't feel that our station in life would justify this particular house at that time.

Q. Where was it?

A. Where was the house?

Q. Yes.

A. In Price's Fork, Whitethorne.

Q. Did you get any kind of a house for them'

A. My wife had been up here, selected this house, directed me to make a deposit on it. After a great deal of discussion, I tried to convince her that we could not afford it based on previous debts and so forth.

Q. That's this $265.00 one?

A. $235.00.

Q. $235.00.

A. Right. She convinced me that this was the only thing that would make us happy and it was more or less an ultimatum, that we either get this or we're through whatever that meant. I had the small efficiency apartment at the University that I lived in myself while I was up here and I told the people there that I was vacating on a certain date and I told them that I planned to move into the Whitethorne house. I even went down there and put belongings I had... put them in the garage of the house and then when I found out...

Q. That was owned by this Thomas K. Adams?

A. I believe that's his name. I know his name is Adams and...

Q. What were you to pay for that house?

A. $235.00 a month.

Q. Oh, that's the one you're talking about.

A. That's correct, at Whitethorne, but I had been evaluating the situation on the spot at that time, I found out these additional problems. I decided that it was just a can of worms and, consequently, I took the belongings back, the apartment that I had was still available, a single room efficiency

I called my wife immediately. She, in turn, had already arranged for the Navy to pick up what belongings we had in Norfolk and ship them up here and she was ready to come up. I went to my landlady and asked for a larger apartment and, of course, there were none available. She said she could get us one in about two (2) weeks, a two (2) bedroom, that was not a three (3) bedroom, it was a two (2) bedroom and there would be no three (3) bedrooms for a while. I said please get me the two (2) bedroom in the meantime, my family is coming up. My family came up and we stayed there in that efficiency apartment. It is true that the kids slept on this thick rug, it was wall to wall carpeting, for this period of time.

Q. For how long?

A. I would estimate, two (2) weeks.

Q. Now how many children did you have?

A. There were five (5), my oldest daughter was not with us.

Q. Two (2) girls and two (2) boys?

A. That's correct, right.

Q. Where did you and your wife sleep?

A. On the bed.

Q. And the four (4) children slept on the floor?

A. With quilts and so forth, right, sort of like a camping excursion.

Q. And you did that two (2) weeks and then, did you make an effort during....

A. I think you realize that you just don't walk out and get a house, you commit yourself to a lease and no furniture and they are not interested, they want to lease you and we were not in any position to sign a lease at that time. I did not have a lease, even on the two (2) bedroom apartment that we got later on and it was furnished. They told me they didn't need a lease on it so I felt that there I was in a position to make a decision later

on when we found a house that we wanted and could move into. I was not committed to stay there a year.

Q. Did you finally find a home, get them out of there?

A. Well, when you say get them out of there, you're implying that it was a slum or something. It certainly was not. This was one of the nicest, at the time, it was one of the nicest apartment areas around here.

Q. Well, did you find a home?

A. As we've said, we graduated to a two (2) bedroom apartment, which, again, was all they had. I had my name on the waiting list for a three (3) and eventually the three (3) came around but my wife, in the meantime, had decided that she had found another house owned by Mr. Adams which was a reconstructed barn, literally, and she was going to move into it and she made this clear, that she was going to leave and she was going into this barn, and I said, "You're a fool if you do. I will not, we're going to stay right here".

Q. Where were you? In that two (2) room?

A. Two (2) room, with a three (3) bedroom around the corner.

Q. At that, you were still in the...

A. Two (2) bedroom.

Q. In the two (2) room?

A. Right.

HENRY A. WHITEHURST:

Let the record show, counsellor, he said two (2) bedroom, not two (2) room apartment.

A. Two (2) bedroom, right.

Q. You had moved out of the one (1) bedroom?

A. Efficiency, right.

Q. Efficiency apartment. And then you moved into the two (2) bedroom apartment.

A. That's correct. H-5.

Q. And you and your wife slept in one room and the children slept in the other?

A. In the two (2) bedroom?

Q. Yes.

A. That's right.

Q. And then your wife wanted to move into another apartment, a larger one, and she went down and did rent an apartment from this Thomas K. Adams?

A. No.

Q. What did she do?

A. She indicated to me that Mr. Adams had taken a barn and remodeled it and that she was going to move into it and what had happened is that apparently someone else was number one on the list and they decided to take this place and so she lost out. In the meantime, my landlady came to me and wanted to know if I wanted that three (3) bedroom apartment now. And I said I'm sorry but my wife is not going to stay here and, consequently, I can't take it. So, she let another man have it and my wife came to me about two (2) days later and said that...what are the chances of getting a three (3) bedroom apartment here, and I said absolutely nil now because I told the landlady that we were not going to want it.

Q. Had you made any other effort to get an apartment?

A. Well, one effort at a time. A three (3) bedroom and then, sort of, in our status in life, I had a feeling might climb, eventually, might even end up in a nice modern home. As it turned out, my wife reversed the entire

situation. She went downhill, the houses that she rented were actually the oldest houses in Christiansburg and Blacksburg, virtual slums.

Q. She evidently considered those houses better than having your two (2) daughters and your own sons....

A. Well, this is where we have a tremendous difference of opinion...

Q. sleeping in one room.

A. as to what constitutes a decent home.

Q. What's that?

A. This is where, she and I, have a tremendous difference of opinion as to what constitutes a decent home.

Q. Well, do you think forcing two (2) young ladies and two (2) young gentlemen to sleep in the same room constitutes a home?

A. I don't feel that there was any incestous relations going on or anything like that.

Q. I didn't say there were but is that your idea of furnishing them a decent home?

A. This is...we're talking about continuous planning here. I felt that this was all we could do in that emergency at that particular time and it was a damn emergency.

Q. Why do you call it an emergency?

A. The alternative was to go out and live in a motel or something and paying maybe $15.00 a day and I couldn't do that.

Q. Well...

A. Since I knew I was going to get a two (2) bedroom apartment.....

Q. At that time, were you....

A. a couple of weeks later, well, hang in there, and we did.

Q. Well, were you actually trying to get another apartment?

A. Putting your name on a waiting list for a furnished two (2) bedroom apartment is definitely trying.

Q. Did you go out and seek other apartments?

A. Did I go out? I went out with my wife, yeah, we went out didn't we. Bonnie? The one that I looked at was absolutely outrageous.

Q. Didn't she go out nearly every day trying to find an apartment?

A. Yeah, she went out. Right.

Q. And you....

A. I went to work.

Q. Went to work. While you were working, your wife was trying to secure an apartment?

A. She was out.

Q. Now, how long was it before you found another apartment?

A. She found her own at 908 South Main Street.

Q. When was that, do you know?

A. This was around the 1st of November, 1972.

Q. 72?

A. No, 71, sorry.

Q. And did you move into that apartment?

A. I did not move into that apartment. We discussed this very carefully. She explained to me that this was it; that she was leaving and the kids were going with her.

Q. At that time, you were still living in the two (2).....

A. Two (2) bedroom apartment, fully furnished, right, with utilities that we could afford.

Q. Did you agree for her to move into this apartment that she'd found?

A. I definitely did not agree. I was not even consulted. She went out and got

this place on her own.

Q. Do you remember the day that she moved into the apartment?

A. I remember the day she left my apartment.

Q. What date was that?

A. I would speculate, the 1st of November, I'm not sure about it.

Q. 71?

A. 71, right.

Q. And she and the children moved into this new apartment that she had got?

A. I wouldn't even call it new. It was a rathole.

Q. It was an apartment that she had got?

A. Yeah, a house is what she got.

Q. How many bedrooms does it have?

A. It had so many rooms that...there were closets that could be used for rooms and the floor looked like the roller coaster down at Lakeside, the plumbing stunk, backed up, overflowed on the floor, the refrigerator did not work, but she solved this problem by buying a new refrigerator and putting it in the house which was very shrewd and brilliant.

Q. You must have known something about the house. I thought you said you didn't go with them.

A. I did not go with them is correct. I might have passed by the thing.

Q. Just went over and inspected it?

A. I did not inspect it. She'd already signed the lease.

Q. How do you know that the plumbing was bad and the thing stunk?

A. Because I went in it.

Q. And did you try to help her clean it up?

A. No, I did not.

Q. The children approved of it didn't they?

A. Because of their ages, they thought they really had something.

Q. That's right. They were tickled to death with what.....

A. Until they found out what they'd gotten into.

Q. For the first time in their lives, they told you that they had a home that they thought.....

A. Underscore the word thought. Because of their immature ages, they didn't know what they were getting into.

Q. But they were happy with what they were getting?

A. No, you can't say that. Happiness means a....

HENRY A. WHITEHURST:

I object to the question, counsellor. It's calling for a conclusion outside of the scope of Mr. Brooker's knowledge.

BENTLEY HITE:

Mr. Brooker is on cross-examination and he can have his own conclusions leading questions.

HENRY A. WHITEHURST:

I'm not objecting to leading questions.

Q. Mr. Brooker, weren't your children, to your knowledge, happy with the house that your wife had moved them into?

A. Ah happy, there again we get to this word, I don't feel that they were happy.

Q. You want to equivocate on the word happy. They weren't happy where they were living were they?

A. They trusted their father. They felt that he was really trying to establish a path so that we could eventually regain our balance financially and so forth.

Q. They evidently trusted their mother didn't they? They went with her.

A. Again, they did, that's true. They trusted their mother and to their sorrow later on, yes.

Q. That's your opinion, isn't it?

A. It's true. Just like what constitutes happiness.

Q. They went with their mother voluntarily, she didn't force them to go and you didn't force them.

A. They were shepherded into the car and left, right.

Q. And how long did they live in this home?

A. They, as we said before, they came back to my apartment, the apartment at H-5, University. on the 5th of March, ~~1972.~~

Q. You mean they.... you had moved out of the apartment....

A. No.

Q. You'd moved out of the two (2) room apartment?

A. No, I had not.

Q. You had not.

A. Two (2) bedroom we're talking about.

Q. Two (2) bedroom. And you stayed there by yourself. ....

A. That's correct.

Q. until May of 72, is that right?

A. May of 72... it was more like June 26th when I actually left there.

HENRY A. WHITEHURST:

I'm sorry, counsellor, I didn't hear your question.

BENTLEY HITE:

He stayed in the apartment until I believe it was May and then he moved out in June.

Mr. Brooker: No, I was there all the time in this apartment, all during the period that she lived at 908 South Main Street, I was there. I did not move.

Q. That's right. And then they left 908 South Main Street.

A. That's right and came back on the 5th of March.

Q. That's right, the 5th of March and you stayed until....

A. the 26th of June.

Q. You lived there with them in the two (2) room apartment until the 26th of June, 1972?

A. Uh huh.

Q. How many children were there at that time?

A. Well, there were, let's see Steve, Margie, Rosie and Jimmy was there for a while until he went into the service.

Q. Well, he didn't go into the service until after you left and went away, did he?

A. That's correct.

Q. That's right. So there were four (4) children and the wife and you makes six (6) in those two (2) rooms from March until....

A. Right, and what was my response then to try to get a three (3) bedroom apartment?

Q. What's that?

A. My response was try to get a three (3) bedroom apartment.

Q. But they did live in there from March 72 until you left in June 72...the 26th of June, 72, you moved out?

A. I was expelled, yeah.

Q. What do you mean by you were expelled?

A. Well, we were...we had our last confrontation and I was told to make it

and I did make it.

Q. What do you mean by make it?

A. Leave.

Q. Who told you to leave?

A. My darling wife.

Q. What did she do to force you out, expell you as you say?

A. I came home one particular night, I believe I was with Steve, I'm not sure about this but he was in the house and she was in the hallway, which was a very narrow hallway going to the back bedrooms and it was obvious that this was it. She had her claws extended and told me that I was a son of a bitch and that I was going to get out of the apartment.

Q. Now, Mr. Brooker, why would she use language like that?

A. This is characteristic of my wife regardless of whether the children are around or not.

Q. And what kind of language did you reply?

A. I tried to be careful with my language in front of the children.

Q. Have you always been careful of your language in front of the children?

A. I have. Right.

Q. And what were you discussing when she used the language you just quoted here?

A. I don't know what precipitated , but as I've indicated before, there was a continual buildup of tension between us. And here was a physical block of Bonnie in the passageway or corridor and she made it clear she wasn't going to let me by to go to my bedroom.

Q. You had...you slept in one room and she and the children slept in...

A. No, there wasn't that many bedrooms.

Q. What's that?

A. There weren't that many bedrooms.

Q. Well, where did you sleep?

A. I slept in...we'll call it the master bedroom.

Q. And the four (4) children slept in the other room?

A. Well, one of them slept on the sofa in the front room.

Q. She didn't hit you that night or...

A. Well, this is..the only reason she didn't claw my eyes out is that I grabbed her wrists.

Q. And did you hit her?

A. I did not hit her.

Q. What did you do when you grabbed her wrists?

A. Tried to restrain her from pulling my hair, grabbing me by the throat and in the process we tumbled over a bed and Steve separated us.

Q. She did what?

A. Steve, my son who was in the apartment, separated us.

Q. When he did that, you had her down choking her didn't you?

A. This is absolutely not true. She was on top of me and I think you will agree that if she was on top of me, I would be at a tremendouse disadvantage.

Q. Didn't your sons...both of them...

A. There was not but one son in the apartment.

Q. pull you off and push you...

A. I think he tried to relieve the pressure on me by getting my wife off of me.

Q. How many times had you and your wife had violent fighting before your children?

A. Oh, that would be hard to enumerate. When we came in close physical contact and that sort of thing? I would say maybe two (2) or three (3) times in the course of our association.

Q. Well, after you moved here to Blacksburg, how many times had you actually grabbed her hands, taken ahold of her?

A. This was the only time.

Q. That was the only time. At any time, did you ever strike her or kick her?

A. No, she...one time, tried to kick me and upset herself and landed on the floor and acquired a few bruises.

Q. Of course you didn't touch her, she just fell down?

A. No, I blocked her kick but...

Q. What's that?

A. I blocked her kick.

Q. She just fell down and made bruises on her and you didn't...

A. She did because the floor she landed on was a parquet floor at the naval housing project.

Q. All those bruises she had on her and showed to the children and other people, you didn't put...she just fell down and made bruises?

A. That's probably true. She bruises very easily.

Q. How many times did she fall down and make bruises on her?

A. This is the only incident I know of and this was down on the naval housing project.

Q. Did you ever threaten your wife that you were going to have her put in an institution?

A. I never did. I never questioned her sanity.

Q. Was she...I believe she did receive treatment over at King's Sanitarium.

A. King's?

Q. or St. Alban's, we call it King's.

A. She did, right.

Q. And what was that for?

A. Attempted suicide, I believe.

Q. Did you go over to see the doctor?

A. I definitely did.

Q. How many times?

A. I made a formal approach...appointment to see the doctor, Dr. Scott, I believe his name was, and Dr. Scott, when I did go in there would not talk to me, would not tell me the condition of my wife or anything.

Q. Did you go back anymore?

A. I took the children back, yes. I also talked to, I guess it was the director over there about this situation and he inquired by telephone with Dr. Scott as to why I couldn't see my...or talk to him about my wife's condition and he claimed there was a legal situation and I could not do this.

Q. Didn't the doctor tell you that you were responsible for her condition and the way you treated her was....

A. Dr. Scott did not tell me anything. He would not talk to me. He would not meet with me in the lobby or anything.

Q. Did any of them over there tell you that her condition and nervous condition was due to your treatment of your wife?

HENRY A. WHITEHURST:

I object to that question as being self-serving.

A. Nobody over there discussed her condition with me.

Q. Nobody.

A. No one. Not even an orderly or anyone.

Q. Did you see your wife? How long did she stay there?

A. She stayed there until about the first of March of 73.

Q. How many months was that?

A. She went in around the first of February.

Q. Did you see your wife any other time?

A. She came out on what they call leave.

Q. I mean did you see her at King's?

A. I never saw her. I saw her walking on the grounds with the children. I took them over to visit her.

Q. Now, I believe you and your wife.... Let's get the date that you last moved out of the house, two (2) room, two (2) bedroom house, what date was that?

A. Again, I say to the best of my knowledge, it was on the 26th of June.

Q. 72?

A. Yes.

Q. And that's the date that you and she had the fight, physical fight, and your son parted you?

A. That's right.

Q. Where have you been living since?

A. From there I went to the, as I said the maintenance building at the hospital and stayed there for approximately a month and then I moved into the efficiency apartment at the University, E-12.

Q. Where has your wife and children lived?

A. She left the two (2) bedroom apartment, I think it was a month or two (2) afterwards, September, I believe, and went to Christiansburg to a museum piece down here.

Q. Did you visit them while they were living here in Christiansburg?

A. I did.

Q. How many occasions?

A. Every chance I could. I usually came by every evening and...even if I didn't go in I...the children came out and we talked and went out and had some supper and did various things.

Q. Now, you have not lived with them since then, haven't lived as man and wife?

A. That's correct.

Q. Where is she living....Where is she and her children living now?

A. She's living at 610 Ascot Lane which...an apartment which I contracted for just prior to her leaving St. Alban's.

Q. You rent it. You rented it.

A. I pay the rent there. Right.

Q. The rent...I believe it's leased in your name?

A. That's correct.

Q. The record shows that you and your wife had a property settlement. Do you remember the date of that?

A. You mean the agreement for $300.00?

Q. Yes.

A. I believe it was in August sometime of 72.

Q. August, 72, and where did you have that...where was that?

A. Down here in Mr. Craft's office.

Q. Was your wife represented by an attorney at that time?

A. Mr. Winder.

Q. I believe they agreed upon $300.00...

A. That's correct.

Q. in August, 72. Have you been paying that?

A. I have.

Q. To whom?

A. I pay the rent portion of this to the landlady over there at Windsor Hills and the additional amount goes to my wife except for my 17 year old daughter when she went to Norfolk, she needed funds down there and this money was diverted to her down there.

Q. You haven't been paying your wife then have you?

A. I'm supporting my...I'm paying the support that is supposed to be paid.

Q. Well, the agreement was that the $300.00 was to be paid to your wife.

HENRY A. WHITEHURST:

I object to the questions as being argumentative.

Q. Answer the question. Isn't that true?

A. I explained to you how I paid this money.

Q. Well.

A. As rent and I explained to you why I paid the rent.

Q. Doesn't the agreement show that....

A. But, the ballgame changed when she went to St. Alban's.

Q. But the agreement didn't change.

A. She got the equivalent of $300.00.

Q. That wasn't the point. You....

A. I'm not going to pay $300.00 to a woman that's in St. Alban's and I was justified in this belief because imme diately after she left, what happened. they had her down here for bad checks again.

Q. Your agreement was to pay your wife $300.00 a month. Is that true?

A. Unless a situation arose which did arise where she went to St. Alban's. I had to get her out of that apartment down there.

Q. Mr. Brooker, the agreement shows that you were to pay... this agreement between you and your wife....

HENRY A. WHITEHURST:

Counsel, are you going to enter that in evidence?

Q. That you were to pay her $200.00... or $300.00 a month. You admit that you haven't paid her the $300.00 but been paying her part of it?

A. No, I paid for the support of my family, I pay $300.00, let's put it that way.

Q. How much did you pay your daughter in Norfolk?

A. The balance that was due her, which I believe was somewhere in the neighborhood of $25.00.

Q. The balance due whom?

A. My daughter for her support. She had to live down there, she couldn't infringe upon the hospitality of strangers and so forth.

Q. You haven't said anything in the agreement about paying your daughter anything.

A. She's one of my children.

Q. Well, you didn't....

A. And we are certainly dividing this up porportionately.

Q. According to whose idea?

A. That's the way I look at it.

Q. Yeah.

A. I'm the guy that's paying it.

Q. Well, maybe your wife didn't look at it that way.

A. Obviously she didn't, like a lot of other things.

Q. So you haven't paid her the $300.00 as you contracted to do?

A. That is your conclusion. I have checks to show you exactly what I've paid.

Q. No, it isn't my conclusion. It's what you said.

A. I have checks to prove exactly what I paid.

Q. Well, what you paid, but you haven't paid your wife.

A. I provided the support that I.....

Q. Well, that's in your opinion.

A. agreed up.

Q. But the contract said to pay your wife.

HENRY A. WHITEHURST:

Again, I object.

A. In St. Alban's, sure.

HENRY A. WHITEHURST:

Again, I object.

BENTLEY HITE:

Object all you wish to. We are going to get to the bottom of it.

HENRY A. WHITEHURST:

You are calling for conclusions of law. This is a hearing for facts. We are not asking for conclusions of law.

BENTLEY HITE:

I'm asking for the facts, what he paid and he's given his conclusions.

HENRY A. WHITEHURST:

Counsel, he's answered your question a dozen times.

Q. How long... What did you pay her this last month?

A. I think my checks will show that I paid her $100.00 plus I paid the rent

at The Windsor Hills Apartments plus Simpkins Oil, I made payments on Simpkins Oil.

Q. What was that last?

A. Simpkins Oil and Coal which you are going to hear a lot of.

Q. What did you send your daughter in Norfolk?

A. My daughter was not in Norfolk.

Q. Well, wherever she was.

A. She's here in Blacksburg.

Q. What did you give her?

A. Some new clothes and things like this.

Q. So you admit you paid for August; you paid your wife $100.00 and then paid some bills

A. Which bills that were acquired by my wife and this is necessary.

Q. Well, you can put in any explanation you want it but I want the facts and know what you did.

A. And I told you.

Q. You can put your interpretation on it.

A. I told you what I did.

Q. What did you pay in July?

A. July was the month I believe that my daughter was in Norfolk and I do not have the checks in my fingertips at this moment but I can....

Q. Well, what do you think you paid her?

A. I think I paid the rent again, $168.50. I think that I gave her approximately $100.00 and I paid the difference to my daughter down in Norfolk.

Q. And that yet is not in keeping with the contract you have?

A. I do not agree on that at all.

Q. Now, what did you pay in June?

A. Oh, come on, I just don't have these...I have checks.

Q. But you didn't pay your wife $300.00.

A. From past experience, I know what happens to money that I give my wife.

Q. Mr. Brooker, isn't the whole....isn't this whole thing on the fact that you and your wife, both of you, haven't been able to live within your income

A. This is perfectly obvious.

Q. That's...your statement of the reason you left your wife...fifteen (15) different reasons and they are every one based on the fact that she spent too much money. Is that true?

A. She was running her own life. We were not operating as man and wife or husband and wife.

Q. Well, you were...you ran yours didn't you?

A. I was just the...I tried to...I tried to keep the family afloat.

Q. Wasn't she trying too?

A. Was she trying? Well, if I....

Q. Who found a home for them? You put them in one (1) room.

A. You know why I put them in one (1) room. I just told you.

Q. Yes, you did.

A. You don't accept the reason but I'm telling you why I did it.

Q. Well, you put them in one (1) room and kept them in a two (2) room.....

A. I wanted them to stay down in Norfolk until we could get a home but no, they had to be....She initiated the move by the Navy

Q. She got out....

A. Pushed a button and there it was.

Q. She got out and got them a decent place to live.

A. I disagree. That house was not decent. I would not have moved in there.

Q. She got a place to put them.

A. She got a place...I had a place to put them too, whether you say it's adequate or not is immaterial. I say that the place she moved into was absolutely a rathole.

Q. I know what the children said about it.

A. Well, let's find out what they say.

Q. Well, we will.

A. Good, absolutely.

Q. You inferred that she didn't look after them, she was the one that get them out and got them where they were happy and pleasant.

A. I didn't infer that; maybe you did, I did not. We were discussing happiness a few minutes ago. We never arrived at any conclusion as to what term...determines happiness.

Q. Now, you have stated the whole basis for your leaving the house. Isn't that true?

A. Have I? I wonder.

Q. Well, what was it?

A. Extreme mental cruelty possibly, I heard you talk about that. Have you ever tried to live with a woman that will not speak to you; who indicates by every gesture that you do not exist in her life.

Q. Did you speak to her?

A. We made efforts to.

Q. Didn't she write you at least four (4) letters asking you to come back?

A. And you think I would come back to that situation.

Q. Didn't she ask you to come back?

A. Wifely invitations.

Q. Didn't she write to you?

A. I'm a...in other words, I've ruined everything and now I need you back here to pick up the pieces.

Q. Didn't she write you and ask you to come back?

A. I've got notes here in my collection that say wifely invitation extended and here is what we need to do, we have to pay the following immediately or we're going to get it.

Q. Didn't she ask...have the children to beg you to come back?

A. She had the children to come to my apartment and tell me that they were going to be thrown out on the street if I didn't let them come back.

Q. Didn't she have one, at least one neighbor and probably two to try to become reconciled with you, get you back?

A. Neighbors? I don't know what you are talking about.

Q. Didn't....When Mr. Winder was representing her, didn't he try to get you to come back?

A. Never. He never talked to me about reconciliation.

Q. Well, your children have, haven't they?

A. No.

Q. Your wife has.

A. My children feel strongly that the best thing for this marriage is to sever all relationships.

Q. Your wife has tried to get back with you hasn't she?

A. In what respect?

Q. In all respects.

A. Financially, she probably needs me very desperately.

Q. Yes. Well, hasn't she tried to get back with you?

A. No. No formal gesture or anything like this.

Q. You deny that she has written you letters?

A. No, I do not deny that but what is a letter, you know, she's inviting me to step back into the rat's nest.

Q. Well, you don't deny that she has written you on several occasions?

A. I do not deny this. Not several occasions, I have one (1) letter that I can produce showing this frame of mind on her part.

Q. Well, suppose she produced copies of others?

A. I have never written her a letter.

Q. Copies of letters she's written.

A. Well, if she can, great. It doesn't mean I received them.

Q. When you first started out here, you said that you didn't speak with her, said we didn't speak.....

A. I said we had no communication with one another, which means speaking, writing notes to each other or anything like this.

Q. You said you didn't...we didn't speak.

A. Communication, right. There is a lot of communication that's done by lifting an eyebrow or a sneer.

Q. Now, I notice that at least seven (7) of those bills, I think I got it right, maybe more, were made back in 1966, 67, 68 and 69. You were in the Navy then.

A. That's correct.

Q. Living with your wife. Why would you bring them up at this late date after you've lived with her several years since then?

A. Because the point we're making here, I think, is that our situation was

desperate before we even left the Navy. I was fully aware of this.

Q. You kept on living with her.

A. I was, certainly, yeah. You know, what has it been, twenty-five, twenty-six years, you just don't...until you are extremely provoked.

Q. But these are...these are the facts that you relied on here, told your attorney that there is a basis for your asking for a divorce.

HENRY A. WHITEHURST:

I object to that question. Your questionsis phrased....

BENTLEY HITE:

Get his objection. Get his objection down. I want the Court to read it. Get it down what he said.

HENRY A. WHITEHURST:

You are asking for a conclusion.

BENTLEY HITE:

Put down he objected to mine because...go ahead and state it.

HENRY A. WHITEHURST:

My objection to the question is you are calling for a conclusion on the part of Mr. Brooker as to what existed in my mind when I drew the Bill of Complaint. There is no foundation for such a question. There is no way that he can answer the question, counsellor.

Q. All right, what was your answer to it?

A. What was the question?

Q. (To secretary) Read the question please.

Secretary: These are the facts that you relied on here, told your attorney that there was a basis for your asking for a divorce.

Q. That's right. The facts that you've related here were the basis you told

your attorney for getting this divorce.

HENRY A. WHITEHURST:

Again, what Mr. Brooker told me is an attorney-client privilege....

BENTLEY HITE:

If your Honor please..... Take this objection. I object to the attorney for the complainant constantly trying to protect his client from cross-examination. It is unfair and he should not do it. He should be permitted to answer these questions and I'm going to ask them until he does without the interference of Mr. Whitehurst.

A. O. K. We've been dealing with pieces of paper, bills sent to me and so forth. Now, associated along with these is an extreme amount of mental anguish that no one has discussed here, we're not talking about a situation that existed in a vacuum, there are human beings involved here and there is a great deal of...not only on the part of my wife but myself as well.

Q. Don't you think your wife had anxious moments too?

A. I didn't deny that. She demonstrated how anxious her moments were.

Q. So anxious that it caused her to have a nervous breakdown.

A. Possibly and I might have had one and not been aware of it. I've been extremely upset. It didn't come to the point where I had to go to a hospital or anything but I have been very upset.

Q. But these papers that you submitted here, as you call them, which we have been talking about, is the basis of all your trouble, wasn't it? Just couldn't live within your income.

A. Why do you say that? Why couldn't I live within my income?

Q. Well, why couldn't you?

A. You make the judgment there, it's perfectly obvious. You pay $28.00 a

month to Haiwaiian Fruit Company or Household Finance Company, Montgomery Wards and what's there left for food and housing and so forth, particularly a $235.00 a month house.

Q. Well.

A. These people do...are not ignored, they want definite payments on time.

Q. These bills that were made, one bill you admit was made here and you endorsed for your daughter.

A. The Christmas loan from Sears, correct. That's the one//

Q. These are the bills on which you base your allegations....

A. We are not allegating anything. We are saying that our financial situation was so bad in all respects that I felt that we would proceed very cautiously in this new life that we were trying to establish once I was out of the service. This was my basis and, again, we must tie in the mental anguish to go along with it.

Q. Do you suppose your wife had any mental anguish?

A. Well, maybe, maybe not, she was a civilian and she pretty well was established in her job as a legal secretary or whatever it might be. I got out of service and I'm establishing a new career supposedly in civilian life and as a result, there were a great deal of uncertainties and I felt that I should rproceed very cautiously.

Q. Now, you got out with an honorable discharge, retired?

A. Which I worked very hard for.

Q. That's right. You said at one point in your direct examination that your wife's conduct had an effect on your naval career.

A. Right. I said that.

Q. It didn't interfere with your retirement?

A. I wonder why. I wonder why it's happened, in spite of what my wife did.

Q. Well, it didn't have.....

A. Because I had an outstanding career in the service.

Q. Evidently it didn't affect it at all, maybe it helped you.

A. Helped me. How do you figure it would help me? It jeopardized my career.

Q. Whyddid it jeopardize it?

A. Because they made it clear to me, what the hell is wrong, if you can't handle your wife.

Q. Well, it seems like you handled her pretty well when you had her down in the bedroom and your son had to get you off of her. That was handling her pretty nicely.

A. That's a stupid remark and you are supposed to be a lawyer.

Q. I'll take care of the stupid remarks but.....It looked like you were handling her pretty well in my opinion.

A. She's certainly not an abused, silver-winged angel.

Q. You are getting this retirement from the Navy, full benefits....

A. Full benefits, what do you mean by that, that's a very vague term.

Q. Full benefits.

A. What am I getting, full benefits. They are charging me income tax on my retirement. This is like everyone pays but that is not sacrosanct, on this retirement pay, I pay federal tax; I pay insurance out of it. What am I getting? You say medical treatment and all this. The nearest medical..military medical facility is in, probably, Norfolk or....

Q. You are getting retirement of better than $600.00.

A. That's your assumption.

Q. Well, you bring your bill...retirement receipt.

A. I certainly will.

Q. I happen to have a schedule and I happen to know what you retired at.

A. Are you retired yourself?

Q. Yes, I am.

A. What grade?

Q. Commander.

A. Oh, is that right.

Q. I happen to know what you retired at. And you take out a hundred and some dollars, I didn't get the amount here, to pay on a policy...I mean to pay on a note that you had.

A. $106.00.

Q. What was that note for?

A. To the Great Lakes Credit Union, Illinois.

Q. What was that note for?

A. It's been so long. It's been a debt that's existed for so long and been renewed. Originally, it was for an automobile and then it was for survival, pay off somebody and....

Q. It was money that you borrowed for....

A. The last time it was borrowed for Internal Revenue, so this inflated it back up to $2,700.00.

Q. You first borrowed it to buy an automobile.

A. I think my wife was with me when we did this back there, a long time ago when I first reported in Great Lakes.

Q. And you bought it and that's what this $100.00 is for.

A. That's right. This way, this debt will be eventually paid off.

Q. And you get, of course, your medical expenses, you still get those?

A. Do I?

Q. Well, don't you.

A. How do you figure it? If I go to the doctor, I pay for it.

Q. I know. But you get your medical expenses in the naval hospital.

A. If I could get there, yeah, which is up in this part of the country pretty impossible.

Q. You and your wife haven't lived together since the 26th of June, 1972, and that was the day you left the apartment.

A. They day that I was expelled.

Q. What?

A. The day I was expelled. I have an ash tray that was thrown at me to punctuate this.

Q. Who threw it at you? Your son or your wife?

A. The lady over there.

Q. Was that when you had her down on the floor and after she got up?

A. No, No, this was as I was walking out the door.

Q. That was after she got up?

A. She was up long before that. The only reason she was down is because she lost her balance and I happened to be under her.

Q. Lost her balance and you happened to grab ahold of her arm.

A. Yeah, and if you had been in my position, you would have held her arms too...her wrists. Otherwise, you would have had stripes on your face like a tiger right now.

Q. You were holding her wrists and she fell on you?

A. That's exactly what happened.

Q. That's all. Stand aside.

HENRY A. WHITEHURST:

I have a few re-direct questions.

Q. Just to clarify some points, Mr. Brooker. When your family first arrived in Montgomery County, Virginia, what was the nature of the apartment that you first occupied?

A. That was the efficiency apartment.

Q. Describe the apartment.

A. Well, it was a large single room with a bed in it.

BENTLEY HITE:

I'm going to object to that. We went over it in direct examination. He has no right to repeat it. Ask a different question.

A. I don't believe I physically described the room, did I, if that's what you want.

HENRY A. WHITEHURST:

Note the exception. Please answer the question.

Q. Was it furnished?

A. Yes, it was.

Q. How long did you stay in this apartment?

A. Are we talking about Apartment G-3? Two (2) weeks approximately.

Q. Where did you next live?

A. We moved to Apartment H-5, which was a two (2) bedroom apartment.

Q. Was it furnished?

A. It certainly was, fully.

Q. Is there a swimming pool at this apartment complex?

A. Yes, there was. The apartment was air conditioned, carpeted.

Q. The offer of reconciliation you received in a letter from your wife. What was the time frame for this letter?

A. I believe it was when she lived at 908 South Main Street.

Q. After she had removed herself from your apartment?

A. That;s correct. I was to join her there.

Q. Did you consent to this?

A. I did not.

Q. Did you condone it?

A. I did not.

Q. When did they return to your apartment?

A. About the fifth of March.

Q. Did you resume marital cohabitation on this date?

A. We did not.

BENTLEY HITE:

Put another objection in there. He's repeating the very same questions he asked before.

HENRY A. WHITEHURST:

Please note the exception.

Q. In your Bill of Complaint, you sued your wife for divorce on what grounds Mr. Brooker?

A. Extreme mental anguish basically.

HENRY A. WHITEHURST:

Counsel, I'm going to tender the pleadings in this matter. I think Mr. Brooker is unfamiliar and I would like to incorporate this by reference, the pleadings.

Q. In Paragraph 7 in Mr. Brooker's Bill of Complaint, incorporated by

reference, Mr. Brooker, you state that without just cause, reason or provocation, your wife willfully deserted and abandoned you. Is that a correct statement?

A. That's correct.

Q. That's all the questions I have. No, one more question. What was the date of this abandonment and desertion?

A. This was on 1 November 1971.

Q. That's all the questions I have.

BENTLEY HITE:

Q. 1 November 71 or 2?

A. It was 71 when she first left.

Q. Shen she first left?

A. That's correct. She left me.

Q. Then you went back and you lived together in the same house?

A. We didn't go anywhere, she came back to me.

Q. All right. You lived together from March 72 until June the 26th, 72.

A. In the same apartment, right.

Q. And that was the two (2) bedroom apartment?

A. That's correct. The same one that she had left.

Q. Did you sleep in the same bed?

A. Negative. We did not. We had twin beds.

Q. But you slept in the same room from March 72 until June 26th, 72. And that's the time that you left because she called you a vile name?

A. No, No, that isn't true and you know that. I mean, we talked about this. We talked about...did we talk about the revolver that she had which again was not...no actual threats were made against me but it is kind of

upsetting to sleep in the same room with someone who has a pistol under their mattress. The threats of suicide on her part. The threats of taking phenobarbital and finding her dead in the bed the next morning. Threats made to me and to the children.

Q. When were those threats made?

A. During this period when she came back to Apartment H-5.

Q. In March 72 until June 26th?

A. That's correct.

Q. That's all.

HENRY A. WHITEHURST:

One more question.

Q. Was there any resumption of physical marital cohabitation?

A. There was not.

Q. I had better rephrase that question. Was there any resumption of physical marital cohabitation from March of 72 through June of 72?

A. There was not.

(And further this deponent saith not.)

JAMES E. BROOKER

_____

By _____
Secretary

Margery Jean Brooker, a witness of lawful age, after first being duly sworn, deposes and says:

HENRY A. WHITEHURST:

Q. What is your full name?

A. Margery Jean Brooker.

Q. And how old are you, Miss Brooker?

A. Seventeen (17).

Q. And what year in school are you?

A. Senior.

Q. And where are you a student?

A. Blacksburg High School.

Q. What is your present address?

A. 610 Ascot Lane.

Q. What race are your parents?

A. Caucasian.

Q. Have either of your parents been members of the armed forces of the United States within ninety (90) days next preceding the institution of this divorce suit? within a period of ninety (90) days prior to the date this suit was brought...that the suit was brought, I believe, 1973.

A. No.

Q. Have your father and mother been residents of and domiciliaries in Montgomery County, Virginia, for more than one (1) year next preceding the institution of this suit?

A. Yes.

Q. Where does your father now work?

A. Pulaski Hospital.

Q. And where does your mother now work?

A. Continuing Education Center.

Q. And what does she do?

A. She's a secretary.

Q. Where does your father reside? What town?

A. Blacksburg.

Q. And your mother?

A. Blacksburg.

Q. In what county in Virginia did they last cohabit as man and wife?

A. Montgomery.

Q. Miss Brooker, what occurred on the first of November, 1971?

A. You will have to refresh my memory, I don't remember the date.

Q. Do you remember what date you and your brothers and sisters moved to 908 South Main Street, about what time of year?

A. It was about October...the end of October or beginning of November.

Q. 1971?

A. Yeah.

Q. And you stated you moved to 908 South Main Street, Blacksburg, Virginia?

A. Yeah.

Q. Did your father move there with you?

A. No.

Q. What occurred on or about the latter part of March, 1972?

A. Is that when we moved out? We moved out...we were going to be evicted my mother told me so we had to move, go back to the apartment.

Q. What did your father do when you were forced to move out of 908 South Main Street?

A. He let us come back to the apartment.

Q. When the family returned to your father's apartment, did he and your mother resume a normal married relationship?

A. I don't think so.

Q. On what date, approximately, did he subsequently leave?

A. I don't know.

Q. Just approximately.

A. I don't even know what month it was.

Q. Would it be in the early part of the summer of 1972?

A. Yeah, I guess it was about then.

Q. Do you know why he left?

A. They were just... weren't getting along.

Q. Since the early part of the summer 1972, have your father and mother resumed marital cohabitation?

A. No.

Q. Are they now living separately?

A. Yes.

Q. Do you believe a reconciliation is possible?

A. I don't think so.

Q. Miss Brooker, has your father ever failed to provide you with food, clothing and shelter?

A. No. In one form or another, we've always had it.

Q. What was your father's occupation prior to retirement and you moved to Blacksburg, Virginia?

A. While we were still living in Norfolk? He worked at Carolina.

Q. What did he do prior to that time?

A. He was in the service... in the Navy.

Q. Was he a career Navy man?

A. Yeah.

Q. Do you know what the state of the family's financial affairs were when you first moved to Blacksburg?

A. Pretty bad.

Q. Do you know why they were bad?

A. Well, I just knew that neither one of them had any money. I guess that's what it was.

Q. What was the nature of the dwelling shared by the family when you first moved to Blacksburg?

A. It was G-3 and, let me see there's Jimmy, Steve, Rosie, I and Mom and Dad in an efficiency apartment.

Q. How long does your memory tell you you stayed in this efficiency apartment?

A. As I recollect, it was about three (3) weeks to a month, something like that; it wasn't any longer than that.

Q. Were you aware at that time of your father's efforts to obtain larger housing?

A. Yeah, he said he had applied for a two (2) bedroom, I think.

Q. Did you subsequently. . . . Did your family subsequently move to a two (2) bedroom apartment?

A. Yes.

Q. Were you aware of his efforts to obtain an even larger apartment?

A. Yeah, I was with him when he went for the three (3).

Q. You were with him?

A. Yeah, I was there.

Q. At that time, do you remember whether he stated a desperate need for this apartment?

A. Yeah, he told the lady we needed it really bad because the other apartment was too small.

Q. What effect has this divorce suit had on your family?

A. Well, it's..you know, it's really bad. Everybody's upset about it.

Q. Do you know, of your own knowledge, why the family's been in these straits since moving to Blacksburg?

A. Because of Mom and Dad, both my parents are.

Q. Has your mother ever made threats of suicide in your presence?

A. Yes.

Q. Several occasions?

A. Uh huh.

Q. Would you describe them, if you will, for the record?

A. Well, in Christiansburg at the house, I don't remember the address, she said that she was going to go and she was going to kill herself somewhere around that house that we were going to originally get when we moved here on Price's Fork Road so it would make a lasting impression on the rest of the family and the night before she did try to commit suicide, she told me about it.

Q. Did you ever hear her make threats of suicide in front of your youngest sister?

A. Yeah, Rosie. Uh huh.

Q. What effect has this had....Has this had a bad effect on your younger sister?

A. Yeah. It's had a bad effect on all of us.

Q. Has your mother threatened retaliation for your testifying here today?

A. What does that mean? What does retaliation mean?

BENTLEY HITE:

Leave the question. Ask her what her mother did.

HENRY A. WHITEHURST:

I'm sorry, counsellor. I'll rephrase the question. Withdraw my last question if you would.

Q. Have you ever met me prior to today?

A. Yes.

Q. Where did you meet me?

A. At my father's apartment last night.

Q. What happened subsequent to our conversation last night? until today? Describe what happened to you.

A. Well, this morning my mother and I got into a fight. She thought, I don't know, I guess she thinks I'm going to lie. I told her that I wasn't and she got upset about it. And because my older brother, Steve, was going to testify. She did not want him to testify. She wanted him to testify for she and her lawyer later on in October and I was going to leave for school, I was leaving for school and my father picked me up and I was too upset to go to school. You called my principal at the school and then we came over here and we talked to you. And let me see...

Q. That's sufficient.

A. All right.

Q. What did she tell you she would do to your belongings if you testified?

A. Well, she didn't really say anything...She just said that

BENTLEY HITE:

She really didn't say what.

A. She really didn't..you know, she really didn't come right out and say

anything. She said something to the fact that my belongings would be outside the door if something happened. I really don't remember what it was.

Q. Did you receive a phone call sometime during the latter part of August in connection with attending a hearing that was scheduled here.

A. Uh huh.

Q. What was the content of that phone call?

A. Well, mother called excited and asked when the thing was going to be... the deposition...and she called me and told me that Rosie had told her that it was cancelled.

Q. That Rosie had told her it was cancelled?

A. Yeah, my little sister. That's how I understood it.

Q. Did she indicate to you how Rosie might come to have that knowledge?

A. I interpreted it from my father...that my Dad had told Rosie.

Q. What kind of grades do you make in school?

A. I have an above C average.

Q. How have you done in school generally here in Montgomery County?

A. Since I've been living here? As far as grades go, all right. As far as attending school, not too well.

Q. You have had attendance problems?

A. Uh huh.

Q. Why have you had attendance problems?

A. Because I just haven't wanted, you know, haven't wanted to go to school. I told you this morning, I understand it is the law but I can't see why you should go to school when you make passing grades.

Q. Has your Daddy ever mistreated you?

A. No, never.

Q. Do you know, of your own knowledge, why that house was not rented in Price's Fork?

A. My father and my brother Jimmy told me that it was because....

BENTLEY HITE:

Don't tell what other prople told you if you don't know of your own knowledge.

HENRY A. WHITEHURST:

This is not hearsay. It is offered merely for the purpose of showing that the statement was made not to prove the truth of the response.

BENTLEY HITE:

I object. If her father told her, it's hearsay.

HENRY A. WHITEHURST:

It's not offered for the purpose....Let the record show that I'm not offering the question for the purpose of proving what I asked but merely that the statement was made.

Q. What was related to you in response to why the house in Price's Fork was not rented?

A. That the electricity bill would be sky high during the wintertime and something was wrong with the water.

Q. How many persons related that to you?

A. My brother, older brother, Jimmy, and my father.

Q. But you, of your own knowledge, did not know that?

A. No, I never went to the house when that happened.

Q. What are your plans after high school?

A. To go into my clinical training in licensed practical nursing.

Q. Miss Brooker, have you ever witnessed any acts of physical violence between your parents?

A. I've never been there when they've actually started hitting each other. I've never been there. I've never seen it.

Q. Miss Brooker, do you consent for the secretary and notary public before whom you are giving these depositions to sign your name to them once they are typed?

A. Yes, I do.

Q. That's all I have. Answer any questions Mr. Hite may have.

BENTLEY HITE:

Q. Miss Brooker, were you in Norfolk some this past summer?

A. Yes, I was.

Q. I believe your father sent you some money down there?

A. Yes, he did.

Q. Do you know how much he sent you?

A. He sent me about $15.00 every 2-1/2 weeks, maybe 3 weeks.

Q. How long did you stay down there?

A. I was down there for about 2 months.

Q. Were you working or just visiting?

A. I was not working. I was visiting.

Q. Since you came back, you've been in school?

A. Yes. Uh huh.

Q. Has he given you any money since you came back?

A. Starting about 3 weeks ago, he started giving me $5.00 a week.

Q. $5.00 a week?

A. Yes, Uh huh.

Q. Are you a senior this year?

A. Yes.

Q. It's unfortunate that your father and mother can't get along, but it is apparent that they can't.

A. Uh huh.

Q. And your father says that the big trouble has been finance.

A. Definitely.

Q. Isn't that it? Isn't that about the whole thing?

A. Yeah, I think so. It is financial.

Q. I take it that neither is a financial genius. They just don't know how to handle money.

A. That's about it.

Q. So that has been the cause of a lot of trouble, I guess, before you came here wasn't it?

A. Yes. It's always been trouble.

Q. Financial trouble?

A. Uh huh.

Q. At one time, I believe, when you first came here....you have a sister, younger sister.

A. Rosie.

Q. And an older sister too. She's married and away.

A. Well, she's not married but she hasn't been living with us for a while.

Q. She hasn't.

A. Uh huh.

Q. So you and your sister and your two (2) brothers stayed in Blacksburg in an efficiency apartment for how...you said about a month...three (3) weeks to a month.

A. Uh huh.

Q. And at that time, unfortunately, you all had to sleep in one (1) room and on the floor at that.

A. Yes, Uh huh.

Q. Then who got the apartment so you could move out?

A. My father.

Q. And you moved into a two (2) bedroom apartment.

A. Uh huh.

Q. And then you stayed there how long?

A. Until we moved to 908 South Main Street.

Q. Who got the apartment on 908 South Main?

A. My mother rented that house.

Q. And the two (2) bedroom efficiency apartment...two (2) bedroom apartment was not big enough either was it?

A. No, not for the family.

Q. Not for two (2) girls and two (2) boys and your father and mother?

A. No, it wasn't big enough.

Q. Then you moved to 90..whatever it is, and how many rooms were there?

A. Four (4).

Q. You girls, for the first time you had that much room and space , isn't it, since you left the Navy?

A. Well, we always shared a room. We've always had a four (4) bedroom house in the Navy too.

Q. Is that right?

A. Yes, we did have a four (4) bedroom house.

Q. So that's what you were trying to get is a four (4)...so you would all... so you girls could have a room and the boys have a room...

A. Yeah, Uh huh.

Q. Have separate rooms.

A. Uh huh.

Q. And your mother got that room and when you moved out, what was the agreement when you moved out? Did you have, when you moved out of the two (2) bedroom apartment into the four (4) bedroom apartment. Was anything said there about....

A. Not that I know of, just that my mother had asked my father to come live with us and he wouldn't.

Q. She said now I have this four (4) bedroom apartment and I want us to move there and he wouldn't move.

A. No, he didn't.

Q. Did you hear, on more than one (1) occasion, her ask him to come?

A. Well, I was never there when she asked him to come down but I'm sure she did many times.

Q. Well, didn't you or your younger sister kind of beg him to come on down and live with us?

A. Yeah, but I'm sure he had his reasons. I can't think of it now but I'm sure he had his reasons for not coming.

Q. I'm sure he did too but you did ask him to come?

A. I don't remember asking him to come, maybe Rosie did but I don't remember asking him.

Q. There was no fuss or fight when they moved out, nothing like deserting each other, when you moved out of the two (2) bedroom apartment?

Q. There wasn't any fight between us kids but, you know, Dad was kind of surprised. I don't think he knew about it that long, I'm not sure. He

was kind of surprised when we did move.

Q. Well, hadn't you been talking about getting a bigger dwelling, more space?

A. I don't remember knowing about the house but maybe about a week and a half at the most. I hadn't heard about it before that.

Q. But you did move in and how long did you live there?

A. Six, seven months, something like that, I guess.

Q. Then you moved over here to Christiansburg?

A. Yeah.

Q. And then you moved back to Blacksburg?

A. My father moved us to Blacksburg.

Q. Your father moved you back from Christiansburg to Blacksburg?

A. Uh huh.

Q. Where you are living now?

A. Yeah, that's right.

Q. And that was March 1972, wasn't it?

A. Yeah, I'm pretty sure.

Q. And your mother and father lived in one...slept in one (1) bedroom and you and the children slept...you and your sister and brothers slept in the other room?

A. Not in 610 Ascot Lane

Q. We're getting back to the place you are living in now at Blacksburg.

A. Yes, where we live now.

Q. That's right.

A. My father has never lived there.

Q. He's never lived there?

A. No.

Q. Just before you moved to that place, he says that he moved out of the house on the 26th of June...

A. Oh yeah, Uh huh. I remember that now.

Q. Were you at home on the day he moved out? That was in June.

A. I don't remember being there when he moved out.

Q. You don't remember?

A. I think I was out. I'm not sure, but I don't remember him actually packing up and leaving.

Q. Nothing unusual happened at that time, did it?

A. Oh I'm sure they got into an argument, something had to have happened for him to leave.

Q. They always got into an aggument?

A. Yeah, they were all the time fussing.

Q. But you didn't hear of anything unusual, threat to kill him or anything?

A. No, I never did.

Q. At that time, did you know of a fight where they had each other down in the bedroom?

A. I heard about that. I wasn't there then.

Q. You heard about it?

A. Uh huh.

Q. Was that shortly before he moved out?

A. Yeah, Uh huh.

Q. And they haven't lived together since?

A. No.

Q. All right. That's all.

HENRY A. WHITEHURST:

I have a couple of re-direct for you.

Q. Miss Brooker, during the time that you all lived in this one (1) room efficiency apartment, do you recollect what all of the children's feelings were in regards to living in this place?

A. Well, it was pretty crowded. We all wanted to be in some place bigger.

Q. What did you all do in the daytime?

A. I guess we all went out and played. I know we didn't stay in the apartment, it was too small.

Q. Did you ever go swimming?

A. Yeah.

Q. Was there a swimming ppol there?

A. Uh huh.

Q. I can't remember if I asked you or not. Were you aware of your father's efforts to acquire a larger apartment?

A. Yes, Uh huh.

Q. That's all I have.

(And further this deponent saith not.)

MARGERY JEAN BROOKER

_____

By _____
Secretary

Stephen Charles Brooker, a witness of lawful age, after first being duly sworn, deposes and says:

HENRY A. WHITEHURST:

Q. State your full name please, Mr. Brooker.

A. Stephen Charles Brooker.

Q. Is your appearance here today voluntary?

A. I was subpoenaed to appear.

Q. What is your age please sir?

A. Nineteen (19) years old.

Q. What is your current address?

A. 610 Ascot Lane.

Q. What race are your parents, Mr. Brooker?

A. Sir?

Q. What race are your parents?

A. Caucasian.

Q. Have either of your parents been members of the armed forces of the United States within ninety (90) days next preceding the institution of this divorce suit?

A. No sir.

Q. Have your father and mother been residents of and domiciliaries in Montgomery County, Virginia, for more than one (1) year next preceding the institution of this suit?

A. I guess so.

Q. In other words, were they living in Montgomery County, as residents, one (1) year prior to the time this suit was brought?

A. Yes sir.

Q. Do you know where your father works?

A. Yes sir.

Q. Where is that?

A. Pulaski Community Hospital.

Q. Where does your mother work?

A. Continuing Education at Virginia Tech.

Q. Where does your father presently reside?

A. Apartment Heights Road, I forget the name of it.

Q. Blacksburg?

A. Yes sir.

Q. Montgomery County?

A. Uh huh.

Q. Where does your mother live?

A. 610 Ascot Lane, Blacksburg, Virginia.

Q. What county did they last cohabit together as man and wife?

A. Montgomery County.

Q. What occurred on or about the first of November, 1971?

A. On the first of November, 1971, we first came to Montgomery County.

Q. Let me rephrase the question. When did you and your mother and your brother and sisters move to 908 South Main Street, Blacksburg?

A. When did we?

Q. Yes.

A. I'm messed up on these dates. November the first sounds right.

Q. Would you estimate it to be around the first of November, 1971?

A. Yes. I was just starting school.

Q. And what school was that?

A. Blacksburg High School.

Q. And what grade in school were you?

A. I was a senior that year.

Q. When did your mother and you and your brother and sisters return to your father's apartment in Blacksburg?

A. I believe it was that winter - 1971 or 72

Q. Would you estimate it to be around the latter part of March 1972?

A. I believe it was halfway through the school year. The only thing I know is that it was halfway through the school year.

Q. Did you all, in fact, return to your father's residence sometime during that year?

A. Uh huh.

Q. Did your father allow you to move back in with him?

A. Yes sir.

Q. When the family returned to your father's apartment, did he and your mother resume, to the best of your knowledge, a normal married relationship?

A. To the best of my knowledge, yes sir.

Q. On what date did he subsequently leave?

A. Like I say, sir, I'm not familiar with dates.

Q. Would you say it was the early part of the summer 1972?

A. Somewhere around there.

Q. Do you know why he left?

A. Intolerable conditions at home. My parents weren't getting along and it seemed like the only way he could...the only thing left for him to do was to leave.

Q. Since the early part of the summer of 1972, to the best of your knowledge, have your parents resumed a marital cohabitation?

A. No sir.

Q. Do you believe now that a reconciliation is probable or possible?

A. No sir.

Q. What was your father's career and occupation prior to the time you moved to Blacksburg?

A. He was in the U. S. Navy.

Q. Was he a career Navy man?

A. Yes sir.

Q. What type of housing did you all have in the Navy?

A. Adequate housing.

Q. Was it commensurate with your father's rank and station in the Navy?

A. Yes sir.

Q. Do you know what your father's rank was in the Navy?

A. Chief Petty Officer, ICCS.

Q. Do you know, of your own knowledge, what the state of the family's financial affairs were when your family first moved to Blacksburg?

A. Yes sir.

Q. Would you describe them please?

A. Bad.

Q. Would you describe them as chaotic?

A. Yes sir.

Q. Would you say that financial matters have been a....

A. problem of this marriage?

Q. Yes.

A. Entirely.

Q. Do you remember where you lived when your family first moved to Blacksburg?

A. University Motel Apartments.

Q. How many rooms?

A. One (1).

Q. Was it an efficiency apartment?

A. Yes sir.

Q. How long did you all remain in this efficiency apartment?

A. To my knowledge, 2-1/2 to 3 weeks.

Q. Were you, at that time, aware of your father's efforts to obtain larger housing?

A. I was not aware at that time.

Q. Are you now aware of it?

A. Yes sir.

Q. Did you all subsequent to this stay of 2-1/2 weeks in this efficiency apartment, what type of housing did you next have?

A. Two (2) bedroom, I believe, apartment, in the same University Motel.

Q. What in your opinion.... What effect, in your opinion, has this whole divorce suit had on the family?

A. Disasterous.

Q. On the children?

A. Especially on the children.

Q. Do you know why the family has been in economic straits since you moved to Blacksburg?

A. Mismanagement of money.

Q. Could you give some examples of that?

A. No I can't because I have nothing to do with the financial arrangement. All I know is that the money must have been misused. I know my parents make enough money to have a decent family life but we never had a decent family life and, therefore, the money must have been misused.

Q. Has your mother ever made threats of suicide in your presence?

A. Yes sir.

Q. Would you describe some of those?

A. When we first lived in Navy housing, there was an attempt or she said she would attempt it but didn't and on Main Street in Christiansburg, she tried to commit suicide.

Q. What threats of suicide have you ever heard made in the presence of your younger sister, Rosemary?

A. None.

Q. But you did state that you have heard them yourself?

A. Yes sir.

Q. Has your mother ever bought a gun and threatened to kill herself?

A. To my knowledge, there was a gun but if she threatened to commit suicide with it, I don't know anything about that..with the gun.

Q. What are your plans for school this fall?

A. I plan to attend Virginia Tech as a freshman.

Q. Mr. Brooker, have you ever met me before?

A. Yes I have.

Q. When was that?

A. It was September 20th, yesterday.

Q. And I told you what to say?

A. No sir.

Q. What did I tell you last night?

A. To answer truthfully as best you can.

Q. Mr. Brooker, what acts of violence have you witnessed between your parents?

A. I witnessed several fights, physical, and besides physical, a thousand different other occasions when they screamed at each other and things like that.

Q. Do you remember the most recent one?

A. Yes I do. Would you rephrase the question please.

Q. Yes. Do you remember a certain altercation between your parents prior to your father's leaving in June 1972?

A. Yes I do.

Q. Would you describe that please?

A. They had a verbal disagreement and they started screaming at each other

BENTLEY HITE:

I didn't understand what you said.

Witness: Do you want me to describe it in detail?

Mr. Whitehurst: Yes.

A. I forget what words were used or anything but my father grabbed my mother and they fell over the bed; and he had her in a some kind of a hold, I don't know what you call it, and I keptpleading for them to quit and everything and finally they did.

Q. What was the moving force in this argument, what started it? Let me rephrase the question. What was the first thing you noticed about them prior to the time the fight started?

A. What I noticed about it?

Q. What was your mother doing? Physically, what was she doing?

A. I believe she was coaxing him on, you know, hit me, or something like that.

Q. Was she waving her hands in front of his face?

A. Yes sir.

Q. Fingernails out?

A. I don't know what you would call it.

Q. Would you say that your father was just kind of protecting himself?

A. No sir, it was a violent emotional thing. He just couldn't quite take it or anything.

Q. Do you think he was trying to hurt her?

A. I don't believe he was.

Q. Do you think he was just trying to put a stop to the whole thing?

A. I just thought he was reaching the peak of emotions; you know, you can just go so far and this type of thing....

Q. Do you, of your own knowledge, know why your father did not rent the home in Price's Fork? Of your own knowledge, now.

A. Of my own knowledge, no sir.

Q. For the purposes of the record and merely to show that the statement was made, what was related to you in connection to that house?

A. Would you rephrase the question please?

Q. Yes. What was stated to you, you don't know of your knowledge, but what was stated to you about this house in Price's Fork.

A. At this time, our family was in Chesapeake, Virginia, and we received a phone call; I never talked to my father on the phone but my mother related the message to me that the water was bad and the electric bill was outrageous and this type of thing.

Q. But you don't know of your own knowledge?

A. No.

BENTLEY HITE

Objection to hearsay.

Q. Mr. Brooker, do you consent for the secretary and notary public before whom you have given this deposition to sign your name to it once it has been typed?

A. I do.

Q. Thank you sir and answer any questions Mr. Hite may have.

BENTLEY HITE:

Q. Steve, this is an unfortunate situation and we all regret it but it seems what from what I've heard here today that most of this trouble has arisen over financial matters. Isn't that the big thing?

A. Yes sir, that's right.

Q. Finance. There's no question of drinking or women or anything else.

A. No sir.

Q. Women or men or anything else, just a question of finance.

A. Yes sir.

Q. And both your father and mother have tempers?

A. Yes sir.

Q. Sometimes it gets violent and both of them do get violent and they just can't live together happily?

A. Yes sir.

Q. That's all.

(And further this deponent saith not.)

STEPHEN CHARLES BROOKER

_____

By _____
Secretary

STATE OF VIRGINIA

COUNTY OF MONTGOMERY, TO-WIT:

I, Rebecca U. Byrd, a notary public in and for the State of Virginia, County of Montgomery, do hereby certify that the foregoing depositions were recorded by me at the time and place aforesaid and that this is a true transcription of the same.

My commission expires December 11, 1976.

Given under my hand on this the 10th day of October, 1973.

Notary Public

VIRGINIA: IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

BONNIE J. BROOKER

VS. DEPOSITIONS

JAMES E. BROOKER

The depositions of Bonnie J. Brooker, taken in the law office of Bentley Hite, Attorney at Law, Christiansburg, Virginia, pursuant to agreement, on January 3, 1974, at 2:00 p.m., which said depositions are to be read in behalf of the plaintiff.

PRESENT: BONNIE J. BROOKER, in person, and by her Attorney, Bentley Hite.

JAMES E. BROOKER, in person, and by his Attorney, Henry A. Whitehurst.

BONNIE J. BROOKER, first being duly sworn, deposes and says ---

BY MR. HITE: DIRECT EXAMINATION

Q: What is your full name, Mrs. Brooker?
A: Bonnie Jean Replogle Brooker.

Q: You were Replogle before you married Brooker?

A: That is correct.

Q: What is your husband's name?

A: James Edwin Brooker.

Q: How old is Mr. Brooker?

A: I believe he is 50.

Q: How old are you?

A: I am 48.

Q: When and where were you and Mr. Brooker married?

A: In the City of Wayne, Michigan, on September 8, 1947.

Q: Were there any children born by reason of this marriage?

A: Yes. We have five children.

Q: Will you please give me their names and ages?

A: Cynthia Anne Brooker, she is 22; James Edwin Brooker, Jr., he is 21; Stephen Charles Brooker, he is 19; Margery Jean, she is 17; and Rosemary Althea, she is 11.

Q: Are you and Mr. Brooker living together now?

A: No. We are not.

Q: How long has it been since you lived together as man and wife?

A: Since June 28, 1972.

Q: Where are you living at the present time?

A: 610 Ascot, Windsor Hills Apartments, Blacksburg, Virginia.

Q: How long have you been living there?

A: About nine (9) months.

Q: How long have you been living in Virginia?

A: About 13 years.

Q: You and your husband last lived together as man and wife in Montgomery County, Virginia, in June, 1972?

A: That is correct.

Q: Where are the children you spoke of?

A: Margery and Rosemary are with me in Blacksburg, Virginia.

Q: Where is your son, Stephen?

A: He is living in Chesapeake, Virginia, with an older man, who he identifies with and who he has a relationship with.

Q: Is he working?

A: He is working with this man in the Recreation Department in Chesapeake, Virginia.

Q: Now, what has Mr. Brooker done most of his married life? What is his job?

A: He was in the Navy for quite a number of years. For 24 years of our marriage.

Q: Is he still in the Navy?

A: No, sir. He is a civilian.

Q: Is he retired?

A: Yes.

Q: What was his rank?

A: E-8.

Q: What is his retirement pay?

A: I don't know exact. Between $500.00 and $600.00 a month.

Q: Is he employed now?

A: Yes. The Hospital Corporation of America, in Pulaski.

Q: What is his salary?

A: Approximately $11,000.00 a year. That is from the hospital alone.

Q: Making a total of at least $15,000.00 a year?

A: Yes. That is more money than he ever made while we were living together.

Q: Now, where were you living while your husband was in service?

A: In Norfolk, Virginia; Great Lakes. Different places because of his position.

Q: How long did you live in Norfolk, Virginia?

A: For 11 years.

Q: When did you move to Montgomery County, Virginia?

A: In August. The 23rd day, 1971.

Q: Why did you move up here?

A: Because my husband found a position here in Montgomery County, Virginia. We selected a home and moved here by mutual consent.

Q: Where did you move then?

A: To Blacksburg, Virginia.

Q: What was the date?

A: August 23, 1971.

Q: What kind of quarters, living quarters, did he provide for you at this time?

A: By mutual consent, we had selected a house which was cheaper than what we had been living in in Chesapeake. It was in Prices Fork. The house was completely furnished.

Q: Were all of your children with you at this time?

A: All of them except Cynthia.

Q: Did you live in that house any length of time?

A: No. He came to Norfolk on a Saturday afternoon, and he looked like something had gone wrong. He didn't want to discuss it. He said something was wrong with the water there. He decided to move us into an apartment at University Motel. The house was much cheaper. My husband signed a lease for $275.00 in Norfolk.

Q: What did you agree to pay for the house in Blacksburg, Virginia?

A: $235.00 a month.

Q: That was the house you agreed on, but he refused to move into it?

A: Right.

Q: Did he select the apartment?

A: Yes.

Q: What did he pay for the apartment?

A: I don't know. It was in Unit G, 13 x 13. We had to sleep together on the floor, plus, we had a dog and a bird. It was just too crowded. We didn't even go the the bathroom at night because we were afraid that we would step on someone.

Q: That is the quarters that your husband move you and your children into?

A: Yes.

Q: You had a home selected in Prices Fork that was adequate?

A: Yes.

Q: How long did you live in this inadequate apartment?

A: Three or four weeks.

Q: How many rooms were there in this apartment?

A: One room.

Q: All six (6) of you people slept in that one room?

A: Yes. It was very crowded. You couldn't even go to the bathroom without falling on someone.

Q: You lived there how long?

A: Three or four weeks.

Q: Did you make any efforts to get your husband to move to a more sufficient quarters?

A: I tried to talk to him about it, and when I did, he would just leave the apartment.

Q: I believe you have two grown daughters and two grown sons?

A: Yes.

Q: You all tried to live in one room?

A: Yes. That is correct. No dignity. It was like living in a closet.

Q: What did you do at this point?

A: On one occasion, I took my husband to look at a house. While the real estate agent was showing us the house, I turned to my husband and he was gone. I asked the agent where he had gone. We looked and found him sitting in the car. He was just totally uninterested.

Q: You lived there three or four weeks. What did you finally do?

A: He told the children to start packing that he had a better apartment in the adjoining building. It had two bedrooms, kitchen, dining area, and living room.

Q: Did you move into that apartment?

A: Yes.

Q: There were six (6) of you in the family?

A: Yes.

Q: How long did you live in that apartment?

A: We lived there until October 31, 1971. In September I decided that I would go crazy if I had to stay in that apartment.

Q: Why?

A: There was a large parking lot just outside the window. Cars would go to and from that parking lot at high rates of speed. There were no public recreation centers near. There were kids always throwing parties. They would throw-up all over the place. There wasn't any safe place for my youngest daughter, Rosemary, to play. It was impossible to live in this apartment with six of us and the conditions around.

Q: How old were your boys at this time?

A: Seventeen and nineteen.

Q: How old were the girls?

A: Ten and fifteen.

Q: All sleeping in one room?

A: Yes, sir.

Q: How long did you live there?

A: From September to October 31, 1971. In September I got a job at VPI. I passed the stenography test and got a job there. I was reluctant to take a position until we settled down, but I had to go to work. There was no place to go, we lived five miles from town.

Q: What is the name of these apartments?

A: University Motel Apartments.

Q: How did you get back and forth to work?

A: He kept the car. I got a ride with some women.

Q: The children were in school I presume?

A: Yes. My oldest son was a student at VPI. He bought a car and gave it to me. My other son, James, is in service.

Q: How long did you live there?

A: September until October. In October I was a nervous wreck. I went out and found a house for rent, after looking around most of the day, I got in touch with the owners. I mentioned it to my husband and he wouldn't discuss it. He would just leave.

Q: Did he go look at the house?

A: No. I borrowed $100.00 to make a down payment and rented it. I discussed it with my husband that afternoon. I told him it had a big backyard and was real nice. He just wouldn't discuss it at all.

Q: Did you tell him what it rented for?

A: The apartment was $168.50, and this house was $165.00 a month. At that time between the two of us we were earning around $900.00 or $1,000.00 a month, and no bills.

Q: Is this the home you are living in now?

A: No.

Q: How long did you live there?

A: Until March 1, 1972.

Q: What happened then? Did your husband come and live with you?

A: He would come and kiss me hello and goodbye. He would visit and we would ask him to stay and eat with us, and after that he would go.

Q: Did he live with you?

A: No.

Q: What happened in March, 1972?

A: I went to my husband and told him that the heating bills were so high, and that I should return to the house and live with him.

Q: Did you?

A: Yes.

Q: What happened then?

A: At first he acted friendly, but as time passed, he wouldn't discuss anything with me. He didn't talk about the future or anything. He said he decided what he was going to do with his life. He said he didn't like the people in Blacksburg.

Q: Where was he working at this time?

A: Montgomery County Hospital. He said the people were uneducated and didn't know what life was all about and that he didn't want to live or work here.

Q: How long did you live there?

A: Until June 28, 1972.

Q: What happened then?

A: We had an argument that turned into a fight. He would say that he had been seeing an attorney, and he knew only what he had to do. He kept laughing. A woman can only take so much, so I picked up a perfume bottle and hit him. At this time, he tried to choke me.

Q: What happened?

A: My daughter was 11 years old. She screamed and locked herself in the bedroom. My 19 year-old son tried three times before he got him off of me. I was passing out at this time.

Q: Prior to that time, did he ever threaten you and abuse you?

A: Yes, sir. For the past 15 years.

Q: What did he do?

A: He gave me a brain concussion, injured my left leg. He knocked me down and choked me in front of the family. He has hit and knocked me around in front of the entire family.

Q: And, the pattern of violence has continued?

A: Yes. I threatened to leave him seven years ago.

Q: Can you tell me how many times he has threatened and abused you?

A: I couldn't count the many times.

Q: You say that he smerks at you, and that he still does?

A: Yes.

Q: What happened after he tried to choke you that day?

A: While I was still lying on the floor, I heard him packing his close, shutting drawers. He told my son that he was leaving.

Q: How many children were at home?

A: Three were living at home, but only two, Stephen and Rosemary, were at home at the time.

Q: So, he packed his clothes and what did he do?

A: He left.

Q: Has he been gone since?

A: Yes. And he refuses to have any conversations with me. I have tried to contact him, but am unable to do so.

Q: I believe you have written him on several occasions, which I have copies of and have asked him to come back?

A: Yes.

Q: Has he supported you since he left?

A: No.

Q: Since June 28, 1972?

A: That is correct.

Q: Where were you living at that time?

A: University Motel.

Q: Where are you living now?

A: 610 Ascot Lane, Windsor Hills Apartments, Blacksburg, Virginia.

Q: Did your husband move there?

A: No. We moved to the Main Street home and he was in the University Motel.

Q: After your husband left you in June, 1972 How long did you stay there?

A: Until September.

Q: You then moved to Christiansburg, Virginia?

A: Yes.

Q: Where was your husband living at this time?

A: I am not sure.

Q: Did he ever come by to see the family?

A: He would come and beep to get the children's attention.

Q: You lived in Christiansburg, on Main Street?

A: Yes. That is correct.

Q: How long did you live there?

A: Not long. After I went to the hospital he moved all of our clothes back to the apartment.

Q: Do you remember when you were hopitalized?

A: January 22, 1973.

Q: You were living in Christiansburg at this time?

A: Yes.

Q: What was the nature of your hospitalization?

A: I had a nervous break-down.

BY MR. WHITEHURST:

I object.

BY MR. HITE: DIRECT EXAMINATION

Q: What doctor did you see at St. Albans?

A: I volunteered. I didn't have to go. My Doctor was Dr. M. E. Scott.

Q: What was the ...

BY MR. WHITEHURST:

I object.

BY MR. HITE: DIRECT EXAMINATION

Q: What was the cause of your nervous break-down?

BY MR. WHITEHURST:

I object. I think you are depending on an answer that is heresay.

BY MR. HITE: DIRECT EXAMINATION

Q: What was the cause of the breakdown?

A: The break-up of the family.

Q: Were you so advised by your doctor?

BY MR. WHITEHURST:

That is just hearsay.

BY MR. HITE:

The doctor can be summoned.

BY MR. WHITEHURST:

And, he will be.

BY MRS. BROOKER:

A: He found that the breakdown was because of my marriage situation.

Q: How long did you stay in the hospital?

A: Until March 10, 1973.

Q: Are you still receiving treatment?

A: Yes. I am.

Q: How often?

A: Once a week. I have to take eight antidepressants a day, which are prescribed by my doctor, until my situation has been concluded.

Q: While you were in the hospital, did your husband come and see you?

A: He did not. He has never offered to help me. We have moved three times.

Q: What do you mean, you have moved three times?

A: I had to go to Norfdk to move furniture. He never helped us. I moved it from Norfolk to Christiansburg.

Q: While you were in the hospital what happened?

A: My husband decided to take care of the girls in my absence. He took the girls to his apartment to stay.

Q: Where was that?

A: University Motel.

Q: What did he do with the boys?

A: He didn't do anything. My son didn't want to live with him at first, but he had no choice. He was starving.

Q: So, he took the girls back?

A: Yes.

Q: What did he do with the furniture?

A: He just left it at the house. My son was living there by himself.

Q: I thought you said he moved back to Blacksburg?

A: No. My husband took the girls, and my son stayed at the house. He only had the little bit of food that was in the cupboard, and he finally had to go back with my husband.

Q: Where were your effects?

A: He moved them into the apartment, which I live in now.

Q: You were still in the hospital?

A: Yes. I could much better afford the house here.

Q: The one in Christiansburg?

A: Yes.

Q: What are you paying, now?

A: $175.00 a month. Electricity $25.00. I have to pay for my heat. It costs a total of $50.00 more than the house that I lived in on Main Street.

Q: What is the total bill for rent, house and heat?

A: $200.00 a month. That includes the heat.

Q: You have been living here since you came back from St. Alban's.

A: Yes.

Q: Where does your husband live?

A: He lives in Apartment Heights. He lives close to us.

Q: During your married life, how has your husband taken care of you?

A: He never buys me anything except a housecoat for Christmas. I haven't had an item of clothing for over 15 years from him.

Q: Has he ever given you any spending money?

A: No. I have always had to work.

Q: How has he taken care of the children?

A: He is taking care of their financial needs until he left in June, 1972. Since, I have not been able to buy them clothes. I do not have the money to buy them with.

Q: How about your household and kitchen effects?

A: I have had to run up bills to buy furniture and make repairs. I had to buy a living room outfit and a bed to sleep in.

Q: Why didn't you have those things?

A: The Navy had been furnishing us with furniture.

Q: When you came back to Blacksburg, did you have any furniture?

A: No.

Q: Who bought the furniture?

A: I did. He has never bought anything since we moved to Blacksburg.

Q: How is your apartment furnished now?

A: Nicely.

Q: I believe you are using your salary to pay for these things?

A: Yes.

Q: Have you asked your husband to give you money to pay for things?

A: Since he didn't communicate with me, I thought it was a hopeless case. I have furnished the apartment only with what I made. It seemed that he could furnish an apartment, but not his families home.

Q: Who has been furnishing the girls clothes?

A: He takes them out and buys them clothes, and gets things for them, but not things like training bras, panties, etc.

Q: Since he left you and the children on June 28, 1972, how much money has he been giving you?

A: Until March, 1973, he gave me $300.00 a month.

Q: For how long had you gotten that?

A: From July, 1972, until January, 1973.

Q: While you were at St. Alban's, did he give you any money?

A: He had to give $20.00 two times.

Q: What day did you come out of St. Albans?

A: I think it was March 10, 1973.

Q: What has he given you since that time?

A: I have had difficulty getting $300.00 a month from him.

Q: How has he been paying it?

A: He makes partial payments. I did not get the full sum after I came out of St. Alban's. I assumed he was paying that amount for my electric bill, but I assumed wrong when my lights were cut off.

Q: He would pay some one week, and then some another week?

A: That is right. I just can't live that way. I had to borrow money, $100.00, from my son that is in Greece.

Q: That is your oldest son that is in the Navy?

A: Yes. Jimmy. I didn't have any money for Christmas. And, this is not the first time I have had to borrow money. I still do not have my money for this month. I only spent $10.00 for each of my children for Christmas.

Q: Did your husband give them any Christmas presents?

A: Yes.

Q: Did he give you anything?

A: No. He hasn't given me anything since Christmas of 1971.

Q: Are you keeping both of your girls in school?

A: Both are in school, and Margery is a Senior, and she will still be in school for another nine months after graduation taking a course in Nursing.

Q: The next oldest boy dropped out and went to work?

A: Yes. He had to go to work.

Q: After you came back, did you go to work?

A: Right away. I had to pay all of the bills. I went back immediately.

Q: Where are you working now?

A: VPI, Blacksburg, Virginia.

Q: With what department?

A: With the Economics Department. I received a promotion.

Q: What is your take-home pay?

A: It was $290.00. I got a $13.00 raise. It will be $290.00 + $13.00. In addition to regular bills, I have to pay Dr. Scott $60.00 monthly.

Q: Is your job permanent?

A: Yes. As long as I am able to work.

Q: You have been advised that you have to take medication?

A: Yes. I need an operation but cannot receive one until I get off of this medication.

Q: What is your emotional condition now?

A: As long as I take my pills I am fine.

Q: Do you see Dr. Scott often?

A: One a week.

Q: And, he can tell us your condition?

A: Yes.

Q: You spoke of medical assistance, what about your children?

A: Rosemary has not had any dental care for the past few years.

Q: Is she in need of dental attention?

A: Yes. She requires oral surgery. My husband knows about that too. I would also like to say that I have had to sell my good china this last Christmas to have spending money. I had to get a part-time job at the Farm House, Christiansburg, Virginia, in order to meet bills. I feel asleep on the job. I have had to borrow money from my son, my oldest daughter, and my Uncle.

Q: During the time you had to sell your china, get a part-time job, and borrow money from different sources, what was your husband doing?

A: He worked for the Hospital Corporation of America. He told both of my daughters that he was going to start a whole new life for himself.

Q: What does he tell you about living with you again?

A: He doesn't tell me anything. He hasn't told me anything since June 28, 1972.

Q: Prior to that time, he has threatened to kill you?

A: Yes.

Q: Are you afraid of him?

A: No. I have no respect for him as a human being or a man. No respect whatsoever.

Q: After he has kicked and knocked and threatened you?

A: Yes. I have no respect for him. He has told me how much he loves me. We went to a marriage counselor, it was his idea. He changed for a few months, but went back to his old self again. He would leave the house and go to his office on ship.

Q: You think he is making around $15,000.00 a year?

A: Yes.

Q: What do you think he should pay you for alimony and support?

A: At least $400.00 a month. I could pay for the additional costs. My children have to go to him to beg for money for soap, deodorant, etc. They

even have to ask him for money so that we can do our laundry. I could buy their clothes.

Q: I believe last Saturday, December 29, 1973, at 10:00 a.m., your son and daughter were here in this office and gave their depositions?

A: Yes.

Q: At that time you told me your husband was in Blacksburg, at his apartment?

A: Yes. Rosemary said he called her while I was here and said that that was illegal. So, he was fully aware that they were taken Saturday. He has been aware that the money he has given me is insufficient. He told my daughter that he knew that he was not paying enough, but the Judge would tell him what to pay. Also, Mr. Hite, I have worked. I work all the time. My husband never brought home enough money. I was just trying to improve our situation.

Q: I wish you would tell Dr. Scott that we will have to have his testimony at a reasonable and seasonable time.

A: Yes, I will.

Q: Now, I believe you will answer any questions that Mr. Whitehurst directs to you?

A: Yes.

MR. HENRY A. WHITEHURST: CROSS EXAMINATION

Q: Mrs. Brooker, did you state that your daughter, Rosemary, said she knew that your husband was at his apartment on Saturday, December 29, 1973?

A: I saw his truck and he called her.

Q: Did anyone tell you that his attorney was ill Saturday?

A: I don't know anything about you. I am not concerned with you.

Q: I know Mrs. Brooker, but did anyone tell you?

A: No. You are not my attorney. No one told me.

Q: How long did you say that you and Mr. Brooker have been married?

A: Twenty-six years.

Q: Most of that time, your husband was a career Navy Chief Petty Officer?

Q: And, most of that time you lived in Navy housing?

A: Part of the time.

Q: Was that adequate?

A: Beautifully. It would have been twice as much as a civilian.

Q: Would you tell me what you said your husband was making at the hospital?

A: I didn't state that, Mr. Hite ...

Q: You mean you did not state that your husband was making approximately $11.000 ~~00 a year~~? Mrs. Barker, will you turn back some pages and find this statement? Read what she stated please?

AUDREY L. BARKER:

"Approximately $11,000.00 a year. That is from the hospital alone."

MR. HENRY A. WHITEHURST:

Q: Would you be surprised to learn that it is not $11,000.00, but $8,000.00?

A: Yes, I would.

Q: Would you be surprised to learn that it is $7,000.00?

A: Yes.

Q: What is your gross pay?

A: $430.00 a month.

Q: And, your husband has been giving you $300.00 a month, counting rent?

A: He did until January.

Q: Is he not paying you $300.00 a month now?

A: Not on time. He pays it in installments.

Q: He pays the rent, and gives you a check for the difference?

A: Sometimes. He doesn't always.

Q: Well, how much? Somewhere in the nature of $250?

A: Somewhere in that nature.

Q: That totals around $750.00 a month. You are saying that you cannot live on $750.00 a month?

A: No. After taking out taxes ...

Q: We are talking about gross pay. You get an equivalence of $750.00 a month?

A: Gross. Yes.

Q: You did say that you take home approximately $290.00 a week?

A: It is precisely $290.00 + $13.00, making a total of $303.00.

Q: Would you give me a break down of expenses?

A: Mr. Hite has a list of my monthly expenses. (Mr. Hite gives copy to Mrs. Brooker) Now, medical and doctor expenses, $60.00, this is for medication and psychiatrict treatment; $20.00 for correspondence course, $28.50 for piano for Rosemary. Her father insisted that she take lessons; $27.00 to Grand furniture for bedroom furniture for the girls; Gates Furniture for dining room set - $24.00; Beneficial Finance - $47.00.

Q: What is this, a loan at Beneficial Finance?

A: Yes. $15.00 for telephone bill, $20.00 Leggett bill.

Q: For what?

A: An open account, for towels, sheets, etc.

Q: Go on.

A: $27.00 to the First National Exchange Bank on a refrigerator.

Q: Do you still have the refrigerator?

A: No.

Q: What happened to it?

A: My husband refused to move it to the apartment. I had to sell it the best I could.

Q: Did you pay the bank?

A: I certainly did.

Q: What else?

A: $6.50 for health insurance and $19.00 for my bedroom furniture.

Q: And, your rent is paid for?

A: Yes. It comes close to my take-home pay.

Q: Have you ever been evicted from any home?

A: No.

Q: Were you evicted from 908 Main Street, Blacksburg, Virginia?

A: No.

Q: Was you threatened to have your oil cut off?

A: No.

Q: And your husband let you and the family come back?

A: Yes.

Q: Did he welcome you back?

A: He agreed to it.

Q: Did he welcome you back?

A: He moved us back in.

Q: Was this temporary?

A: No.

Q: You mentioned that your daughter, Margery, needed some dental surgery?

A: Yes.

Q: Did you know that she was on a dental list?

A: No. Rosemary is.

Q: Would you be surprised to know that Margery is also?

A: Her father told her that he didn't know where he would get the money.

Q: Did I understand you to say that you chose a home at 908 Main Street without your husband's consent to move the family in November?

A: His consent was applied. He didn't say one way or another.

Q: Did he move with you?

A: No.

Q: Did he agree to it?

A: He didn't say one way or another.

Q: He did move with you?

A: No. He liked living alone.

Q: You moved your family to a new location?

A: He was right there.

Q: You moved down too?

A: No. My son went first. He stayed there by himself with no heat and food.

Q: Did you put the family in the car and move down to this place?

A: The two girls and myself.

Q: You did take your children and leave?

A: Yes.

Q: On or about the 1st of March, 1972, threatened with the cut off of oil, you packed up the family and came back to the apartment?

A: He took them back and I drove by myself. My husband moved us back.

Q: In my office some several months ago, did you not hear your daughter testify that you had told her that you were going to be evicted to move. Do you remember that?

A: No. We have never been evicted.

Q: Do you remember your daughter saying that

your husband let you come back to the apartment?

A: Yes.

Q: Awhile ago when you were testifying, that you first came up to Montgomery County from Norfolk, that the family was, more or less, thrown together in a small apartment?

A: Yes.

Q: You did state two, three, or four weeks?

A: Yes.

Q: Did you also testify that your husband subsequently to that date get a two bedroom apartment?

A: Yes.

Q: Were you ever aware of your husband's efforts to obtain a three bedroom apartment?

A: No. We were communicating very little then.

Q: What would have been the result on the family marriage, if he had obtained a three bedroom apartment?

A: It would have been much better than what we had.

Q: You stated that you moved out of the two-bedroom on or about November 1, 1971?

A: Yes.

Q: So, do you remember the date you moved into the two-bedroom apartment?

A: Sometime between August and September, 1971.

Q: You stated that you came about the 23rd day of August, and you stated that you stayed there about four weeks; that would put it at about September 23, 1971. You stayed in a two-bedroom apartment about a month and took the family and left?

A: Yes.

Q: Were you aware of his intentions of obtaining a three-bedroom apartment?

A: No.

Q: Had you been aware of this, would you have moved into it?

A: I don't know what my reactions would have been since it didn't happen.

Q: Did you ever ask him about a three-bedroom apartment that had been promised to him?

A: I told him that I preferred to live in a house.

Q: Did you ever subsequently come back to him and tell him that you wanted that three-bedroom apartment?

A: I think I did when we moved back in March.

Q: This house in Blacksburg that you rented yourself without your husband's consent, was it furnished or unfurnished?

A: Unfurnished.

Q: The two-bedroom apartment that you moved the family from, was it furnished or unfurnished?

A: Yes.

Q: Did it have the carpet on the floor?

A: Yes.

Q: Were utilities paid for?

A: No. He had to pay them.

Q: While you were still living together and your husband was in the Navy, did you receive a Class-Q Allotment check?

A: I received an allotment check.

Q: How much was that?

A: About $200.00 at first, and then it went up.

Q: That was over and about his Navy pay?

A: Yes.

Q: And, it came directly to you?

A: That is correct. Food and clothing were bought from that check.

Q: Did it come directly to you?

A: Yes.

Q: And, the Federal Government supplied your house, furniture and all utilities?

A: That is correct. We had five children.

Q: That gave you $200.00 a month, house, furniture and utilities?

A: Yes.

Q: Did he receive a regular pay?

A: Yes.

Q: Approximately the early part of 1971, your husband retired from the Navy?

A: In January, 1971.

Q: What happened after January?

A: We came to Norfolk for a while.

Q: What time of the year did he come here?

A: In May.

Q: He was in Montgomery County from May until August trying to get things settled up?

A: We would come up on the weekends.

Q: As I understood your testimony, you stated that you chose a home in Montgomery County?

A: We chose a home. My husband made the deposit on it.

Q: Did he later decide not to rent that home?

A: Yes.

Q: Did he give you his reasons?

A: Yes.

Q: What were they?

A: He stated that he did not want the house.

Q: You stated that your husband worked at Montgomery County hospital. He subsequently worked in Pulaski County?

A: Yes.

Q: Let's go back. Have you ever written checks while he was in the Navy, which were not paid for because lack of insufficient funds?

A: Yes.

Q: Have you ever made any withdrawals from his life insurance by signing his name?

A: Yes.

Q: Have you since arriving in Montgomery County, whether prior to June, 1972 or subsequently 1972, opened accounts with business establishments in his name?

A: In the name of Mrs. Jame E. Brooker.

Q: You did not open an account at Simpkins Coal & Oil Company in your husband's name?

A: Yes.

Q: Have you ever opened an account in your husband's name at Clover Creamry?

A: No. Mrs. Bonnie J. Brooker.

Q: While you were at 908 Main Street?

A: Yes.

Q: Was that in your name?

A: Yes.

Q: Do you remember in my office when we took depositions in September, on the 21st, 1973, as "Exhibit 10"?

A: No.

Q: It stated that the Clover Creamry account had been put in your husband's name?

A: No. Wait, I wasn't getting my support money. He wasn't giving me any.

Q: Did you have the VPI Electric Bill in his name?

A: Yes. I wasn't getting any support money. We didn't have a separation at this time.

Q: Did he consent after you moved from his dwelling?

A: No.

Q: Did you open an open account in Norfolk at Rice's Fashion Shoppe in your name?

A: No. In his name. It is a clothing shop where I purchased the girls clothing.

Q: In this two-bedroom apartment that you shared with your family and your husband from March 1, 1972, until June, 1972, you had a master bedroom?

A: That is the room the children slept in.

Q: And the room you and Mr. Brooker shared had twin beds?

A: That is correct.

Q: You stated that this is a period of rising tension?

A: That is correct.

Q: And subsequently on or about June, 1972, that there was a fight between the two of you and he left?

A: Yes.

Q: Did he ever give you any indication of condolence and forgiveness for the desertion of his home and family on or about November 1, 1971?

A: He never discussed it.

Q: He never said forgive and forget?

A: He has never been the type to forgive and forget anything.

Q: You stated that you rented a home in Christiansburg after June, 1972?

A: That is right.

Q: Did the renting of the home in Christiansburg correspond roughly in time with your nervous condition?

A: No.

Q: You were living at this home when you had a reported nervous break down?

A: Yes.

Q: Did you ever threaten suicide in front of the children?

A: Yes.

Q: In front of your youngest child?

A: She may have been present.

Q: Did you make an attempt?

A: Yes.

Q: How?

A: I took tranquilizers.

Q: Did you ever attempt in any other manner?

A: No.

Q: What other type of illness have you recollected?

A: I needed a surgery, but am unable to have it done.

Q: Can you remember exact dates and times?

A: No.

Q: You testified with clear exactity. Is this information that people have told you?

A: This is times I can remember.

Q: Times that happened in the hospital, people must have told you?

A: Yes.

Q: Your son's conditions were only what he told you?

A: Yes.

Q: While you were in the hospital, the other incidents must have been reported by someone else to you?

A: Since I wasn't present, they obviously were reported.

Q: Most of what you told us today has been reported to you?

A: Only the time that I was in the hospital.

Q: You are the defendant in this suit for divorce?

A: No. In my suit I am Plaintiff.

MR. HITE: DIRECT EXAMINATION

Q: Mrs. Brooker, you employed me to institute divorce proceedings against your Husband on the 10th day of April, 1973. I filed an anwer and cross-bill for you?

A: That is correct.

Q: Mr. Whitehurst asked you about a list of your expenses?

A: Yes.

Q: Would you put a date on it and sign your name to it?

A: Yes.

Q: We shall file it as "Exhibit A".

A: Fine.

Q: Mrs. Brooker, Mr. Whitehurst asked you if you had attempted suicide and why?

MR. WHITEHURST:

I don't think I asked her why.

MR. HITE:

Well, I am asking her why.

Q: Why did you attempt suicide?

A: I felt like there was no future ahead for me or the family, and that my husband had destroyed our lives.

Q: You mean by his conduct and treatment toward the family?

A: Yes.

Q: The date of June 28, 1972, was the time he left the house; packed his clothes and left?

A: He said he couldn't stand me and left.

Q: He has not returned?

A: No.

Q: Mrs. Brooker, do you permit the secretary to sign your name to these depositions when they have been completed?

A: Yes. (And, further this deponent saith not.)

BONNIE J. BROOKER

BY _____
Secretary

BY MR. HITE: STATEMENT

On December 29, 1973, at 10:00 a.m., we took the depositions of Cynthia Anne Brooker and Stephen Charles Brooker in this office. Cynthia Anne Brooker is now in Pennsylvania and Stephen Charles Brooker is in Chesapeake, Virginia.

I would like to have these depositions presented as taken on this day, with the privilege of Mr. Whitehurst to cross-examine them at a reasonable and seasonable time when they are at home, and if he cannot agree to that, I propose to take the depositions of these two persons, Cynthia Anne Brooker and Stephen Charles Brooker, one in Pennsylvania and one in Chesapeake, Virginia, which will necessitate considerable expense.

I plan also to take the depositions of the two children that are now with Mrs. Brooker and the depositions of Dr. M. E. Scott at St. Alban's Hospital, Radford, Virginia, and her family physician, which will necessitate considerable expense, and, therefore, it will be necessary that I ask the Court immediately for additional expense money from Mr. James E. Brooker to pay for these necessary depositions and court costs.

MR. WHITEHURST: STATEMENT

Regretting that Counsel for Mrs. Brooker expended time in deposing Cynthia Anne Brooker and Stephen Charles Brooker, who have also been deposed previously, Counsel for Mr. Brooker would like to put in the records that he was asked orally if he could be present on the date these depositions would be taken on December 29, 1973, and on Friday, December 28, 1973, Counsel for Mr. Brooker informed Counsel for Mrs. Brooker that he had been unable to get in touch with Mr. Brooker, and further, that due to an illness that Counsel for Mr. Brooker had been suffering, would not be able to attend the said depositions on December 29, 1973, and, therefore, Counsel for the said Mr. Brooker objects to the entry of the depositions taken on December 29, 1973, as to the record.

MR. HITE: STATEMENT

Counsel for the cross-complainant was informed on short notice that the two children, Cynthia Anne Brooker and Stephen Charles Brooker, would be here and returning immediately to their respective jobs in Pennsylvania and

Chesapeake, therefore, I felt that it would facilitate matters to take their depositions now, rather than to have them come back and cause great expense to all concerned. Therefore, I requested that the depositions be accepted with the privilege of having them back here for cross-examination at some later date.

And, further Counsel for Mrs. Bonnie J. Brooker saith not).

And, further, Counsel for Mr. James E. Brooker saith not).

STATE OF VIRGINIA

COUNTY OF MONTGOMERY, TO-WIT:

I, Audrey L. Barker, a Notary Public in and for the State and County aforesaid, hereby certify that the foregoing depositions were recorded by me in shorthand, at the time and place aforesaid, and for the purpose herein stated; that the witnesses were sworn before giving their depositions, and gave permission for the secretary to sign for them. And that this is a true transcription.

My commission expires September 17, 1977.

Given under my hand this 7th day of January, 1974.

_____

Notary Public,
Secretary

-48- Whitehurst, Statement
Hite, Final Statement----

VIRGINIA, IN THE CIRCUIT COURT OF MONTGOMERY COUNTY:

| | | |
|---|---|---|
| JAMES E. BROOKER | ) | |
| | ) | |
| V. | ) | DEPOSITIONS |
| | ) | |
| BONNIE J. BROOKER | ) | |

The depositions of James E. Brooker et al taken in the law offices of Craft & McGhee at Three North Franklin Street, Christiansburg, Virginia, at 2:00 o'clock p.m., on April 11, 1975, pursuant to notice, which depositions are to be read on behalf of James E. Brooker in that certain divorce suit as styled above now pending in the Circuit Court of Montgomery County, Virginia, wherein James E. Brooker is the complainant and Bonnie J. Brooker is the respondent.

PRESENT: James E. Brooker in person and by William R. L. Craft, Jr., of counsel; Bonnie J. Brooker appearing not in person but by Bentley Hite, of counsel.

James E. Brooker, a witness of lawful age, after first being duly sworn, deposes and says:

WILLIAM R. L. CRAFT, JR.:

Q. State your full name.

A. James Edwin Brooker.

Q. Mr. Brooker, you're the complainant in a divorce proceeding pending in the Circuit Court of Montgomery County, Virginia, against Bonnie J. Brooker?

A. I am.

Q. How old are you?

A. Fifty-one (51).

Q. Are you and your wife living together now.....

A. No.

Q. As husband and wife?

A. We are not.

Q. When did you last live together with your wife?

A. June of 1972.

Q. Any possibility of you and your wife becoming reconciled?

A. None whatsoever.

Q. And you have been living separate and apart for more than two (2) years?

A. We have.

Q. I think that's all I have, Mr. Hite may have some questions.

BENTLEY HITE:

Q. I believe you....Mr. Brooker, I believe you stated that you have been living separate and apart, continuously and uninterruptedly, for more than two (2) years?

A. Since June of 1972, yes sir, and then at the University Apartments right.

Q. Where is Mrs. Brooker living now?

A. She lives out in, somewhere out past Windsor Hill; I don't know what the area is called out there.

Q. In Blacksburg?

A. Yeah, it's on....

Q. Montgomery County?

A. It's in Montgomery County.

Q. Have you been paying her any alimony or support?

A. I've been paying her support.

Q. How much?

A. Three Hundred ($300.00) a month.

Q. I believe at one time you agreed to pay her Three Fifty ($350.00) a month?

A. I don't believe I ever agreed to that.

Q. It was discussed wasn't it?

A. I can't remember; it was with Mr. Winder when we made this agreement that we have at present.

Q. When Mr. Whitehurst was handling it, do you remember discussing with him and with me the proposition that we would like to have Three Hundred and Fifty ($350.00) Dollars a month?

A. I did not. I don't recall this at all.

Q. Are you up to date on your payments to her now?

A. Yes.

Q. How is Mrs. Brooker's health now?

A. How would I know; I haven't seen her in two (2) years at least.

Q. Do you ever inquire about her health?

A. Through the children perhaps, yes.

Q. And how many children are with her now?

A. Living at her place?

Q. Yeah.

A. Rosemary is living there and my oldest son, Jim.

Q. Two of them. I believe Mrs. Brooker has on several occasions been to King's Sanitarium for various lengths of time.

A. Are you talking about St. Alban's?

Q. Yes.

A. She was there; she was admitted several years ago, yes.

Q. To your knowledge, is she taking treatment there now?

A. No, she's not, to my knowledge.

Q. And are you employed now?

A. Fortunately, I am, yes.

Q. Where?

A. At the Pulaski Hospital.

Q. What is your salary?

A. I plan to file it with Mr. Craft.

Q. You tell us and put it in the record.

A. No, I'll do this; it's misleading to give you a statement like that.

Q. Well, what's misleading about it?

A. Because you don't know what my obligations are.

Q. I'm not asking about your obligations. .....

A. I know you're not interested but I am.

Q. I'm asking you about your salary. Well, I'm asking you again about your salary.

A. And I'll put it in writing.

Q. What's that?

A. I'll put it in writing.

Q. Well, put it in writing right there; she can write it.

A. I'm not prepared to do that.

Q. Do you refuse to tell us what your salary is?

A. No, I said I'll file it; I've got to do some...get my paperwork together; I didn't know I was going to be...I thought this was a simple statement this afternoon as to whether we had been living together or not for the past two (2) years. I wasn't prepared to bring financial statements.

Q. Well, you know what you get each month don't you?

A. Yeah, why should I tell you?

Q. Because I asked you. I'm demanding that you tell me or I'll take it to

the Judge and get an answer from you.

A. The Judge will get it anyway, right.

Q. Well, I'm going to get it now; I'll ask the Judge to make you give it to me and he'll do it.

Mr. Brooker: Mr. Craft, what do you recommend?

Mr. Hite: We are entitled to it.

Mr. Craft: Counsel for Mr. Brooker reviewed this prior to this deposition and Mr. Brooker reported to me that he did not know his total earnings but that he would get a copy of his total earnings and file with this deposition if Mr. Hite requested it, his total earnings from all sources because he has other income other than the hospital and he will file it, including a statement of his obligations that he pays on, most of which information has previously been introduced in the record but there is some difference in what his expenses are at this time, but he reported to me that he was not prepared to testify about that because he was not fully informed. But I think if you know what your actual take home check is, you should state it, from the hospital.

A. From the hospital, about I'd say twelve, fifteen thousand ($12,000.00 - 15,000.00) a year.

Q. From twelve to fifteen thousand ($12,000.00-$15,000.00)?

A. Uh huh.

Q. And what is...you are retired from the Navy aren't you?

A. And you know it.

Q. Well, aren't you?

A. Yes, right.

Q. And what is your retirement pay?

A. Somewhere in the neighborhood of five thousand ($5,000.00).

Q. So you have income from eighteen to twenty thousand a year ($18,000.00-

$20,000.00)?

A. That's right.

Q. And what was your age, I didn't get it?

A. Fifty-one (51).

Q. Fifty-one (51). I believe that's all I'm going to ask him Bill.

Mr. Craft: Let me ask another.

Mr. Hite: Wait a minute, I'll. . .

Mr. Craft: Go ahead.

Mr. Hite: That's all right.

WILLIAM R. L. CRAFT, JR.:

Q. Mr. Brooker, do you know whether your wife is regularly employed?

A. She is regularly employed at Virginia Tech.

Q. And you testified there are two (2) children living at home with her now.

A. Right; Rosemary and Jim.

Q. What are the ages of those two children?

A. Jimmy is twenty-three (23) and Rosie's thirteen (13).

Q. And what is Jimmy doing?

A. He's going to Tech on a GI bill.

Q. So you actually have one child at home with the mother eighteen (18) or under?

A. That's right.

Q. Do you consent for the secretary to sign your name to your deposition when it has been typed?

A. Yes.

Q. That's all.

(And further this deponent saith not.)

JAMES E. BROOKER

James E. Brooker

By Rebecca H. Byrd
Secretary

Margery Jean Brooker, a witness of lawful age, after first being duly sworn, deposes and says:

WILLIAM R. L. CRAFT, JR.:

Q. What is your full name?

A. Margery Jean Brooker.

Q. And how old are you?

A. Eighteen (18).

Q. Now, Margery, you are aware that your father and mother have a divorce suit pending in Court?

A. Yes I do.

Q. Can you tell us as of this date whether your mother and father are living together as husband and wife?

A. No, they're not.

Q. Do you know how long they've lived separate and apart?

A. I don't know approximately, but it's been over two (2) years.

Q. And this separation has been without interruption?

A. Yes, uh huh.

Q. I believe that's all.

Mr. Hite: Continuously and uninterruptedly, I believe the Code says continuously and uninterruptedly. That's what you mean, they haven't lived together at all?

A. No, not at all.

Mr. Craft: I believe that's all.

BENTLEY HITE:

Q. Who has been supporting the family?

A. My father.

Q. How much does he contribute?

A. I don't know exactly; my mother and father handle that completely.

Q. You don't know how much he pays each month?

A. No, I don't.

Q. Is your mother working?

A. Yes, she is.

Q. Do you know how much she makes each month?

A. No, she keeps all those things privately to herself.

Q. And where are you living now?

A. At my mother's residence.

Q. That's all. Do you permit the secretary to sign your name when she gets through?

A. Oh yes, uh huh.

(And further this deponent saith not.)

MARGERY JEAN BROOKER

Margery Jean Brooker

By Rebecca L. Byrd
Secretary

Rosemary Brooker, after first being duly sworn, deposes and says:

WILLIAM R. L. CRAFT, JR.:

Q. State your name.

A. Rosemary Brooker.

Q. How old are you?

A. I'm thirteen (13).

Q. Your sister and father have testified here that your mother and father are living separate and apart and have lived without interruption and continuously for more than two (2) years. Is that true?

A. Uh huh.

Q. After that statement is typed up, do you consent for the secretary to sign your name?

A. Yes.

BENTLEY HITE:

Q. You are living with your mother aren't you?

A. Yes.

Q. That's all. Thank you very much.

(And further this deponent saith not.)

ROSEMARY BROOKER

Rosemary Brooker

By Rebecca U. Byrd
Secretary

Counsel for the complainant reported to counsel for the defendant that he would have the complainant file as part of his deposition an accurate report of his earnings for the year 1974, together with his expenses and obligations that he is paying on; and counsel for the defendant, Bonnie J. Brooker,

reserves the right to introduce rebuttal evidence.

STATE OF VIRGINIA

COUNTY OF MONTGOMERY, TO-WIT:

I, Rebecca U. Byrd, a notary public in and for the State of Virginia, County of Montgomery, do hereby certify that the foregoing depositions were recorded by me at the time and place aforesaid and that this is a true transcription of the same.

My commission expires December 11, 1976.

Given under my hand on this the 28th day of April, 1975.

Rebecca U. Byrd
Notary Public

FILED IN CLERKS OFFICE
Circuit Court of Montgomery County
25th DAY OF Sept. 1975
John B. Myers Jr. CLERK
By Gary D. Elliott D.C.