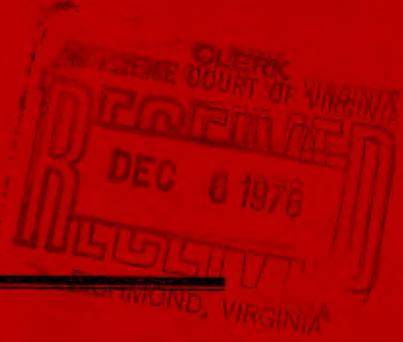


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IN THE
Supreme Court of Virginia
AT RICHMOND

No. 760556

VIRGINIA S. BROWN, *Appellant*,
v.
RICHARD P. BROWN, *Appellee*.

APPENDIX TO BRIEF

BETTY A. THOMPSON
1800 North Kent Street
Arlington, Virginia 22209
Counsel for Appellant

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BILL OF COMPLAINT
(Filed November 20, 1974)

COMES NOW your Complainant, Virginia S. Brown, and files her Bill of Complaint and respectfully shows unto the Court as follows:

1. That both parties hereto are actual and bona fide residents and domiciliaries of the Commonwealth of Virginia and have been for more than one year immediately preceding the institution of this suit.

2. That the parties hereto were married on January 11, 1969, at Arlington, Virginia.

3. That two children were born of the marriage, namely, Christopher Scott Brown, four years old; and Erik Kyle Brown, two years old.

4. That both parties hereto are over the age of eighteen years; that neither party is a member of the Armed Forces of the United States.

5. That the Complainant and the Defendant last cohabited as man and wife at 115 Willow Place, Sterling, Loudoun County, Virginia on or about January 15, 1974. That without just cause for the past five years the Complainant has been treated with extreme mental and physical cruelty by the Defendant herein and further, that the Complainant has been constructively deserted by

the Defendant herein and the Complainant will duly offer proof of said claim before the Honorable Court.

WHEREFORE, your Complainant prays that she may be awarded support, alimony, custody of the children and a divorce A Mensa Et Thoro, on the grounds of constructive desertion and mental and physical cruelty, from on or about January 15, 1974, with the right to merge the same into a divorce A Vinculo Matrimonii at the expiration of the statutory period.

/s/

Virginia S. Brown

* * *

ANSWER AND CROSS-BILL
(Filed December 12, 1974)

To the Honorable Judges of
The Aforesaid Court:

Your Defendant, Richard P. Brown, for Answer and Cross
Bill to the Bill of Complaint, says as follows:

1. That the allegations contained in paragraphs 1, 2, 3,
and 4 of said Bill of Complaint are admitted.

2. That the allegations contained in Paragraph 5 of said
Bill of Complaint are denied in so far as they state the date of
January 15, 1974 as the date of the last cohabitation of the parties
as man and wife, although the allegations of paragraph 5 as to the
place of such last cohabitation, i. e., 115 Willow Place, Sterling,
Loudon County, Virginia, are admitted, and further that the alle-
gations in paragraph 5 of the Bill of Complaint concerning the
Defendant treating the Complainant with extreme mental and
physical cruelty are denied and also the allegations of the Com-
plainant in paragraph 5 of the Bill of Complaint that the Complainant
has been constructively deserted by the Defendant are denied.

AND FOR FURTHER ANSWER, this to be treated in the
nature of a Cross-Bill, your Defendant says:

1. He adopts the allegations of paragraphs 1, 2, 3, and
4 of the Bill of Complaint as a part of this Cross-Bill.

2. That the Complainant for some period prior to July

1973, commenced to express, on a repetitive basis, her general discontent with her wifely household duties and the mothering of their two infant children as well as demands on the Defendant that he find a means of earning a greater income, the Defendant then being employed in the Office of the Doorkeeper of the House of Representatives at \$9360 per annum salary in January 1973, while at the same time attempting by night courses, five nights per week, to complete his undergraduate college education at the American University Center for Criminal Justice, through the use of the GI Bill of Rights and his own resources; that the Complainant insisted that the Defendant augment his earnings by second job employment even if this meant that the Defendant would give up his educational program; that the Complainant in the course of these discussions, which ripened into unfriendly arguments, threatened on numerous occasions that, unless the Defendant took such a course of action, the Complainant would find herself regular employment, necessarily leaving the two infant boys, then 3 and 1 years of age, with a series of local untrained baby sitters, or local child day care centers; that the Complainant further maintained her intention in any event, of completing her college education and particularly of preparing herself for some gainful employment outside the home; that the Defendant, while disliking the Complainant having to leave the care of the children of such tender age with neighborhood baby sitters,

or local day care pre-school centers, conceded the tightness of their financial situation, and agreed to the Complainant's course of action.

3. That in the course of these discussions and arguments over the financial difficulties and over the abandonment of the Defendant's formal education, and over the excessive care of the infant children by the baby sitters, the Complainant threatened on numerous occasions that she would not stand any more of this life style and that she would abandon the Defendant and take the children and return to her mother's home at 204 Glenn Avenue, S.W., Vienna, Fairfax County, Virginia where she would be free to do as she wished without argument with the Defendant, particularly over excessive baby sitting, although, since the Complainant's mother worked, the Complainant would still be required to use baby sitters or pre-school for the care of the infant children while she was at work; that during these acrimonious discussions, at no time, did the Defendant ever assault or threaten the Complainant, but that the Complainant did often in the heat of passion over the argument, strike the Defendant in his face and head and hurl objects at him;

4. That in July 1973, the Complainant told the Defendant that she was going to take a full-time real estate salesman's position, which included preparing for state registration and that she would and did resume full-time educational studies at American University

to complete her undergraduate college education; that the Defendant agreed to her taking the real estate position on the assumption stated by the Complainant that the work would be on a 9 A. M. to 5 P. M. basis, leaving her some time during the day, consistent with employment and with her own formal education daytime schedule for personal care and mothering of the two infant children; that once the Complainant completed her preparatory real estate sales instruction and was licensed by the State as a real estate agent and entered into her full-time realty sales agent work, her entire demeanor and attitude towards the Defendant changed for the worse; that the Complainant claimed the necessity of working her position on a part-time but seven day a week basis and at nights, necessarily leaving the children in complete care of pre-school and babysitters for most of the day and on evenings when the Defendant was taking his education courses; that the Complainant necessarily dropped her own formal education in favor of her extended employment; that the Complainant returned to her former smoking habits, began to drink excessively, while entertaining real estate clients, at lunch and dinner; that the Complainant met clients and office associates with increasing frequency at places of entertainment; that the Complainant was often unable to account for her whereabouts when she returned to the home late in the evenings, after the husband's return from his schooling; that the Complainant, in her work situation, became

acquainted and developed friendships with male and female co-workers who the Complainant stated openly to friends, were frank and open concerning their sexual relationships with other than their spouses;

5. That this course of conduct, and change of attitude on the part of the Complainant, together with the continued and increased dependence on pre-school and local babysitters for the care of the infant children, increased the rate and intensity of further arguments and quarrels between the Complainant and the Defendant, that the Complainant reiterated her protest that she could not continue with the marriage and her desire to take the children, leaving the marriage home, and return to her mother's home; that this course of events culminated on January 17, 1974, when the Complainant again reiterated this announcement during a dinner time argument and quarrel, to which the Defendant replied, "If this is the way you feel, my lawyer (referring to prior counsel) says I can't stop you"; that the Defendant then left for his evening college classes, but took the precaution to prevent the Complainant from carrying out her often repeated threat, of disconnecting the ignition wires in the Complainant's car; that upon his return from his educational classes on or about 10:30 P. M. on January 17, 1974, the Defendant found that the Complainant had left the marriage home, with the two children, the bulk of their clothing and personal articles, and all food in the refrigerator; that the Defendant verified by a telephone

to the Complainant's mother that the Complainant and the two infant children had indeed left the Defendant's marital home, and were resident in the Complainant's mother's home and did not intend to return to the marriage home.

6. That the Complainant, on January 17, 1974, did, under the circumstances described above, abandon and desert the Defendant within the meaning of §20-95 1950 Code of Virginia, and that said abandonment and desertion of the Defendant by the Complainant has been continuous and uninterrupted, and without any resumption of cohabitation, and the Defendant will duly offer proof of such claims before the Honorable Court.

7. That the Complainant did, on or about October 1, 1974, while living apart from the Defendant, having left her mother's home with the infant children of the Defendant, to reside at Apartment 11-C, 2309 Freetown Court, Reston, Virginia 22091, with the infant children of the Defendant did enter into an adulterous relationship in that home, with one Dale Leith, whose business address as a Golf Professional Instructor is South Golf Club, Reston, Virginia; that on or about October 1, 1974, the said Dale Leith, did take up residence in the Complainant's premises, cited above, and did move into her home, with his clothing and other personal effects, and did cohabit with the Complainant to the knowledge of the older infant child and so related to the Defendant and others, and that the Defendant will duly offer

proof of such claim before the Honorable Court; that the Defendant and Complainant have not cohabited since the Complainant's entry into this adulterous relationship, nor has said adultery been committed by the procurement or connivance of your Defendant nor condoned by him.

WHEREFORE, your Defendant prays that:

First, the Complainant's Bill of Complaint for constructive desertion be dismissed; and

Second, that he, the Defendant, be awarded a divorce a vinculo matrimonii by reason of the Complainant's adultery;

Third, that, if the Defendant should wish to withdraw this charge of adultery out of respect for the future feelings of the infant children and for the present feelings of maternal and paternal grandparents,

then your Defendant prays that he be granted a divorce a mensa et thoro on the ground of the Complainant's actual abandonment and desertion, to be merged into a divorce a vinculo matrimonii at the end of the statutory period.

Fourth, that the Court award the care and custody of the minor children, Christopher Scott Brown, now aged 4, and Erik Kyle Brown, aged 2, to the Defendant father, as the innocent party and the natural custodian of the minor infant children in the exercise of the Court's judicial discretion for the welfare of the said infant children on the grounds that the Complainant by her extensive work

schedule, by remitting the children to the considerable prolonged periods of care by youthful, inexperienced and non-professional neighborhood babysitters, or pre-school day care centers, by failing to give due care to the infant children in such vital matters as their bathing, grooming, clothing, appropriate to the weather, and medical matters, and by finally bringing into the Complainant's home, on a permanent basis, with the children then present in that home, and entering into an adulterous relationship with the named correspondent, all of which adversely affects the psychological and psychiatric balance and well being of the two infant children, the eldest of which, although aged 4, is acutely aware of and told the Defendant and his paternal grandparents of the presence of this stranger in the home of the Complainant, particularly referring to the presence in the Complainant's bed of the named correspondent rather than the Defendant father, and has repeatedly inquired as to why the Defendant could not come back to the home, instead of the stranger, and live with the Complainant as father again.

Fifth, that a marital property agreement between the parties, when reached, be approved with particular reference to the definition of reasonable visitation rights of the infant children of the Defendant if the custody of the infant children requested in the paragraph next above be not granted by the Court to the Defendant, and further that the Judgements of the Fairfax County Juvenile and

Domestic Relations Court No. 39534A and B awarding custody pendite lite of the infant children to the Complainant and fixing child support of \$130.00 per month for both children be reaffirmed in so far as child support allowance is concerned if the Defendant is not given custody of the children, and further that the Defendant be relieved of any claim of the Complainant for payment of alimony as the guilty party.

Sixth, that the Defendant shall have further and complete relief as the nature of the case shall require or to equity may seem meet, including a judgement that the Complainant be required, as the guilty party, to pay her own counsel fees, and to bear the costs of this action.

/s/

RICHARD P. BROWN

Defendant and Cross Complainant

* * *

ORDER

THIS CAUSE came on to be heard on the 20th day of December, 1974, on the petition of the Complainant herein, VIRGINIA S. BROWN, for child support and maintenance, costs and counsel fees, pendente lite. It appearing to the Court from the testimony and the evidence presented that an increased award of child support pendente lite should be granted from that provided by Fairfax Juvenile and Domestic Relations Court Decree Court No. 39534A and B dated the 20th day of March 1974. It further appearing to the Court that an award of maintenance to the Complainant should not be granted in view of the Court's consideration of the financial circumstances of both parties, it is therefore

ADJUDGED, ORDERED and DECREED that the Defendant pay to the Complainant the sum of \$100.00 per month total child support for two children, effective 29 November 1974, and further that the Defendant be ordered to continue to carry the Wife and children on his medical insurance and that he keep in effect all life insurance policies and other insurance policies maintained by the defendant since separation, both types of insurance having been voluntarily instituted by the Defendant for the benefit of the children and the wife.

ENTERED this 25th day of July, 1975.

/s/ Barnard F. Jennings
JUDGE

* * *

DECREE

THIS CAUSE came on to be heard upon the papers formerly read; upon the prayer of the Defendant, Cross-Complainant, for custody of CHRISTOPHER SCOTT BROWN and ERIK KYLE BROWN, the minor children of the parties; upon testimony of the parties and their witnesses heard ore tenus by the Court; and was argued by counsel.

UPON CONSIDERATION WHEREOF, it appearing to the Court that the Complainant, Cross-Defendant, was granted custody of said minor children by Order of the Fairfax County Juvenile and Domestic Relations District Court, case # 39534A and B, entered on the 5th day of April, 1974; that this Court by Order entered on the 23rd day of July, 1975, granted temporary custody of said minor children to the Complainant, Cross-Defendant; and it further appearing to the Court that the Complainant, Cross-Defendant is not a fit and proper person to have the care and custody of said minor children by reason of an adulterous relationship with the co-respondent named in Defendant's Cross Bill of Complaint filed herein, and that the custody of said minor children should be awarded to the Defendant, Cross-Complainant, RICHARD P. BROWN; it is therefore

ADJUDGED, ORDERED and DECREED that the care and custody of CHRISTOPHER SCOTT BROWN and ERIK KYLE BROWN, the two minor children of the parties be, and the same is hereby

awarded to Defendant, Cross-Complainant, RICHARD P. BROWN, subject to the right of the Complainant, Cross-Defendant, VIRGINIA S. BROWN, to reasonable visitation with said minor children, so long as said visitation is not in the presence or company of the co-respondent; and, the Complainant, Cross-Defendant is ORDERED to deliver said children to Defendant, Cross-Complainant forthwith this 14th day of October, 1975.

ADJUDGED, ORDERED and DECREED that the Order of this Court entered July 23, 1975, requiring the Defendant, Cross-Complainant to pay to the Complainant, Cross-Defendant, support for the said two minor children be, and the same hereby is vacated.

To all of the foregoing ruling awarding custody of the two minor children to the Defendant, Cross-Complainant, the Complainant, Cross-Defendant objects and excepts.

It is further Ordered that the Clerk of this Court furnish certified copies of this Decree to counsel for both parties.

ENTERED this 2nd day of January, 1976.

/s/ Barnard F. Jennings
JUDGE

* * *

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR
(Filed January 31, 1976)

TO: James E. Hoofnagle
Clerk of the Court
Fairfax County Court House
Fairfax, Virginia 22030

Notice is hereby given that Virginia S. Brown, Complainant herein, appeals from a Final Decree of Custody entered in the within cause on the 2nd day of January, 1976.

The following are the errors assigned:

1. The trial court erred in awarding custody of the two minor children of tender years to the father, there being insufficient credible evidence to show that the welfare of the children would be promoted thereby and there being no evidence to show that the mother, with whom the children had resided since the separation of the parties, had failed to care properly for the children, deprived them of her love and tenderness, or lacked parental interest in their welfare.

2. The trial court erred in awarding custody of the two minor children of tender years to the father solely on the basis of the mother's extra-marital relationship where the court was satisfied the children were well cared for in the mother's custody and there was insufficient evidence to show that the children would be better cared for in the father's custody.

3. The trial court erred in holding that the children should be taken from the mother where there was no evidence to

show that the extra-marital relationship of the mother constituted a harmful influence on the children.

4. The trial court erred in the exercise of its discretion in reaching a conclusion unsupported by the evidence and contrary to what appeared best calculated to promote the welfare and best interests of the children.

A written statement of facts is to be hereafter filed in accordance with Rules 5:6 and 5:9(c).

/s/

VIRGINIA S. BROWN
By Counsel

* * *

WRITTEN STATEMENT OF ORAL TESTIMONY
(Filed March 18, 1976)

BE IT REMEMBERED that on the 26th day of September, 1975, in the Circuit Court at the Court House in the County of Fairfax, State of Virginia, the Honorable Barnard F. Jennings, Judge of said Court presiding, the above entitled cause came on for a final custody hearing on the Petition of RICHARD P. BROWN, Defendant herein, for custody of the two minor children of the parties hereto. (The parties will be referred to herein as they appear in the caption of this suit).

Appearances: John P. Burns, Esquire, for the Complainant
Jerome F. Lieblich, Esquire, for the Defendant

The Defendant presented evidence concerning Complainants fitness as a mother and concerning her adulterous relationship with the correspondent named in Defendant's Cross Bill for Divorce.

Testimony was offered by Complainant to show her fitness as a mother, such testimony being terminated by the Court, it being satisfied that Complainant was fit to care for her children, (so far as her treatment of the children and their physical care is concerned) and further testimony was limited to that bearing on the alleged adulterous relationship between the Complainant and correspondent.

The testimony heard by the Court on the matter of Defendant's prayer for custody of the two minor children of the parties is presented in narrative form which begins with Defendant calling the

following witnesses:

The Defendant, RICHARD P. BROWN, Respondent herein, called as a witness on his own behalf, being duly sworn testified to the following facts:

That he is aged 31 and his occupation is Assistant Door-keeper of the House of Representatives, U. S. Congress: That the Defendant and Complainant were married on January 11, 1969; That two children were born of the marriage, CHRISTOPHER SCOTT BROWN, born June 15, 1970, now aged 5, and ERIK KYLE BROWN, born September 27, 1972, now aged 3; That the Defendant, by the instant proceeding, sought to have custody of the two infant sons awarded to him as the father and to have both the Consent Order of the Fairfax County Juvenile Court #39524 A and B, dated March 20, 1974, awarding such custody to Complainant and the pendente lite order of the Fairfax Circuit Court dated December 26, 1974 also awarding custody to Complainant vacated; That Defendant was a Cross-Complainant on a Bill for divorce, filed by the Complainant on November 15, 1974; That the Defendant's Cross-Bill sought divorce because of the Complainant's desertion on January 17, 1974, in which the Complainant took the two children and left the matrimonial abode, 110 Willow Run, Sterling, Loudoun County, Virginia, after another of their numerous quarrels; That the Defendant's Cross-Bill also charged adultery committed by the Complainant with a correspondent, one Dale Leith, commencing on or about October 1, 1974, and not condoned by the Defendant; That

the Defendant, formerly a policeman with the Executive Protective Service, determined by proper investigative means, the identity of the correspondent and his occupation to be a professional golf instructor, South Golf Club, Reston, Virginia; That the Complainant resided at 2309 Freetown Court, Reston, Fairfax County, Virginia with the children at the time of filing the Bill of Complaint and the Cross Bill of Complaint and at the time the alleged adulterous relationship commenced; That the Defendant's Cross Bill included a prayer that the custody of the children be awarded to him.

That the Defendant considered the reasons, as set forth in his Cross Bill, for the Complainant's desertion on January 17, 1974 were her general discontent with wifely household duties and with the task of mothering of two infants during the long periods of day and night when the Defendant was either on duty with the Executive Protective Service or attending classes to complete his college education and gain his BS in Police Administration in the process; That the Complainant also wished for greater income, disdained the Defendant's police occupation, and desired the time and freedom from her housewifely chores and motherly cares to complete her own college education; and yearned to become employed for the freedom and income thereby attained; That the Defendant opposed the Complainant's desire to work because he disliked her leaving such young children to primary rearing by baby sitters; That numerous domestic quarrels took place over all these issues; That the Complainant constantly threatened to leave the Defendant

and go home with the children to her mother, residing in Vienna, Fairfax County, Virginia.

That, eventually goaded enough by the Complainant's expressed desires for a basic change in her lifestyle, the Defendant consented to her taking on a position as a 9:00 a.m. to 5:00 p.m. real estate agent, preceded by her necessary training to secure her license; That the Defendant believed that at least the Complainant would be home with the children each evening with such employment and would be more content, abating the matrimonial disharmony.

That upon the Complainant's taking her real estate position with a realty company after her licensing on or about June 1973, the Complainant's demeanor and life style drastically changed; That the Complainant dropped all further effort at formal education, resumed her habit of chainsmoking, commenced to work long hours in the evenings and on weekends and holidays, leaving the infant children all the more to the care of baby sitters or to the Defendant, when he was at home; That the Complainant developed a new social life with friends, male and female. That the Complainant began to keep very late hours before arriving home and was unable to account for her whereabouts; That the Complainant commenced to go to bars and restaurants with clients, friends, or office associates, of which places and companions the Defendant disapproved; That the Complainant began to drink excessively; That the Complainant was met by, escorted, and entertained by

male clients and by other male strangers not known to the Defendant, and which Defendant believed to be beyond any call of Complainants real estate sales duties.

That on January 17, 1974, after an exceptionally bitter but continuing matrimonial quarrel over the same subjects, intensified by an incident on January 11 - 12 subsequently testified to, the Complainant told the Defendant she was really going to leave him and take the children, and would not be home when he returned from work and school; That the Defendant told the Complainant, if you feel you must go, go, but don't come back if you go; That, despite these words, the Defendant sought to block any attempt for the Complainant to carry out her threat by removing the distributor cap on her automobile; That, nevertheless, when he returned that evening, the Complainant, the two children, the Complainant's car, all clothes and personal effects of the Complainant and children were gone from the matrimonial home; That the Defendant learned by telephoning his mother-in-law that the Complainant had removed to her mother's residence, 204 Glenn Avenue, S.W., Vienna, Fairfax County, Virginia; That the Complainant in April 1974 removed herself and the children to the 2309 Freetown Court, Reston, Fairfax County, Virginia, to live alone apart from her mother.

That on or about January 11, 1974, shortly before the January 17 separation, while the Complainant and Defendant, were still living together and still at serious domestic odds, on the couple's

wedding anniversary date, the Defendant agreed to baby sit before he went to his evening classes, while the Complainant finished up her work; That the Defendant fed the children and himself their supper;

That the Complainant returned home on or about 7:00 P.M. to pick up the children allegedly to take them over to her mother's for a visit while the Defendant attended his evening classes; That on that particular evening there was very poor weather with sleet, snow, and very icy road conditions; That when the Defendant arrived home he found the Complainant and children had not yet returned; That a call to his mother-in-law indicated she did not know where the Complainant and children were; That the Complainant had already had in the near past in the 1973 Christmas storm, several accidents driving the car; That the Defendant began to worry about the hazardous road conditions; That on or about midnight, when the Complainant and children had not as yet returned to the home; the Defendant again, after several earlier calls, called his mother-in-law, in great agitation over a possible accident to his wife and children; That the mother-in-law, equally upset over this possibility, indicated a certain address in Sterling Park, Loudoun County, Virginia, at which the Complainant might be visiting; that the Defendant drove over to the nearby Richland Subdivision and located the house at the address indicated by his mother-in-law; That it was now about 1:00 A.M.; That the house was completely darkened; That he walked up to the house, knocked on the recreation basement room door facing the street; That, he opened the door, entered,

made his way up stairs, and found the two children sleeping on chairs, his wife sitting on the couch and an unknown male standing up in the room, That it appeared to Defendant that the Complainant and the male's clothing was in disarray. the Complainant wearing a shirt belonging to the male; That in great anger, the Defendant called the male "you son-of-a-bitch, that's my wife and my children you're here with," and then struck the male in the mouth with his fist several times, picked up one child under each arm, elbowed the Complainant out of his way, kicked open the door, descended the stairs to the recreation room front entrance, kicked open that door, put the children in the car, and returned to the matrimonial abode; That he then called his parents to come down the next day and take the children back to Chester County, Pennsylvania; That the Defendant believed that the Complainant had committed adultery with the male.

That the Complainant after the separation brought a proceeding in the Juvenile Court to confirm her custody of the children and for child support.

That there followed considerable difficulty in settling the sale of the matrimonial abode and unsuccessful attempts to arrive at a marital property agreement; That the Complainant filed a pendente lite motion in the within Chancery cause #44450 against the Defendant on November 28, 1974; the cause being heard on December 20, 1974, in the Fairfax Circuit Court; That at this

pendente lite proceeding, the Fairfax Circuit Court raised the child support from \$65 to \$100 per month, denied the Complainant any maintenance, and continued the custody of the children with the Complainant.

That the Defendant was moved to take the action to secure custody of his children because the children began to refer to the correspondent as their "daddy" and because of his revulsion at the occasional delivery or receiving of his children from the hands of or in the presence of the correspondent particularly during the Complainant's residence in Reston, Fairfax County, Virginia; That the promptings of his parents, and his own exasperation at the Complainant's requirement that he pick up and deliver the children at an Exxon gas station in Laurel, Maryland and a series of occurrences, culminating the Defendant's parent's urging, so gradually angered and finally moved the Defendant to seek custody of the children; that these major events worked the Defendant to take this move.

That on or about October 12, 1974, when the Defendant returned the children, after a weekend visitation to the residence of the Complainant, then 2913 Freetown Court, Reston, Fairfax County, Virginia; the Complainant immediately left, claiming an important engagement, without more than a prefatory greeting to the children, thereby forcing the Defendant to stay in the Complainant's residence to safeguard the children until the baby sitter arrived; That during this period of time, while Defendant

was in the residence of the Complainant at the Complaint's request, awaiting the baby sitter, he had occasion to use the bathroom and noticed in the bathroom used by the Complainant, shaving equipment, deodorants, after shave lotion, and other effects of a male; from which the Defendant concluded that a man was sharing the bathroom with the Complainant; That the Defendant then looked into the Complainant's bedroom and noted male clothing hanging in the closet, male shoes on the closet floor, and male garments strewn about the Complainants bedroom from which the Defendant concluded that a man was sharing the bedroom with the Complainant; That the Defendant also noted that much of the male gear was sports equipment particularly suited for golfing.

That on October 14, 1974, when the Defendant went to pick up the children for a Sunday outing at the Complainant's Reston residence, one child, Erik, then just turned 2 years of age, could not be found; That the search for the child took over an hour and the child had been permitted to wander off while in the care of the Complainant.

That on October 18, 1974, the Defendant arrived at the Complainant's baby sitter in Reston to pick up the children for a weekend visitation and learned from the baby sitter that again one of the children had been missing and had not been turned over to baby sitter at the normal time; That the baby sitter told Defendant that Erik, had disappeared from the Complainant's home and was found after the Fairfax County Police were summoned and a general

search of the area of the Complainant's Reston home was instituted; That the child, when found was standing in a creek across the main highway in Reston about a mile from the house; That the Complainant, after finding the child, took the child to the baby sitter for subsequent delivery to the Defendant. That when the Defendant arrived some 8 hours later to pick up the children from the baby sitters the youngest child's shoes and socks were still wet.

That during the week of October 30 - November 6 1974 -- the pre-election week, the Complainant left the children with a baby sitter instead of turning them over to the Defendant or to their paternal grandparents.

That the Complainant disregarded the mutual agreement of the parties as to Thanksgiving and Christmas holidays visitations, in which it had been pre-agreed that the Complainant would have the children for Thanksgiving and the Defendant for Christmas: That the Defendant, while most happy to take the children to his parents for Thanksgiving, felt most upset because on Christmas the Complainant took the children to the parents of the correspondent and allowed the Defendant only a half an hour on the afternoon of December 24 to give the children his Christmas greetings and family gifts.

That in the week January 5 - 12, 1975, the Complainant left the children with a baby sitter for seven days, without notice of her whereabouts or that of the children to the Defendant, to Complainant's mother or any other person whom the Defendant could contact.

That on May 25, 1975 when the Defendant took the children down to Kings Dominion on an outing and returned late Saturday night, planning to return the children when they were rested on Sunday morning but the Complainant and correspondent called the Defendant on Sunday morning and with the correspondent using profane and vulgar language and threatening the termination of Dependent future visitation privileges, demanded that the Defendant keep the children until Sunday evening when the Complainant and correspondent returned from an outing.

That on May 28, 1975, the Complainant called the Defendant's mother directly and asked if she, the paternal grandmother, could keep the children for 2 1/2 weeks because the Complainant was allegedly in ill health.

That on May 28, 1975, prior to taking the children to his parents the Defendant took the child, Christopher, to a Health Clinic to determine the child's medical condition in view of the mother's statement to the Defendant's parents that Christopher was being treated for hyperactivity, as evidenced by the fact that the child could not sit at the dinner table, could not sit still watching television, didn't sleep well, and was a bed wetter at age five; That the medical officer at the Health Clinic verified to the Defendant that the child was being medicated by Dexedrine, an amphetimine on the controlled drug list, which was lawfully prescribed by a physician at the Complainant's request; but that the Complainant failed to send the prescription or the drug with the child even for extended visit of 2 1/2 weeks. That the Defendant noted

that the child stopped the bed-wetting when he was with his father or his paternal grandparents.

That the Defendant noted that the child, Christopher, particularly and repeatedly pleaded for the return of the Defendant to the household and asked repeatedly why the other man was sleeping with Mommie instead of the Defendant; That the Defendant noted also that Christopher resorted to long periods of silence; That he was irritable with and slapped his brother and then immediately hugged him; and that he otherwise tended to loose control.

On cross-examination Mr. Brown admitted that he had not objected to the babysitters when Mr. and Mrs. Brown were living together, even though they were the same sitters which Mrs. Brown continued to use after parties' separation. Mr. Brown admitted that prior to the separation, they had employed sitters who were even younger than any used by Mrs. Brown after their separation.

That as to the occasion of Complainant's going to Texas, Defendant admitted that even though he himself had not been asked to keep the children, he had later learned that his parents were asked by Complainant to keep the children but that they had been unable to do so at that particular time.

RONALD NESS, called as a witness for the Defendant being duly sworn, testified to the following facts:

That he was a confidential and professional investigator,

Vice President of Investigation, Inc., with appropriate professional investigator affiliations, bonded, insured, and licensed for this type of work in Maryland, Virginia and Washington, D. C.; That he was hired on June 19, 1975 by the Defendant, Richard P. Brown, to develop evidence, if any, of the unfitness of Mrs. Brown, for continued custody of the two infant sons of the Complainant and Defendant. The witness testified that such evidence was to relate both to Complainant's alleged living in adultery with the correspondent in the Laurel, Maryland, apartment, and with the two infant children, and to any indication of Complainant's improperly caring for the children. That he was qualified for this professional investigator work by reason of some ten years service with the FBI and that his team partner, there being two investigators on each such surveillance, was qualified by reason of some 20 years of Naval Intelligence Investigative Service, the investigators' services with their respective organizations having terminated honorably.

That on June 21, 1975 between 1:15 PM and 1:25 PM, the witness with his working associate identified the premises occupied by the Complainant at the address known as: Apartment #21 13505 Avebury Drive, Laurel, Maryland; That he parked in front of the Apartment, noted a black Porsche automobile, temporary Maryland licenses No. K73570, registered in the name of the named correspondent in Maryland DMV, and a mailbox for Apartment #21 with the Complainant's name on the mail box in the lobby.

That on June 26, 1975, the witness with his associate, commenced surveillance of the Complainant's residence at 6:20 PM; That he noted the Complainant was in Apartment #21 doing housework; That he observed the two infant children of the Complainant and the Defendant from pictures supplied by the Defendant, playing in the parking lot in front of the apartment building, the youngest (age 3) playing with a green plastic lawnmower and the eldest (age 5) wearing a football shirt #43 and riding a green bike; That between 6:20 P.M. and 8:50 P.M., when the children entered the apartment, he did not observe the Complainant to note or give any attention to the children playing in the parking lot in front of the apartment although at 7:13 PM the youngest child commenced to cry because the oldest child was picking on him; That at 8:05 PM the Complainant started a barbeque grill on the patio in front of the apartment, without calling the children for their supper or observing their activities in any way; That at 8:53 PM, three male and three female guests entered Apartment #21; That at 8:56 PM the lights in the dining room went on and the witness noted the children feeding themselves, with the Complainant and a male and female guest talking in the kitchen; That at 9:17 P.M. the witness had determined that the male correspondent was attending a meeting at the Laurel Country Club;

That at 10:10 P.M. the correspondent entered the apartment #21; That, between 11:40 P.M. and 11:50 P.M. the three male and three female guests departed, that at 11:55 P.M. the witness observed

the Complainant cleaning the kitchen; that at 12:03 A.M. all lights went out with the Complainant and the Correspondent and children inside Apartment #21; that at 12:30 A.M. the witness marked the door of Apartment #21; that at frequent intervals thereafter the door markings were checked to insure no one emerged from the Apartment #21; That at 7:35 A.M. on June 27, 1975, the correspondent emerged from the Apartment #21, approached the vehicle, entered and drove off; that at 7:41 AM, the witness checked the door mark, which indicated that someone had exited Apartment #21; That at 7:42 AM the Complainant, identifying herself answered a telephone call from investigator to Apt. #21, Number 776-5693.

That it was the witness investigator's professional opinion that the Complainant, the Correspondent, and the two infant children all stayed in Apartment #21, 13505 Avebury Drive, Laurel, Maryland, on the evening of June 26, 1975.

GARY FOY, called as a witness for the Defendants, being duly sworn, testified to the following facts:

That he was aged 26, and an occupation of budget analyst for the Washington Metro Authority; That he had been a childhood friend of the Defenst in Westchester County, Pennsylvania; That he had been drafted into military service together with the Defendant, had taken U. S. Army basic training and advanced military police training together with the Defendant; That upon discharge from service with the Defendant, both had applied for and been appointed

as officers to Executive Protective Service, and that they had worked together until he, the witness, resigned to accept employment in private industry when he graduated from college.

That he had come to know the Complainant and the Brown children very well by reason of the fact that his former wife, when married to him, had roomed with the Complainant while the two husbands were in military service at Fort Gordon, Georgia; that after their discharge, both the witness and the Defendant, with their wives and children, bought homes in the same development, Sugarland Run, Loudoun County, Virginia and were near neighbors and close friends, with the children of each family playing together very often.

That, following the witness' divorce and the Complainant's separation from the Defendant, in the intervening period between their separation in January 1974 and the sale of the matrimonial property by the Defendant and Complainant in May, 1974, he continued his close association with the Defendant even though the Defendant stayed in the home at Sugarland Run and the witness moved to Alexandria; That when the marital property was sold, the Defendant moved into the witness' apartment on a shared basis at 100 South Van Dorn Street, Alexandria, Virginia and roomed there with the witness until January 1975 when the Defendant took his own apartment because the witness was contemplating remarriage.

That the witness had occasion to observe the Complainant and the children living in the home maintained by the Complainant

after separation in Reston, Fairfax County, Virginia, particularly when the witness drove over with the Defendant to pick up the Defendant's sons for visitation, particularly in the summer of 1974, Defendant having broken his foot playing soccer and being unable to himself to drive a car.

That on all occasions in which the Complainant was at home, the witness would step inside the house to greet the Complainant as an old friend while she was packing up the children's things and otherwise readying the children for the visit.

That one of the first occasions when the witness had a real opportunity to visit the Complainant in the Reston home was in July, 1974; That the witness was appalled and distressed at the condition of the Complainant's home at that time; That there was considerable disarray, disorder, dirt and odor in the house; That the dogs water and food was left out, dishes piled in the sink, two bags of trash unemptied; and considerable dog manure around the house not cleaned up; That there were no curtains on the sliding glass doors leading to the patio, permitting outsiders to look into the living and dining room of the home; That the carpets were not swept and were dirty, the beds were not made in the children's room, and their toys were all over the home; that in the Complainant's bedroom visible from the center hallway, there were piles of clothes on the floor and in the bathroom, also visible, there were towels on the floor and the sink appeared to be very dirty; but that on his July 1974 visit there was

no evidence of a man living in the Complainant's house.

That in August 1974, when the witness drove the Defendant out to secure the children, the Defendant's leg still being in a cast, after being invited in by the Complainant, he noted no material change for the better in the living conditions inside the home, but he did note new evidence of excessive smoking, with ashtrays overflowing and an extremely stale and foul odor permeating the living room; That the dining room table had not been cleared off for some time and that it appeared that there were three weeks of trash bags in the kitchen.

That by his August 1974 visit, he had become suspicious that there was a man living in the house because he had heard the Defendant's oldest boy tell his father in the car about "a man" visiting the Complainant.

That he noted in the following months the continued presence of a Maryland licensed car parked in front of and near the Complainant's premises; That on tracing the vehicle tags through the Maryland DMV, he discovered the car was registered to the persons he believed were correspondent's parents; and that, by calling out to the Reston South Golf Club, he discovered that a man with the same family name as was registered on the vehicle was employed as a golf pro at the Reston South Golf Club; and That his name was Dale Leith, the correspondent named in the Defendant's Cross Bill.

That in December 1974, the witness once again had occasion

to be invited inside the house by the Complainant since the object of the visit was to bring to the Complainant's boys Christmas gifts from the witness's children, accompanying him, who had formerly played with the Brown children; That, once inside the Reston home of the Complainant, she introduced the witness to a male also inside the home as the " Reston golf pro -- Dale Leith". That it appeared that the Complainant and the correspondent had had supper together; The Complainant was straightening up and the correspondent was drinking a beer and watching television in his undershirt with his feet propped up on a chair and shoes off; That he was dressed in casual clothes, not the normal golf pro clothing, and that he appeared "thoroughly at home"; That when he (the witness) went into the Brown children's room to get his own children to leave and to stop all children from taking out any more toys, he noticed, walking down the central hall, that the Complainant's bedroom door was ajar and the bedroom closet visible from the hall; That men's hose, boots, and golf shoes were on the floor of the closet and lying around the Complainant's bedroom; That golfing shirts and cardigans were hung in the closet and lay also around the bedroom; and That other men's clothing were hung in the closet; That from all evidence from this visit and that previously obtained, the witness concluded that Dale Leith was not a casual visitor, but was living in the Complainant's home, sleeping in the Complainant's bedroom with the children of the Defendant also in the same house; that the Complainant appeared to be most suspicious of the witness following him down the hall and thereafter closing the

Complainant's bedroom and the bathroom doors.

That the Defendant's children welcomed their father most exuberantly when the witness drove the Defendant to pick up the children, particularly the older son, with the younger child, being more subdued and passive; He never saw the children show any real demonstration of affection in their good-bys to their mother; That invariably the children did cry when leaving or joining the Defendant, their father; That the children showed demonstrable affection when the Defendant, their father, parted from them.

That the witness noted when he drove the Defendant over to the Reston home to pick up the children, that the children would often not be dressed for the weather; That they were sometimes locked out, even in the rain, with no sitter, awaiting the arrival of the Defendant, with their bags packed also left outside; That the children would be playing in the yard or driveway without supervision; That he noted that there was little evidence of brushing, combing or grooming, even considering that the children were boys, That they very often had runny noses and colds; that their clothes often were not clean; That there was a body odor on the children, particularly the youngest child still in diapers; That the youngest child had a very bad diaper rash and that usually had not been changed and no clean diapers were packed in the luggage accompanying the children.

On cross-examination the witness admitted that he had never himself changed the youngest child's diapers.

SHERRY REYNOLDS, called as a witness for the Defendant being duly sworn, testified to the following facts:

That she is aged 29, divorced, and has a daughter 9 years old, is regularly employed as a secretary and lives with her parents, who look after her own child, when she is at work, at their residence at 3616 North Albermarle Street, Arlington, Virginia;

That her parents have raised six children and have exercised and continued to exercise over all of them, including the witness, especially when she lives in their home, more than normally strict parental control;

That she is friend to and had dated the Defendant for the last year and one half, first meeting him after his separation from the Complainant when he moved to Alexandria to room with Mr. Gary Foy; That she plans to be engaged to marry the Defendant when his divorce becomes final and he is eligible to be married, if their mutual feelings at that time correspond with those now held;

That as a result of her friendship with the Defendant, she came to know, care for and love the Defendant's sons, Christopher and Erik; That the Defendant and the children visit her often at her parents home, particularly for meals on those visits with the children when the Defendant does not take the children up to their grandparents; That often she meets the children at the Defendant's apartment where she undertakes to clean, bathe, diaper, groom and dress

them, and otherwise takes care of them as if they were her own; That she often prepares meals for the children and the Defendant at his apartment. That to her, the children seems extremely hungry and ate large amounts of food if permitted.

That from her observation, she can state that the children as seen by her shortly after the Defendant had taken them over from the Complainant, are usually most unkempt, dirty, have a strong body odor, more pronounced with the younger child in diapers and need bathing; That, when diapered they invariably have very severe diaper rash; That Erik has had "cradle cap" on the heading coming from too infrequent shampooing or washing the hair and scalp; That their ears and nose are wax and mucous encrusted; that their noses are usually runny, their fingernails are very dirty and too long -- sometimes 1/16" "as long as mine". That they invariably have diarrhea, loose bowels and running stools. That she had urged the Defendant to take the children to receive medical attention when she noted conditions remaining uncorrected for a month period.

That she has observed the behavior of the children after they were turned over to the Defendant and says that they are naughty for the first few days, but quickly fall into the appropriate behavior patterns that she used for her own child and her mother used for her six children, that is firm control with minimum necessary discipline, and much love and affection.

That she observed that, in her opinion as a mother, the

children, were turned over to the Defendant for visits, were not often properly dressed for the weather; That often in severe weather, the children would wear tennis shoes, sometimes no socks, never any head covering regardless of the weather, sometimes no underclothing, too thin jackets and in general, clothing which was not warm enough.

That she made it her invariable practice when she was with the Defendant and the children to conduct herself above and beyond reproach; That she never stayed after the children's bedtime in the Defendant's apartment; That a large part of the meetings between the Defendant and the children were held in her parent's home; That her parents did not permit the Defendant to stay after the children's bedtime, and in no event overnight or unsupervised after her parent's retirement within her parents home where she resides.

On cross examination, the witness admitted that she knew of only the one instance of the children's being inadequately dressed for the weather, and that on that occasion, during the month of September, the younger child had on neither socks nor undershirt. The witness also admitted that the relationship she had with the Defendant could be described as that of lovers, but the witness went on to state that such relationship was never obvious in the presence of the children.

The witness was questioned as whether the Defendant would frequently go up to her bedroom, to which the witness replied that

such a thing would not happen nor be permitted in her father's house because she slept in the same room as her daughter.

The foregoing testimony being all the evidence presented by Defendant in supporting his prayer for custody, the Defendant rested his case and thereupon the Court proceeded to hear evidence presented on behalf of Complainant. Complainant then called the following witnesses who testified as follows:

LILL PESCI, called as a witness for Complainant, being duly sworn testified to the following facts:

That she is 26 years old and has known the Complainant for about 2 1/2 years, the two of them having worked together as real estate agents for Long and Foster Realtors.

That when Complainant and the children were living in Reston she saw them at least 2 - 3 times per week.

That she had had dinner at Complainant's home in Reston on several occasions with Complainant and the children; that they had gone shopping together that, she and Complainant had taken the children to see the wildlife preserve together.

That the children were always well dressed when she saw them and that they were sometimes dressed in matching outfits.

That although she often observed toys on the floor of Complainant's home when she visited her, the Complainant's home

was not dirty.

On cross-examination the witness admitted that she knew Dale Leith and that he cared for Complainant and her children, and that she thought he might live with the Complainant and her children.

The court thereupon interjected words to the effect:

"Gentlemen, I by no means mean to limit your examination of the witnesses, but I want to make it clear that the only thing which I am interested in hearing on further is the relationship between the Complainant and the correspondent and at this point I am not prepared to find the Complainant an unfit mother because of her general care for the children."

JOE HORN, called as a witness for the Complainant being duly sworn, testified to the following facts:

That he is 50 years old and is a sales manager at Timian Real Estate and Insurance in Laurel, Maryland, where the Complainant was employed, and that he has known the Complainant for approximately six months.

That he and his wife had on occasion kept Complainant's children at his home and he thought they were "fine boys"; That his own son had sometimes baby sat with Complainant's children. The children were well behaved, and well taken care of.

That he knows Dale Leith and thinks him a fine person.

That he did not know whether Dale Leith lived with the

Complainant.

GINGER TIMIAN, called as a witness for the Complainant, being duly sworn, testified to the following facts:

That she is 33 years old, the wife of Complainant's employer, an owner of the company for which Complainant works, and has known Complainant for about nine months.

That she knows Dale Leith and knows that he is, very concerned about Complainant and her children. That she thinks that Complainant and Mr. Leith, and the Brown children form a "family-type unit".

That she has kept the Brown children on occasion and that Complainant kept her son on occasion. That Complainant is a good mother and that she has never seen Complainant's house dirty.

The court again terminated testimony related to Complainant's fitness as a mother and to the quality of her housekeeping.

The Complainant, VIRGINIA S. BROWN, Petitioner herein, called as a witness in her own behalf being duly sworn, testified to the following facts:

Complainant admitted that Dale Leith lived with her, that she and Mr. Leith were very fond of one another, and that they plan to marry when free to do so.

Mrs. Brown testified that she usually engaged the Timian girl

or the Horne's son, to baby sit, both of whom were competent and capable to handle the children. She further testified that her home was clean, the children were generally clean, well fed and well clothed, and they were happy, healthy children. That they were well behaved; got along well and could play well with other children. She did not want to keep the children in a low rent apartment and so was exceeding her budget to get this apartment. The one child was hyperactive and was under a doctor's prescription. He was getting medication as required. She had brought to the doctor's attention the problem of one of the children's bowels being loose and he examined the child and told her that he wanted to keep the child's bowels a little loose. Mr. Leith and the children get on very well and they have a very good relationship.

Mrs. Brown explained the incident testified to by her husband on the occasion when he broke into the home of her client. She stated that the children were asleep; that the lights were on in the house, that Mr. Brown broke in, and that she had spilled something on her sweater and had taken it off to wash it and put on this man's shirt but that everyone was fully dressed. She testified further there was no adulterous relationship at all or anything like that; one of the reasons she was scared of Mr. Brown was the fact he went out and smashed the man's windshield after beating him up.

On cross-examination, when questioned further about the incident Complainant stated that despite the beating, her client had chosen not to press charges.

As to the husband's picking up the children for visitations, Complainant explained that she had insisted on Defendant's picking up the children at the Laurel Exxon station because she did not want Defendant visiting her house due to his unpredictability.

There being no further evidence presented by either party on the matter of the custody of the aforesaid minor children, the Court set October 14, 1975 as the date when it would hear argument of Counsel and render its final decision regarding the custody of said minor children. The Court in a bench order directed the Complainant to have the correspondent removed, that same day from her apartment.

On October 14, 1975, Counsel for Complainant (Petitioner herein) presented argument, in support of his position. The Court then ruled that Counsel for Defendant need not offer argument, and instead, interrogated the Defendant as to his plans upon taking over custody for providing a proper home for the children.

WHEREUPON, the Court ruled as follows:

That the Complainant did maintain in her home together with the minor children of the parties on a permanent basis over an extended period of time the correspondent named in the Defendant's Cross Bill of Complaint filed herein, and that an adulterous relationship existed between them.

That while the Court was satisfied that the Complainant was otherwise a fit mother and did not find her unfit due to any deficiency

in the care of the children while in her custody, the court found, by reason of her adulterous relationship with the correspondent in the same residence of which the minor children also lived, that the Complainant was not a fit and proper person to have the care and custody of the minor children of the parties.

That, accordingly, the prayer of the Defendant, RICHARD P. BROWN, be granted and the custody of Christopher Scott Brown and Erik Kyle Brown be awarded to said Defendant, effective that same date, subject to the right of Complainant, VIRGINIA S. BROWN, to reasonable visitation with said minor children, so long as said visitation is not in the presence or company of the correspondent.

The foregoing agreed statement, consisting of 24 pages of typewritten matter is presented by the parties in the absence of an official transcript of the testimony (produced at the trial of the above entitled cause) and is submitted pursuant to Rule 5:9(c) of the Rules of the Supreme Court of Virginia.

The foregoing Statement, consisting of 24 pages, tendered this 18th day of March, 1976.

/s/ Barnard F. Jennings

JUDGE

Circuit Court of Fairfax County

I, BARNARD F. JENNINGS, Judge of the Circuit Court of Fairfax County, Virginia, hereby certify that the foregoing Statement, consisting of 24 pages typewritten matter may be taken as conformable to the truth and is a correct statement of the testimony received upon trial of the issue of custody in the above entitled cause.

GIVEN under my hand this 18th day of March, 1976.

BARNARD F. JENNINGS, JUDGE



NINETEENTH JUDICIAL CIRCUIT OF VIRGINIA
FAIRFAX COUNTY PRINCE WILLIAM COUNTY
FAIRFAX CITY FALLS CHURCH CITY

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MAR 19 1976
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ARTHUR W. SINCLAIR
BARNARD F. JENNINGS
JAMES KEITH
WILLIAM G. PLUMMER
LEWIS D. MORRIS
PERCY THORNTON, JR.
BURCH MILLSAP
JAMES C. CACHERIS
THOMAS J. MIDDLETON
JUDGES

4000 Chain Bridge Road
Fairfax, Virginia 22030
March 18, 1976

Betty A. Thompson
Attorney at Law
Suite 1001
1800 Kent Street
Arlington, Virginia 22209

Jerome F. Lieblich, Esq.
Suite 911
7900 Westpark Drive
McLean, Virginia 22101

Re: Brown v. Brown - Chancery No. 44430

Dear Miss Thompson and Mr. Lieblich:

This is to advise that I have today certified the narrative in connection with the above styled case which was today delivered to me by counsel.

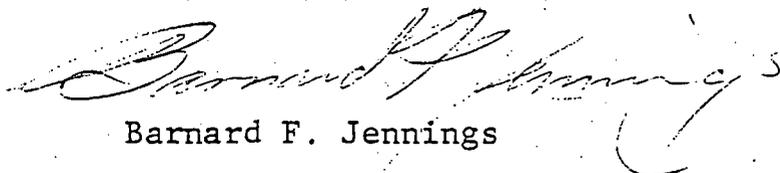
I made one change on page one in the third paragraph so that the same would read as follows:

Testimony was offered by Complainant to show her fitness as a mother, such testimony being terminated by the Court, it being satisfied that Complainant was fit to care for her children, so far as her treatment of the children and their physical care is concerned and further testimony was limited to that bearing on the alleged adulterous relationship between the Complainant and correspondent.

Betty A. Thompson
Jerome F. Lieblich
Page 2
March 18, 1976

The narrative statement has been placed with the court file.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Barnard F. Jennings".

Barnard F. Jennings

BFJ/nlo

DECREE FOR DIVORCE A VINCULO MATRIMONII

THIS CAUSE came on this day to be heard, upon the pleadings formerly filed, i. e. a Bill of Complaint filed by the Complainant on November 20, 1974 and an Answer and Cross-Bill filed by the Defendant and Cross Complainant on December 12, 1974, the case having been matured and referred to a Commissioner in Chancery by an Amended Decree of Reference entered October 3, 1975, and said Commissioner in Chancery having filed his Report with the Clerk of the Court on May 7, 1976, and, in the interim, a contested matter of child custody relating to the children of the parties, having also been heard and adjudged by this Court in a Decree, entered on January 2, 1976, upon petition ore tenus and all proceedings and all matters having been held and, upon argument of counsel, and

IT APPEARING TO THIS COURT as follows:

1. That, as to domicile and residence of the parties at the time of the filing of this suit, the Complainant and Cross-Defendant and the Defendant and Cross-Complainant were both actual and bona fide residents and domiciliaries of the Commonwealth of Virginia for more than one year immediately preceeding the institution of the suit, and that this Court had jurisdiction to hear and determine the cause.

2. That, as to venue, at the time of the filing of the

Cross-Bill by the Defendant and Cross-Complainant, the Cross-Defendant was a resident of Fairfax County, Virginia, and that the Cross-Complainant was also residing in Fairfax County, Virginia at the time the Cross-Bill was filed, and that this Court had venue to hear and determine this cause.

3. That the Complainant-Cross-Defendant and the Defendant-Cross-Complainant were lawfully married to each other on January 11, 1969 in Arlington County, Virginia; that both parties are over the age of eighteen years and are members of the Caucasian race; and that neither party is a member of the Armed Forces of the United States.

4. That there were two children born of this marriage, namely CHRISTOPHER SCOTT BROWN and ERIK KYLE BROWN, both children being under the age of eighteen years.

5. That on January 17, 1974, the Complainant-Cross-Defendant deserted the Defendant-Cross-Complainant without just cause or provocation and that such desertion has continued without interruption or cohabitation since that time, this being a period of more than one year; that there appears to be no possibility of a reconciliation and that the parties have not been reconciled, and that this finding is based upon evidence from other than the parties corroborating the same; and that there are no property rights remaining to be settled between the parties by the Court;

6. That this same Cause came on to be heard upon papers formerly read, upon the prayer of the Defendant-Cross-Complainant RICHARD P. BROWN for custody of CHRISTOPHER SCOTT BROWN and ERIK KYLE BROWN, the minor children of the parties; that testimony of the parties and their witnesses was heard ore tenus by the Court on this matter, and the same was argued by counsel, and that this Court did ADJUDGE, ORDER AND DECREE that the care and custody of these two minor children of the parties be and the same was awarded to the Defendant-Cross-Complainant, RICHARD P. BROWN by a final decree of this Court entered on the 2nd day of January, 1976, from which final decree, the Complainant-Cross-Defendant has petitioned the Supreme Court of Virginia for an appeal, which petition is now pending and undetermined in said Court.

7. That the Complainant-Cross-Defendant, VIRGINIA S. BROWN, have reasonable visitation of said minor children to include each alternate week-end from 6:00 p.m. Friday to 7:00 p.m. Sunday, such alternate visitations to commence on Friday, September 24, 1976.

8. That the aforesaid Decree of this Court entered on the 2nd day of January 1976, regarding custody of the infant children of the parties vacated prior Orders of this Court requiring the Defendant-Cross-Complainant to pay the Complainant-Cross-Defendant child support.

IT IS THEREFORE ADJUDGED, ORDERED, AND DECREED

as follows:

A. That the report of the Commissioner in Chancery, A. Strode Brent, Jr., Esquire, filed in this Cause, be and the same hereby is, in all things ratified and confirmed by this Court.

B. That the Defendant-Cross-Complainant, RICHARD P. BROWN, be and he hereby is awarded a divorce a vinculo matrimonii from the Complainant-Cross-Defendant, VIRGINIA S. BROWN, and that the marriage of the parties is forever dissolved.

C. That the Decree of this Court, entered on the 2nd day of January, 1976, awarding custody of the minor children of the parties, CHRISTOPHER SCOTT BROWN and ERIK KYLE BROWN, to the Defendant-Cross-Complainant RICHARD P. BROWN and vacating prior awards of this Court of child support to the Complainant-Cross-Defendant, be incorporated by reference in this Decree, subject to final determination of the Complainant-Cross-Defendant's Petition for Appeal to the Supreme Court of Virginia on the child custody matter.

D. That the Complainant-Cross-Defendant, Virginia S. Brown, be, and she hereby is, awarded reasonable visitation with said minor children to include each alternate week-end from 6:00 p.m. Friday to 7:00 p.m. Sunday, such alternate visitations to commence on Friday, September 24, 1976.

E. That the Complainant-Cross-Defendant is not awarded alimony.

F. That the Clerk of this Court furnish forthwith certified copies of this Decree to counsel for both parties.

ENTERED this 19th day of October, 1976.

/s/ James C. Cacheris
JUDGE

* * *