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IN THE

SUPREME COURT OF VIRGINIA

AT RICHMOND

RECORD NO. 801403

WILLIAM ALLEN TOOMBS

and

GLENDA CAROL DEANER TOOMBS,

Appellants,

v.

LYNCHBURG DIVISION OF SOCIAL SERVICES,

Appellee.

JOINT APPENDIX

J. BARRETT JONES
Virginia Legal Aid Society, Inc.
901 Main Street
P. O. Box 427
Lynchburg, Virginia 24505

Counsel for Appellant

SHERWOOD S. DAY
717 Court Street
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Guardian ad litem

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Lynchburg, Virginia 240505

Counsel for Appellee

IN THE

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Counsel for Appellee

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PETITION

Court File No. 8815-C

Commonwealth of Virginia

IN THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT OF THE CITY ~~COUNTY~~ OF

Lynchburg, Virginia

re a Child under eighteen years of age, to wit:

1. CHILD'S NAME: TOOMBS, GLENN ALLEN	2. DATE OF BIRTH: 08-13-73	3. AGE: 6yrs	SEX: M ~~F~~
4. CHILD'S ADDRESS: DSS Foster Home- c/o 701 Hollins Street; Lynchburg, Virginia			
5. FATHER'S NAME AND ADDRESS: P Toombs, William Allen- Tanglewood Trailer Park, Lot 40; Rustburg, Virginia (Campbell)			
6. MOTHER'S NAME AND ADDRESS: P Toombs, Glenda Carol Deaner- Tanglewood Trailer Park, Lot 40; Rustburg, Va. (Campbell)			
7. GUARDIAN/LEGAL CUSTODIAN OR PERSON IN LOCO PARENTIS AND ADDRESS: Lynchburg Division of Social Services- 701 Hollins Street; Lynchburg, Virginia			
8. SPOUSE OF JUVENILE AND ADDRESS:			
9. OTHER(S) AND ADDRESS(ES): P Hillman, Elizabeth P.- DSS- 701 Hollins Street; Lynchburg, Virginia			
0. Child held in CUSTODY ☐ Yes ☐ No			
11. Place of Detention or Shelter Care			
12. Date and Time Taken into Custody ...../...../..... .....:..... .....m.	13. Date and Time Placed in Detention or Shelter Care ...../...../..... .....:..... .....m.		

The undersigned petitioner respectfully represents to the Court to the best of ~~his~~/her knowledge, information nd belief that the above named child is within the purview of the Juvenile and Domestic Relations District Court Law in that, within this city/~~county~~, the child:

as committed to the Lynchburg Division of Social Services on March 9, 1977 by this J & D R District Court. Child has been in foster care since September 10, 1976 under a temporary entrustment prior to Court committment. Petitioner is filing pursuant to Section 16.1-83 C 2 of the Code of Virginia stating that child's parents have been unable within a easonable period to remedy substantially the conditions which led to the child's foster care placement. Parents have had contacts with child, but due to frequent moves have been nable to maintain a suitable or acceptable home for any length of time. It appears at this ime that it is for the child's best interest, and that of the State, that he be separated permanently from his parents. Your petitioner herewith prays that said child be committed o the Lynchburg Department of Human Services, Division of Social Services with permission o be placed for adoption.

The information in the following items is not known to the petitioner:

No. 8,10,11,12,13

WHEREFORE, your Petitioner prays: That proper process issue; That said child and the persons having his/her custody and control be summoned to appear before this Court; and That this Court enter such orders and judgements as the Court deems fit and proper in accordance with the law and which will serve the purpose and intent of the Juvenile and Domestic Relations District Court Law.

August 31, 1979
DATE

Elizabeth P. Hillman
PETITIONER'S SIGNITURE

Elizabeth P. Hillman
PETITIONER'S NAME (PRINT OR TYPE)

c/o DSS- 701 Hollins Street; Lynchburg, Virginia
PETITIONER'S ADDRESS

Sworn and subscribed before me this 31st day of August, 19 79

Patricia S. Lorch
Deputy Clerk
TITLE

CODE OF VA. §16.1-263 (7/77)

PETITION

Court File No. 8815-C

Commonwealth of Virginia

N THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT OF THE CITY OF

Lynchburg, Virginia

n re a Child under eighteen years of age, to wit:

1. CHILD'S NAME: TOOMBS, CAROLYN ANN	2. DATE OF BIRTH: 12-14-74	3. AGE: 4yrs	SEX: F
4. CHILD'S ADDRESS: DSS Foster Home- c/o 701 Hollins Street; Lynchburg, Virginia			
5. FATHER'S NAME AND ADDRESS: ✓Toombs, William Allen- Tanglewood Trailer Park, Lot 40; Rustburg, Virginia (Campbell)			
6. MOTHER'S NAME AND ADDRESS: ✓Toombs, Glenda Carol Deaner- Tanglewood Trailer Park, Lot 40; Rustburg, Va. (Campbell)			
7. GUARDIAN/LEGAL CUSTODIAN OR PERSON IN LOCO PARENTIS AND ADDRESS: Lynchburg Division of Social Services- 701 Hollins Street; Lynchburg, Virginia			
8. SPOUSE OF JUVENILE AND ADDRESS:			
9. OTHER(S) AND ADDRESS(ES): ✓Hillman, Elizabeth P.- DSS- 701 Hollins Street; Lynchburg, Virginia			
10. Child held in CUSTODY ☐ Yes ☐ No			
11. Place of Detention or Shelter Care			
12. Date and Time Taken into Custody ...../...../..... .....:..... .....m.	13. Date and Time Placed in Detention or Shelter Care ...../...../..... .....:..... .....m.		

The undersigned petitioner respectfully represents to the Court to the best of his/her knowledge, information and belief that the above named child is within the purview of the Juvenile and Domestic Relations District Court Law in that, within this city/county, the child:

was committed to the Lynchburg Division of Social Services on March 9, 1977 by this J & D R District Court. Child has been in foster care since September 10, 1976 under a temporary entrustment prior to Court committment. Petitioner is filing pursuant to Section 16.1-283 C 2 of the Code of Virginia stating that child's parents have been unable within a reasonable period to remedy substantially the conditions which led to the child's foster care placement. Parents have had contacts with child, but due to frequent moves have been unable to maintain a suitable and acceptable home for any length of time. It appears at this time that it is for the child's best interest, and that of the State, that she be separated permanently from her parents. Your petitioner herewith prays that said child be committed to the Lynchburg Department of Human Services, Division of Social Services with permission to be placed for adoption.

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August 31, 1979
DATE

Elizabeth P. Hillman
PETITIONER'S SIGNITURE

Elizabeth P. Hillman
PETITIONER'S NAME (PRINT OR TYPE)

c/o DSS- 701 Hollins Street; Lynchburg, Virginia
PETITIONER'S ADDRESS

Sworn and subscribed before me this 31st day of August, 19 79

Patricia H. Parrish

Deputy Clerk
TITLE

CODE OF VA. §16.1-263 (7/77)

PETITION

Court File No. 8815-C

Commonwealth of Virginia

IN THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT OF THE CITY/~~COUNTY~~ OF

Lynchburg, Virginia

I re a Child under eighteen years of age, to wit:

1. CHILD'S NAME: TOOMBS, THOMAS LEE	2. DATE OF BIRTH: 06-18-76	3. AGE: 3yrs	SEX: M ~~F~~
4. CHILD'S ADDRESS: DSS Foster Home- c/o 701 Hollins Street; Lynchburg, Virginia			
5. FATHER'S NAME AND ADDRESS: Toombs, William Allen- Tanglewood Trailer Park, Lot 40; Rustburg, Virginia (Campbell)			
6. MOTHER'S NAME AND ADDRESS: Toombs, Glenda Carol Deaner- Tanglewood Trailer Park, Lot 40; Rustburg, Va. (Campbell)			
7. GUARDIAN/LEGAL CUSTODIAN OR PERSON IN LOCO PARENTIS AND ADDRESS: Lynchburg Division of Social Services- 701 Hollins Street; Lynchburg, Virginia			
8. SPOUSE OF JUVENILE AND ADDRESS:			
9. OTHER(S) AND ADDRESS(ES): Hillman, Elizabeth P.- DSS- 701 Hollins Street; Lynchburg, Virginia			
0. Child held in CUSTODY ☐ Yes ☐ No			
1. Place of Detention or Shelter Care			
12. Date and Time Taken into Custody ...../...../..... ..... : ....m.	13. Date and Time Placed in Detention or Shelter Care ...../...../..... ..... : ....m.		

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Deputy Clerk
TITLE

CODE OF VA. §16.1-263 (7/77)

Toombs and the children when Mr. Toombs was not present. In the last two years Mrs. Toombs condition has not noticeably improved. She was hospitalized last February in Richmond and is presently seen at the Central Virginia Mental Health Clinic. In the past year Mrs. Toombs has begun receiving SSI for her mental disability. In the past Mr. Toombs has stated that he does not support Mrs. Toombs in visiting the mental health clinic or in taking her prescribed medication. There is no formal evaluation of Mr. Toombs. However, on December 15, 1976 our agency received a report from Central Virginia Mental Health Services in which they stated that Mr. Toombs was admitted to Central State Hospital on October 28, 1971 and was discharged in December, 1971.

CHILDREN: Glenn, Carolyn and Thomas Toombs have been evaluated at the Central Virginia Child Development and have been described as being developmentally delayed and have been referred to the Genetic Clinic. Recommendations for all three uncluded an early intervention preschool program fro the developmental delay and a stable, secure home environment for their emotional needs. On December 4 the children were evaluated at the Genitic Clinic and the feeling was that because of the great improvement seen in the two older children in the past year with a stimulation program at school and at home they are normal children and very adoptable. It was felt that with a similiar stimulation program the youngest child would progress equally as well.

PAST PROBLEMS: Glenn Allen was in foster care in Campbell County in 1974. On March 6, 1975 custody was granted to the parents with the Campbell County Welfare Department to supervise. Mr. Toombs was ordered to have a psychological evaluation at suggestion of Dr. Nagler. However, we have no report that this was ever done.

July, 1976-September, 1976 family was referred to Protective Service unit in Charlotte County, Nottoway County and Lynchburg as they moved about. The Toombs were ordered out of the house where they were living in Charlotte County and moved back to Lynchburg with Mrs. Toombs parents. At this time the children came into the care of the Lynchburg Division of Social Services under the conditions described earlier. Mrs. Toombs visited the children about once a month during this period while Mr. Toombs was in prison.

On July 20, 1977 Mr. Toombs was released from prison and stated he wanted to see his children. It was August 15 before a visit could be arranged because he had gone to Charlotte County to see about a job. Since that time the agency has worked with the Toombs to have the children returned. However, in the past two years Mr. Toombs has had numerous jobs none lasting much longer than six months and has moved his residence frequently.

July-October, 1977 Mr. Toombs worked and lived in Charlotte County. October, 1977-April, 1978 Mr. and Mrs. Toombs lived in Lynchburg, staying with Mrs. Toombs family off and on, and living in a trailer for several months and possibly other apartments. I believe Mr. Toombs held several jobs:-at Craddock Terry for a short time, handy man around the trailer park, and in construction work. In March, 1977 the Toombs moved back with her mother and then to another trailer. During this period the agency tried to have the Toombs sign two contracts with conditions for return home of children. However, Mr. Toombs was so preoccupied with paying bills and getting food,

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because of irregular work he was unable to discuss the contract at any length or sign it and eventually lost it. Services were offered in the areas of counseling and transportation, concerning food stamps, transporation provided Mrs. Toombs to the mental health clinic, counseling and referral of Ms. Toombs to Social Security after 1st application for SSI was turned down and also transporation for Mrs. Toombs to Campbell County Health Department concerning birth control and a physical. In February during one visit Mrs. Toombs told the worker her mother had given them $10.00 for food that week and Mr. Toombs had paid only a portion of the rent. At the same time she said Mr. Toombs was thinking of buying an Electro-Lux vacuum cleaner.

During this time the Toombs visited the children at least once a month and the children visited them in their trailer twice in December, the second time spending two nights. On January 2, 1978 Carolyn Ann was hospitalized with bronchitis.

On April 21, 1978 Mrs. Toombs mother called and said that the Toombs had moved to Charlotte County, VA.

Mr. Toombs called on May 8 and I explained a home study would have to be made before the children could be returned. During the summer the Toombs visited the children almost twice a month. In June the social worker visited the Toombs and carried a new contract to be signed. They were referred to Charlotte County Social Services for a home study. Mrs. Toombs was referred to a local Mental Health Clinic and encouraged to reapply for SSI and Mr. Toombs for foodstamps. Mr. Toombs would receive no income until fall when he sold tobacco and was charging food at a local grocery store. See report from Charlotte County. He felt he would be able to pay babysitter for the children $100 a week but did not explain how. In July Mr. Toombs came to visit the children and reiterated he wanted them back right away. Although he had no income, telephone and no transportation he, felt he could call on neighbors if one of the children got sick. He estimated he would make $5,000 from tobacco and have only $1,000 of bills to pay. He still had not applied for services or food stamps. In August Mr. Toombs took the children with his mother-in-law to Charlotte County for several days and the social worker brought the children back. When I arrived the situation was somewhat strained and Mrs. Toombs returned to Lynchburg with her mother and children. Mr. Toombs appeared somewhat angry because he said the children had done a lot of crying and wouldn't mind. He complained about Charlotte County social worker coming to see him and breaking his sofa. He said Charlotte County would not help him with food stamps, but when asked admitted he had not applied since two years ago. He complained about his boss wanting him to work so hard and not let him get off of work any. He also complained about Mrs. Toombs going back with her mother and leaving him to cook and clean, etc. Ms. Deaner talked as if Mrs. Toombs had been very nervous lately and needed some fun as a movie and going out to eat.

On the first of September I received the completed home study from CHarlotte County and then on October 12, Mr. Toombs called to say they had moved back to Lynchburg and were again living with the Deaners. During the next few months, Mr. Toombs had four or five different jobs, snow removal for the city, working for a contractor, brick layer, roofing work. Mrs. Toombs was referred again to the Mental Health Clinic and Social Security. Two visits with the children were planned and cancelled because of transportation problems. One visit was completed on December 23 with the children at the Deaners.

On January 2 Mr. Toombs called and said he would be moving to Amelia County. Thereafter, al least five visits were planned and then cancelled because of bad weather or transportation problems; or Mr. Toombs work schedule. On February 28 Mr. Toombs called and stated that Mrs. Toombs was having nervous problems and had been hospitalized. In the meantime a home study was requested of Amelia County Social Services.

However, this was not completed before the Toombs moved back to Lynchburg in June.

PRESENT SITUATION: Since June the Toombs have been living in a trailer park on Route 29S while he is working for a masonry contractor. Mrs. Toombs called several times requesting help with the hospital bill incurred when Thomas was born. A visit was arranged with the children for July 16, however, the Toombs did not show up. Mrs. Toombs wanted to arrange another visit but as I was going on vacation I told her it would have to wait until I returned. On August 3, Mr. Toombs called the office and was very belligerent when neither I nor my supervisor was in. On August 10 I visited Mrs. Toombs at the trailer and again suggested she visit the Mental Health Clinic since she appeared to be having trouble with her nerves. I also confirmed plans for them to visit the children the next day.

Following this visit I visited the children and asked Glenn about the visit. He sai that he did not think William liked him anymore and that William had spanked Carolyn and Thomas for being messy. However, when I asked him he did say he would go to see William again.

It has been very difficult to find a convenient time to talk to Mr. Toombs because of his ling working hours, but finally another worker and I arranged to visit Mr. and Mrs. Toombs after working hours to explain the filing of the petition and the fact that the visits with the children would be halted until the court hearing. At first Mr. Toombs was very belligerent because he had recieved the summons and petition the day before. He seems to feel betrayed although I had repeatedly told him I coul not consider returning the children until a court hearing was held. He said he had a babysitter and no one would take his children away from him. He later calmed down. but said he could not afford to miss work to be going to court. He said he preferre to get his own lawyer because he did not trust a court appointed lawyer. He seemed to think his boss would help him.

On October 23 the advisement hearing was held. Neither Mr. or Mrs. Toombs was present, but their court appointed lawyer, Mr. Morrison represented them. The court agreed to pay for psychological evaluations for both Mr. and Mrs. Toombs with Dr. Slo on the evening of November 8 so that Mr. Toombs would not have to lose working time. The Toombs lawyer was notified and the social worker offered transportation. However, on November 7 I learned that Mr. Toombs was refusing to go and Mrs. Toombs would not have transportation. This appointment was cancelled, another one made for Mrs. Toom on the morning of November 28, and Mr. Morrison was notified. On the 28th Dr. Sloop s secretary called and stated that Mrs. Toombs neither showed up nor called. Because of the fact that the records document Mrs. Toombs mental instability and makes numer ous references to Mr. Toombs instability and because of the difficulty this couple h had in maintaining stability in living arrangements we feel that psychological evaluations of both would be very valuable. This difficulty demonstrated in getting cooperation from the Toombs has been typical of this case.

RECOMMENDATION: This agency and worker do not see any way that this couple would be able to give the continuity of care and emotional and physical stability that these

children need to grow and develop to their potential. Mr. Toombs has not been able to pay any support for these children in over three years.

Therefore this agency recommends that Glenn Allen, Carolyn Ann and Thomas Lee Toombs be permanently separated from their natural parents with permission for them to be placed for adoption.

Respectfully submitted,

Betty P. Hillman

Betty P. Hillman
Social Worker

VIRGINIA:

In the Lynchburg Juvenile and Domestic Relations
District Court - December 21, 1979

I hereby certify that the foregoing investigations were made pursuant to Sect. 16.1-273 of the 1950 Code of Virginia, as amended, as ordered by this Court.

_____, Judge

County of Charlotte

DEPARTMENT OF PUBLIC WELFARE

Charlotte Court House, Virginia 23923

Phone 542-5352

REPORT TO THE LYNCHBURG CITY DEPARTMENT OF SOCIAL SERVICES REGARDING HOME SITUATION OF William and Glenda Toombs

I. Identifying Information:

William Toombs D.O.B. 9-7-48
Glenda Carol Toombs D.O.B. 5-16-54

II. Home and Neighborhood:

Mr. and Mrs. Toombs live in a 2 bedroom mobile home belonging to Mr. Toombs' employer, Mr. Carl King. The couple resides in the small rural community of Saxe, Va. There are numerous neighbors living close by. Since the couple does not own a car, they depend on Mr. King and the neighbors to provide transportation. Several neighbors allow them to use their telephone.

The nearest hospital is approximately 30 miles away and the nearest doctor is approximately 15 miles away. Mr. Toombs stated they would be able to get the children to a hospital or doctor if necessary. Mr. Toombs does not have any medical insurance on the children and Worker does not know how he plans to pay on health care if the need arises.

III. Finances:

At present, the couple has no income but Mr. Toombs expects to sell some tobacco in September. Utility costs are currently being paid by Mr. Toomb's employer and groceries are charged at a local country store.

Mr. Carl King stated Mr. Toombs will receive approximately $4,000.00 from the tobacco crop. Mr. Toomb's present outstanding debts are as follows:

$959.92	- Grocerty bill
54.10	- Electric bill
70.60	- Fuel (heating and cooking)
86.00	- Hail insurance
307.00	- Money owed Mr. King
$1477.62	- Total owed

Ms. Beatrice Craighead, prospective babysitter, plans to charge $100.00 per week for Child Care. Mr. Toombs assured Worker that he would be able to handle this expense. Worker is doubtful that he could pay this amount over a long period of time as well as meet other financial obligations.

IV. Individual Profiles:

A. William Toombs

r. Toombs was very adamant in expressing his desire to regain custody of his three oung children. He stated, if necessary, he would hire a lawyer and get his children back. Mr. Toombs offered a vague explanation as to why his children were taken.

t had been reported to this Worker that Mr. Toombs had a drinking problem. When asked about same, Mr. Toombs stated he did not and only drank beer occasionally. He was very ngry that this had been reported to Worker. Two reference people stated that Mr. Toombs rank more than an occasional beer and he has been to work with a hangover.

ne reference person stated Mr. Toombs had asked her not to tell Worker anything that ight hinder him from getting custody of his children.

lthough Mr. Toombs has many relatives in Charlotte County, he seldom has any contact ith them. Worker talked with one family member who stated that the hearsay within ne family is that the children should not be returned to the parents as they feel Ms. Toombs is not able to care for them. Hearsay is that Mr. Toombs is quick to make promises ut seldom follows through with his plans. In the past, he has been arrested for forging hecks and has spent some time in jail.

. Toombs does not appear supportive of his wife's efforts to receive Mental Health ounselling and he has admitted to throwing away the medication given her by the Lynchburg Mental Health Clinic.

. Toombs informed Worker that he was too busy to accompany his wife to her counselling sessions with the therapist from Crossroad Mental Health Clinic.

oncern has been expressed that Mr. Toombs might be abusive to his wife. Although no actual proof was found, Worker feels that abuse could be occuring.

Glenda Carol Toombs

Ms. Toombs appears to be a timid and withdrawn person. Worker had difficulty engaging r in conversation. During joint interviews with the couple, Ms. Toombs would always nsult her husband before answering Worker's questions. Ms. Toombs appears to lack any insight into her present mental health problem. She stated she had been hospitaled because of her nerves. When asked if she felt she could adequately care for her ree young children, Ms. Toombs responded by saying "I guess so".

. Toombs has been seen once by Ms. Marjorie Howe, Counsellor, Crossroads Mental Health inic, for a mental health evaluation. Ms. Howe informed Worker that, at this time, she did not feel Ms. Toombs could adequately care for her children. (See attached report from Ms. Howe.) Several other appointments with Crossroads have been set up for Ms. Toombs.

8-22-78 Ms. Toombs, her children and mother were seen in the home. Worker observed little or no interaction between mother and children. The three children were just sitting the living room. The maternal grandmother stated the children had been sick ever nce they got there.

. Toomb's mother said she felt her daughter was capable of taking care of the children.

Mr. Toombs was referred to the Charlotte County Welfare Department to apply for food stamps and Mrs. Toombs to Social Security to reapply for SSI. The couple has not yet utilized either service.

SUMMARY

Mr. and Mrs. Toombs were seen in their home on several occasions. Mr. Toombs expressed a strong desire to regain custody of his children. Ms. Toombs said very little about her feelings. Mr. Toombs felt they were capable of taking care of their children as well as paying Ms. Beatrice Craighead $100.00 per week to provide child care.

Mr. Toombs will earn approximately $4,000.00 from this year's tobacco crop. At present his outstanding bills total over $1400.00. Worker does not feel that Mr. Toombs will be able to support a family of five and pay child care costs over a long period of time based on his expected earnings. Mr. Toombs is not interested in full time employment, and Worker does not feel that he can realistically meet his financial obligations.

Worker feels that Ms. Craighead will be a good child care provider as far as safety and cleanliness are concerned; however, Worker does not feel Ms. Craighead can stimulate the children, encourage them in activities, etc. Ms. Craighead wanted two things understood by this Department and the Lynchburg DSS:

1. She is responsible for the children only during the hours that she works there, and

2. She wants to be paid at the end of each week; if Mr. Toombs fails to pay her, she will discontinue providing child care. Mr. Toombs assured Worker that he could afford the child care payment.

Although Mr. Toombs does not own a car or have a phone, he assured Worker that he would be able to get medical attention for the children if needed. Mr. Toombs does not have any kind of medical insurance on the children at this time.

Mr. Toombs is a likeable person and is willing to assume responsibility for his children. Despite information gathered from community sources, Mr. Toombs denies having a drinking problem. Concern has also been expressed that Mr. Toombs might physically abuse his wife.

Ms. Toombs appears to be suffering from some type of mental disorder. She does not readily engage in conversation. Most of the time she appears to be in a world of her own. Ms. Toombs is presently receiving counselling from Crossroads Mental Health Clinic. She has an appointment 9-18-78 with the psychiatrist and at which time medication will be prescribed. Mr. Toombs does not appear interested in his wife's efforts to receive counselling. Mr. Toombs stated he does not have time to accompany his wife to her counselling sessions. Worker does not feel that Mr. Toombs will let his wife take her medication if same is prescribed. Worker and Ms. Marjorie Howe, Counsellor at Crossroads Mental Health Clinic, do not feel that Ms. Toombs is capable of taking care of three children at this time.

Submitted by:

Lettie W. Fuller
(Mrs.) Lettie W. Fuller
Protective Service Worker

8-31-78
(date)

Margaret H. Bradner
(Mrs.) Margaret H. Bradner, RSW
Superintendent

LWF/dga

Enclosure

AMELIA COUNTY
DEPARTMENT OF SOCIAL SERVICES
P. O. BOX 136
AMELIA, VIRGINIA-TELEPHONE 561-2681

MR R. A WILLIS, Chairman
MR J. B WILSON, Vice Chairman
MR R W HARDING

OFFICE OF THE DIRECTOR

May 18, 1979

Ms. Betty P. Hillman
Social Worker
Lynchburg Department of Social Services
701 Hollins Street
Lynchburg, VA 24505

RE: Glenda Carol & William Toombs
Route 3, Box 344
Amelia, Virginia 23002

Dear Ms. Hillman:

Per your request of April 9, 1979 concerning the above named individuals, I have talked with both Mr. and Mrs. Toombs separately on different occasions. They are no longer living on Bio Farm, but Mr. Toombs is still employed by Mr. Lanier. Mr . Lanier has let the Toombs move to another house he owns on Route 153 which is less than one-half mile off Route 360 East. It is conveniently located her in Amelia. The house is a small two bedroom house with living room, bath and large kitchen. There is a small room off the kitchen where Mrs. Toombs has her washing machine, and plans to put a bed for one of the children. The house is small enough that she would be able to hear the child at night.

Mrs. Toombs had a filled prescription for Thorazene and directions were for 100 mg (1 tablet) three times a day and 300 mg at bedtime. She states that she stopped taking the medication several weeks ago because she felt she did not feel she needed it.

Mrs. Toombs could not express herself well enough to tell me why she wanted her children, except that it would "make her happy". She feels, as her husband does that the children "would be good for her".

I have contacted Mrs. Toombs doctor and have enclosed a copy of his letter for your records. I do plan to have her re-evaluated and to contact the physician here in Amelia who has seen Mrs. Toombs more recently.

As it stands not, I would only consider weekend visitations by the children to see how things go with the family. I do plan additional visits to the home in the weeks to come.

MAY 22 1979

I hope this will bring things up to date and you can benefit from this information. Please contact me if you have any additional questions.

Sincerely,

Patricia M. O'Hara

(Mrs.) Patricia M. O'Hara
Social Worker

PMO'H/rw

Enclosure

P. S. I have just received a phone call from Mr. Toombs that he and his wife have returned to Lynchburg. They are residing at 2009 Kingston Avenue. They left Amelia on May 12, 1979 and Mr. Toombs is now working as a bricklayer for a Mr. Witt.

VIRGINIA: IN THE LYNCHBURG JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT

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COMMONWEALTH OF VIRGINIA

IN RE: GLENN ALLEN TOOMBS

- O R D E R -

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

This day came the Lynchburg Division of Social Services, by counsel, which has petitioned the Court for the permanent separation of GLENN ALLEN TOOMBS from his parents and placement of said child with the Lynchburg Division of Social Services for the purpose of Adoption; and,

Upon the Motion of Frank W. Morrison, attorney for William Allen Toombs and Glenda Carol Deaner Toombs, to continue the final disposition of this matter until such time as Glenda Carol Deaner Toombs could be evaluated by Dr. Wayne Sloop, and until the Lynchburg Division of Social Services had allowed the parents of GLENN ALLEN TOOMBS to resume visitation being overruled, the Court did consider the evidence upon the within Petition;

And it appearing to the Court as follows:

That the name of said child is GLENN ALLEN TOOMBS , and that he was born on August 13, 1973,

That the mother of said child is Glenda Carol Deaner Toombs;

That the father of said child is William Allen Toombs;

That Frank W. Morrison, attorney for Glenda Carol Deaner Toomb and William Allen Toombs, and Sherwood S. Day, Guardian ad Litem fo the said GLENN ALLEN TOOMBS , are present in Court;

That the said GLENN ALLEN TOOMBS is in Court by reason of coming within the purview of the Juvenile and Domestic Relations District Court law within the meaning of Title 16.1, Chapter 11, of the Code of Virginia, (1950), as amended.

UPON CONSIDERATION WHEREOF, the Court, having heard the evidence upon said Petition and being of the opinion that the said GLENN ALLEN TOOMBS comes within the jurisdiction of the Juvenile and Domestic Relations District Court law as embraced in Title 16.1, Chapter 11 of the Code of Virginia (1950) as amended, doth so adjudicate and doth ORDER that the said GLENN ALLEN TOOMBS be committed, and doth hereby commit him to the care and custody of the Lynchburg Division of Social Services; and

It further appearing to the Court from the evidence and from proper studies heretofore made and filed herein that it is for the said GLENN ALLEN TOOMB's best interest and that of the State that the said child be separated permanently from his parents, the said Glenda Carol Deaner Toombs and William Allen Toombs, and that all parental rights of said parents be terminated, it is so ORDERED; and the said Lynchburg Division of Social Services shall be free

to place said child for adoption and consent thereto and make such permanent plans for said child as may otherwise be within the scope of their authority.

Given under my hand this 21st day of December, 1979.

Judge

Seen and Objected To and Appeal Noted December 21, 1979

Frank W. Morrison
Attorney for
Glenda Carol Deaner Toombs and
William Allen Toombs

VIRGINIA:

On this 21st day of December, 1979, on motion of Frank W. Morrison, attorney for Glenda Carol Deaner Toombs and William Allen Toombs, an appeal is granted to the January, 1980 Term of the Circuit Court for the City of Lynchburg, Virginia.

, Judge

VIRGINIA: IN THE LYNCHBURG JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT

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

COMMONWEALTH OF VIRGINIA

IN RE: CAROLYN ANN TOOMBS

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

- O R D E R -

This day came the Lynchburg Division of Social Services, by counsel, which has petitioned the Court for the permanent separation of CAROLYN ANN TOOMBS from her parents and placement of said child with the Lynchburg Division of Social Services for the purpose of Adoption; and,

Upon the Motion of Frank W. Morrison, attorney for William Allen Toombs and Glenda Carol Deaner Toombs, to continue the final disposition of this matter until such time as Glenda Carol Deaner Toombs could be evaluated by Dr. Wayne Sloop, and until the Lynchburg Division of Social Services had allowed the parents of CAROLYN ANN TOOMBS to resume visitation being overruled, the Court did consider the evidence upon the within Petition;

And it appearing to the Court as follows:

That the name of said child is CAROLYN ANN TOOMBS, and that she was born on December 14, 1974,

That the mother of said child is Glenda Carol Deaner Toombs;

That the father of said child is William Allen Toombs;

That Frank W. Morrison, attorney for Glenda Carol Deaner Toombs and William Allen Toombs, and Sherwood S. Day, Guardian ad Litem for the said CAROLYN ANN TOOMBS , are present in Court;

That the said CAROLYN ANN TOOMBS is in Court by reason of coming within the purview of the Juvenile and Domestic Relations District Court law within the meaning of Title 16.1, Chapter 11, of the Code of Virginia, (1950), as amended.

UPON CONSIDERATION WHEREOF, the Court, having heard the evidence upon said Petition and being of the opinion that the said CAROLYN ANN TOOMBS comes within the jurisdiction of the Juvenile and Domestic Relations District Court law as embraced in Title 16.1, Chapter 11 of the Code of Virginia (1950) as amended, doth so adjudicate and doth ORDER that the said CAROLYN ANN TOOMBS be committed, and doth hereby commit her to the care and custody of the Lynchburg Division of Social Services; and

It further appearing to the Court from the evidence and from proper studies heretofore made and filed herein that it is for the said CAROLYN ANN TOOMB's best interest and that of the State that the said child be separated permanently from her parents, the said Glenda Carol Deaner Toombs and William Allen Toombs, and that all parental rights of said parents be terminated, it is so ORDERED; and the said Lynchburg Division of Social Services shall be free to place said child for adoption and consent thereto and make such permanent plans for said child as may otherwise be within the scope

of their authority.

Given under my hand this 21st day of December, 1979.

Judge

Seen and Objected To and Appeal
Noted December 21, 1979

Frank W. Morrison
Attorney for
Glenda Carol Deaner Toombs and
William Allen Toombs

VIRGINIA:

On this 21st day of December, 1979, on motion of Frank W. Morrison, attorney for Glenda Carol Deaner Toombs and William Allen Toombs, an appeal is granted to the January, 1980 Term of the Circuit Court for the City of Lynchburg, Virginia.

, Judge

VIRGINIA: IN THE LYNCHBURG JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT

* *

COMMONWEALTH OF VIRGINIA

IN RE: THOMAS LEE TOOMBS

* *

- O R D E R -

This day came the Lynchburg Division of Social Services, by counsel, which has petitioned the Court for the permanent separation of THOMAS LEE TOOMBS from his parents and placement of said child with the Lynchburg Division of Social Services for the purpose of Adoption; and,

Upon the Motion of Frank W. Morrison, attorney for William Allen Toombs and Glenda Carol Deaner Toombs, to continue the final disposition of this matter until such time as Glenda Carol Deaner Toombs could be evaluated by Dr. Wayne Sloop, and until the Lynchburg Division of Social Services had allowed the parents of THOMAS LEE TOOMBS to resume visitation being overruled, the Court did consider the evidence upon the within Petition;

And it appearing to the Court as follows:

That the name of said child is THOMAS LEE TOOMBS , and that he was born on June 18, 1976

That the mother of said child is Glenda Carol Deaner Toombs;

That the father of said child is William Allen Toombs;

That Frank W. Morrison, attorney for Glenda Carol Deaner Toombs and William Allen Toombs, and Sherwood S. Day, Guardian ad Litem for the said THOMAS LEE TOOMBS , are present in Court;

That the said THOMAS LEE TOOMBS is in Court by reason of coming within the purview of the Juvenile and Domestic Relations District Court law within the meaning of Title 16.1, Chapter 11, of the Code of Virginia, (1950), as amended.

UPON CONSIDERATION WHEREOF, the Court, having heard the evidence upon said Petition and being of the opinion that the said THOMAS LEE TOOMBS comes within the jurisdiction of the Juvenile and Domestic Relations District Court law as embraced in Title 16.1, Chapter 11 of the Code of Virginia (1950) as amended, doth so adjudicate and doth ORDER that the said THOMAS LEE TOOMBS be committed, and doth hereby commit him to the care and custody of the Lynchburg Division of Social Services; and

It further appearing to the Court from the evidence and from proper studies heretofore made and filed herein that it is for the said THOMAS LEE TOOMB's best interest and that of the State that the said child be separated permanently from his parents, the said Glenda Carol Deaner Toombs and William Allen Toombs, and that all parental rights of said parents be terminated, it is so ORDERED; and the said Lynchburg Division of Social Services shall be free to place said child for adoption and consent thereto and make such

permanent plans for said child as may otherwise be within the scope of their authority.

Given under my hand this 21st day of December, 1979.

Judge

We ask for this:

R. Mitchell Garbee
Attorney for Petitioner

Sherwood S. Day
Guardian ad Litem for
Thomas Lee Toombs

Seen and Objected To and Appeal
Noted December 21, 1979

Frank W. Morrison
Attorney for
Glenda Carol Deaner Toombs and
William Allen Toombs

VIRGINIA:

On this 21st day of December, 1979, on motion of Frank W. Morrison, attorney for Glenda Carol Deaner Toombs and William Allen Toombs, an appeal is granted to the January, 1980 Term of the Circuit Court for the City of Lynchburg, Virginia.

Judge

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG

IN RE: GLENN ALLEN TOOMBS *
CAROLYN ANN TOOMBS
THOMAS LEE TOOMBS *

MOTION FOR HOME STUDY INVESTIGATION,
VISITATION RIGHTS AND CONTINUANCE

COMES NOW William Allen Toombs and Glenda Carol Deaner Toombs, mother and father of the children in caption, by counsel, and moves this Honorable Court to order an independant investigation of the current background, living circumstances, social environment and living conditions of said parents and their fitness as parents and the relationship which they have with the children in caption, which investigation it is requested be conducted by John Turner of Family & Child Counseling Center of Central Virginia, Inc. or otherwise; that the Court order that said parents be immediately granted reasonable visitation rights pending the hearing, and that this cause be continued until the 1st day of May, 1980.

Respectfully submitted,

WILLIAM ALLEN TOOMBS AND
GLENDA CAROL DEANER TOOMBS

By: _____
Of Counsel

Frank West Morrison
Bell, Coward, Morrison & Spies
715 Court Street
Post Office Box 739
Lynchburg, Virginia 24505
804-528-0411

DATED: January 9, 1980

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG

IN RE: GLENN ALLEN TOOMBS
CAROLYN ANN TOOMBS
THOMAS LEE TOOMBS

ORDER

THIS CAUSE came on to be heard on the 15th day of February, 1980, on the motions of William Allen Toombs and Glenda Carol Deaner Toombs, mother and father of the children in caption, for an independent home study investigation, for visitation rights to said children and the continuance of the case until visitation rights could be exercised for a number of months, and, for a Court Reporter to transcribe further proceedings in this matter, and was argued by counsel;

UPON CONSIDERATION WHEREOF, it is hereby ordered that an investigation be conducted by John Turner, Family & Child Counseling Center of Central Virginia, Inc., concerning the current background, living circumstances, social environment and living conditions of William Allen Toombs and Glenda Carol Deaner Toombs, as well as all questions relating to their fitness as parents and the relationship which they have with the children in caption and that the Lynchburg Division of Social Services will make the children available to visit with their parents during times when Mr. Turner is present and wishes to see the interaction between them and that all other public agencies in the Lynchburg area shall provide Mr. Turner with copies of any records and data concerning the children in caption or their parents. The original of the written report of the investigation shall be sent to the Court prior to the current hearing date of April 14, 1980, and a copy thereof shall be given to all attorneys of record.

It is further ordered by the Court that the Circuit Court report electronically record all further hearings in this matter and make a transcript thereof available to the parents of the children in caption upon their request therefor.

Finally, the Court doth deny the request of the parents of the children in caption that they be given reasonable visitation rights pending a hearing in this cause and the parents, by counsel, respectfully object and accept to said decision of the Court.

Entered:

Judge

Date: 4/8/80

APR 8 - 1980

R. Mitchell Garbee
Attorney for Petitioner

Frank West Morrison
Attorney for William Allen Toombs and
Glenda Carol Deaner Toombs

Seen:

Sherwood S. Day
Guardian ad litem
for Glenn Allen Tooms, Carolyn Ann
Toombs and Thomas Lee Toombs

2C FWM

Conf. Jun. O.B. 1 page 7

CENTRAL VIRGINIA MENTAL HEALTH SERVICES
P. O. Box 2146 • 1010 Miller Park Square • Lynchburg, Va. 24501 • 804-847-9091

March 14, 1980

Ms. Betty Hillman, Social Worker
Department of Social Services
701 Hollins Street
Lynchburg, VA 24504

Re: Glenda Carol Toombs
SSN: 229-78-2770
DOB: 5/16/54

Dear Ms. Hillman:

As requested, I am sending you this letter concerning Mrs. Toombs to provide information for her upcoming court appearance.

Mrs. Toombs has been a patient with the clinic since 1971. Apparently, Mrs. Toombs' mother brought her here because Mrs. Toombs was promiscuous, had to have an abortion, and was difficult to handle at home. At that time, she was feeling panicky, tense, and had difficulties with interpersonal relationships.

Mrs. Toombs has been a patient on an intermittent basis since 1971, and has seen a number of different therapists. She misses her appointments frequently. Her diagnoses are: (1) Borderline Mental Retardation, and (2) Schizoid Personality Disorder. Prognosis for the patient is poor. She comes to the clinic for supportive-level psychotherapy sessions and for chemotherapy. Dr. Beltran, our psychiatrist, has prescribed Thorazine and Cogentin for her. Mrs. Toombs is not always responsible for taking her medication properly; she sometimes takes more medication than is prescribed for her, although the dangers of such a practice have been discussed with her in detail.

Mrs. Toombs still feels quite anxious and tense at times, and says that she takes extra medication to control this. Her relationship with her husband appears to involve some conflicts; he does not seem to understand her condition, and is not very supportive of her. Mrs. Toombs claims that she wants to have her children with her, but wants to make sure that her "nerves" are stable before she takes on that responsibility. She seems to fear she will have another "breakdown", and worries that she will have to return to a psychiatric hospital.

Mrs. Toombs' affect is usually quite flat. She is oriented in terms of person, place, and time. Her judgement, however, is best described as fair. No evidence

MAR 17 1980

Re: Glenda Carol Toombs

of hallucinations, delusion, or ideas of reference have been elicited recently. She denies any suicidal ideation at this time. Her memory is intact for recent events, fair for remote events. She often presents a shy, almost childlike appearance. Mrs. Toombs often has difficulty expressing her feelings or communicating her problems in therapy. She appears to have little insight into her problems and appears to be socially withdrawn.

Since January 1, 1980, Mrs. Toombs has kept three appointments, cancelled one appointment, and defaulted two appointments.

It is my feeling that Mrs. Toombs would not be able to care for her children properly, due to her mental health status and her intellectual abilities. In addition, it is questionable as to whether Mrs. Toombs really wants the responsibility for her children; she seems to doubt if she is emotionally ready to handle her children. Since I have not met with Mr. Toombs, it is difficult for me to determine if he can provide adequate care for his children. However, it is my understanding that he is employed; therefore, most of the responsibility would lie with Mrs. Toombs.

Based on the volume of information in her file, discussions with her previous therapists, and my own observations, it is my opinion that Mrs. Toombs' prognosis is very poor.

Please contact me if I can provide any further information. I would appreciate it if you could inform me of the outcome of the March 20 hearing.

Sincerely,

Katherine K. Bower, M.A.

Katherine K. Bower, M.A.
Counseling Psychologist

CENTRAL VIRGINIA MENTAL HEALTH CLINIC
845-9048

KKB/f

CHILD CUSTODY EVALUATION

Referred By: Lynchburg Circuit Court
Lynchburg, Virginia

Date of Court Hearing: April 14, 1980

Assessed by: John S. Turner, M.S.W.

Agency: Family and Child Counseling Center, Inc.
P.O. Box 26
Monroe, Virginia 24574

Interviews/Contacts

3-30-80: Reviewed case records received from Frank Morrison.

4-2-80: Betty Hillman, Lynchburg Social Services, In-person

4-9-80: Kathy Bowers, Psychologist, Mental Health Clinic, Telephone.

4-9-80: Child Development Clinic, Reviewed Case Records, In-person.

4-9-80: Betty Hillman, Lynchburg Social Services, In-person.

4-9-80: Mrs. Chapman and Toombs children, Home Visit

4-9-80: Mr. and Mrs. Toombs, Home Visit

4-9-80: Mrs. Chapman, Telephone

4-9-80: Sherwood Day, Telephone

4-11-80: Betty Hillman, Lynchburg Social Services, In-person.

4-11-80: Mr. and Mrs. Toombs, Home Visit (Not Home?)

4-11-80: Lynchburg Social Services, Review Case Records, In-person.

4-12-80: Mr. Toombs, Home Visit

4-12-80: Frank W. Morrison, Telephone

Re: Glenn Allen Toombs

Age: 6 years

Date of Birth: August 13, 1980

Sex: Male

Re: Carolyn Ann Toombs

Age: 5 years

Date of Birth: December 14, 1974

Sex: Female

Re: Thomas Lee Toombs

Age: 3 years

Date of Birth: June 18, 1976

Natural Parents:

Father: William Allen Toombs

Address: Lot 40, Tanglewood Trailer Park
Rustburg, Virginia

Mother: Glenda Carol Deaner Toombs

Address: Same as above

Present Custodians: Since September, 1976, the Toombs children have been in the custody of the Lynchburg Department of Social Services.

Circumstances of Referral:

This evaluation was conducted for the Lynchburg Circuit Court, upon the request of Frank W. Morrison, attorney for the natural parents. Mr. Morrison asked the evaluator to assess the current background, living circumstances, social environment, and parental fitness of the natural parents, as well as the relationship they have with their children. The evaluator also made an assessment as to which adults constitute the psychological parents of the Toombs children and what type of living arrangement would be in the best interests of these children.

Introductory Remarks:

It should be noted that the evaluator tried but was unable to conduct a full-scale interview with the natural parents. Mr. Toombs refusal to be interviewed was probably due to the fact that the social worker who has been working with the Toombs family for several years accompanied the evaluator when he made initial contact with the natural parents. Presumably, Mr. Toombs, who acts as family spokeman, concluded that because social worker and the evaluator were together it precluded an impartial evaluation of his living circumstances. Because the parents have an extensive history of contact with various social service agencies, etc, particularly in regard to matters concerning the welfare of their children, they seem to have become very suspicious regarding the intent of such agencies.

Because the natural parents would not consent to an interview the information used to assess this couple's fitness was based upon a comprehensive review of case files as well as interviews with professional persons who have worked with this family.

Parental Fitness of Natural Parents:

It is the evaluator's opinion that neither the natural father nor mother have the parental capacity to give their children the basic physical and emotional care which every child needs for normal development and growth. For example, the Central Virginia Mental Health Clinic states that Mrs. Toombs exhibits "borderline mental retardation", and that she has been diagnosed as a "schizophrenic" for which she has been on thorazine, an anti-psychotic drug, for a number of years. The clinic reports that her intellectual ability is very limited and that it is doubtful that she has or ever will have the capacity to function as an effective parent to three children. Second, in addition to a number of psychiatric hospitalizations, Mrs. Toombs reportedly attempted suicide in September, 1976, in response to her marital separation, after which she entrusted her children to the Lynchburg Department of Social Services in whose custody they have been since. Third, in addition to having spent

time in prison for grand larceny, and having spent two months in Central State Hospital, the case records depict Mr. Toombs as an 'alcoholic' who has difficulty keeping a job and who tends to lead a transient lifestyle. Finally, while the Toombs family was intact there were several instances in which public agencies intervened to safeguard the welfare of the children.

Psychological Parents

It is the evaluator's firm belief that the natural parents are not the psychological parents of their children. Too much time has elapsed since the children spent regular time with their parents, and since foster placement the parental visitations with the children have been too infrequent for the maintenance of psychological ties between them. In addition the Toombs children are at a developmental stage where there is usually a rapid diminution in the psychological ties between parent and child according to the extent to which they have lived apart without frequent visitation.

The evaluator's opinion is that there are very strong psychological ties between the Toombs children and their foster parents, Mr. and Mrs. Chapman. The psychological bonds which exist between them do not depend upon the technicality of a biological or legal relationship. The Chapmans have been longtime caretakers of these children and crucial bonds have formed between them which cannot be disturbed without harm. To safeguard the familial bonds that have developed between them and to provide continuity in the care of these children it is essential that they remain with the Chapmans.

The evaluator's firm conviction is that if the Court terminates parental rights the Toombs children should not be separated from the Chapman family in order to be place for adoption with a new family who would constitute psychological strangers to these children. These children have already become the victims of multiple placements, a process which can be quite deleterious to any child's development and growth. For the past three years they have enjoyed a continuous and security-inducing relationship

with the entire Chapman family, a large extended family which appears to be rather closely knit. These children have begun to lead a normal life with a family who has exhibited the ability to provide them with much needed emotional and physical care.

Recommendations:

That the Court terminate the parental rights of the natural parents.

That the Lynchburg Department of Social Services work toward permanently placing the Toombs children with the Chapman family. A subsidized adoption arrangement would be optimal for these children.

That the Court protect the continuity of relationships between the foster parents and Toombs children and that the Court protect the children from visitation with psychological strangers by denying visitation privileges to the natural parents.

Respectfully submitted,

John S. Turner

John S. Turner, M.S.W.
Family Therapist
Family and Child Counseling Center, Inc.
P.O. Box 26
Monroe, Virginia 24574
929-2202

Parent-Child Visitation

On April 15, 1980, the evaluator transported the Toombs children to their natural parents' in order to observe the parent-child interaction. While enroute to the Toombs' home Glenn remarked that he would be glad when the visit was over so he could get back home to play trucks with his friends who live near the Chapmans. On the other hand, Carolyn was quite talkative while riding in the car and while visiting with her parents. Carolyn seems to enjoy adult attention and will compete with her siblings to receive it. When we arrived the parents seemed very glad to see their children, giving each child a hug and kiss. Generally, Glenn exhibited little desire to interact with his parents to which the parents seemed to respond similarly once they realized that Glenn did not wish to get involved with them. The parents gave more attention to Carolyn and Thomas. Ms. Toombs initiated much less interaction with the children than did her husband, who seemed to function as the responsible parent. In fact, Ms. Toombs seems to be more of a peripheral parental figure who gives the impression of being dependent on her husband for direction concerning caring for the children.

While enroute to see her parents Carolyn expressed an eagerness to see some toys which she believed they had waiting to give to her. She seemed disappointed then they told her they had not purchased any toys for any of the children. When the evaluator told the parents that the visitation needed to be brought to a close Glenn ran out of the trailer and jumped into the evalutor's car without saying good-bye to his parents. None of the children exhibited any separation distress when parting from their parents. When we arrived back at the Chapman's Glenn wandered off to play while Carolyn and Thomas rested contentedly in the laps of two teenage nieces who were visiting with Ms. Chapman and who seem to be quite attached to these two youngsters and vice versa.

Concluding Remarks

It is the evaluator's recommendation that the court terminate parental rights and deny the parents visitation with their children. Such visitation

would harm the children by undermining their sense of security in so far as promoting a feeling that their living arrangement is not a permanent one. These children need continuity in their living arrangement and in their relationship with their psychological family, the Chapmans. In light of these needs parental visitation would constitute a hollow exercise conducted for the sake of the parents.

The evaluator strongly urges the Lynchburg Department of Social Services to work toward transforming the current foster arrangement with the Chapman family into a permanent living arrangement. The Chapman family has been the longtime caretaker of these children and there is a strong psychological bond between them which if severed would cause the children to regress and have difficulty forming attachments to new parents who would be psychological strangers.

Respectfully submitted,

John S. Turner

John S. Turner, M.S.W.
Family Therapist
Family and Child Counseling Center
P.O. Box 26
Monroe, Virginia 24574
929-2202

GARBEE

Q Your name is Betty Hillman?

A Yes.

Q And you are a social service worker for the Division of Social Services?

A That is right.

Q Do you know Mr. and Mrs. William Toombs?

A Yes, sir.

Q What is your relationship to Mr. and Mrs. Toombs?

A Since April 1977, I have been the foster care worker with their children.

Q Has it been your primary responsibility to work with the parents and try to work toward the return of the children to the home?

A Yes, sir.

Q And you were the person in the department that was responsible for pursuing that goal?

A Right.

Q Now I believe that you filed the petition for the permanent separation of these three children from the adoptive parents, is that right?

A Yes, I did.

Q When was that petition filed?

A This was in August, 1979.

Q And what prompted you to file the petition?

A Well, at that time, I felt and the agency felt that we had worked with this family since 1976, in September, and we felt that the parents would not in the future ever be able to offer a stable, secure home with the continuity of care that they needed in order to be reared like they should.

Q All right. Now you said that the department became involved in this family in September 1976?

A Right.

Q Under what circumstances did the department become involved?

A At that time the paternity service was involved because they had a call that a Ms. Toombs, who was then living with her parents, had tried to attempt suicide earlier in the afternoon and was not able to care for the children, and her parents were not able to care for them so at that time she was encouraged to entrust the children to our department to place in foster care until she was able to care for them. At that time Mr. Toombs was in jail, I think.

Q O.K. At that time, did Mrs. Toombs voluntarily entrust the children to the custody and care of the department?

A Yes, sir, she did.

[12]

Q All right, how long was that entrustment to last?

A This lasted six months until March 1977. At that time, the service did not feel that Mrs. Toombs was any better able to look after the children so in a Court hearing in the J&D Court, our department was given temporary custody.

Q Was that in Lynchburg?

A Yes, it was.

Q Juvenile & Domestic Court? O.K. What has been happening since March 1977 with the Department of Social Services in an attempt to work with this family?

A Well, soon after in September, Glenda Carol was given to me as a foster care worker and during the following month, we worked with her, and she was referred to mental health, she--

Q You are referring to Mrs. Toombs when you say she--

A Yes, to the Mental Health Clinic. She had been referred to Mental Health, she had been referred to mental retardation and to the health clinic. She went to see the children about once a month which had been going on ever since they had been out there. Then in July, Mr. Toombs was released from prison and he went to

[13]

Charlotte County for several months to work in tobacco and we did have a visit with the children in August when they came back.

Q They were still under the--

A Yes, that is right. In the fall of 1977, he came back to Lynchburg and I had Mr. and Mrs. Toombs in my office and we discussed the things we felt they needed to do in order to get the children back. Mr. Toombs had several jobs during this period. They were living in Mrs. Toomb's parents home, they had several apartments and finally they lived in a trailer. In December of this year, we had them in, I guess, about once a month, and the children spent two nights and three days, I think, in the trailer with them.

Then in January, Carolyn Ann, one of the children, had bronchitis and was hospitalized, so we felt like no more visits overnight would be good in bad weather, so we didn't have any more overnight visits.

Q Excuse me. How soon after the visit took place did the hospitalization take place?

A I think probably four or five days.

Q O.K.

A Just the change, you know, we thought it was best that we take no more chances. Then I believe in

[14]

April of that year--

Q You are talking about 1978?

A Right, 1978, the Toombs moved back to Charlotte County and he had a job working in tobacco. During the period that he had been in Lynchburg, we had not been able to get them to sign the contract that we had discussed. I took it out to the trailer one day and Mr. Toombs was very upset that day. He had been having trouble getting food stamps in Campbell County so I left the papers for him to look over and to sign and they got lost or something.

Q What did the contract basically provide?

A Well, I think the main thing was that they would have to have a suitable place for the children to live, he should have some means of support or income. In Campbell County the case of their oldest child had been in Campbell County before, and we recommended that the oldest child be in foster care there, the children should not be at home with Mrs. Toombs alone unless there was a baby sitter, so he had to be able to find a baby sitter that could stay when he wasn't there.

Q O.K. and was the basis of the contract with Mr. and Mrs. Toombs was to do all of these things and you would consider returning the children to them?

A That is right.

Q Is that the same contract that was introduced into evidence in the juvenile court?

A I think so, yes. I--But we did not decide at that time, and in June when they were going to be in Charlotte County for awhile, I went with another worker down and we discussed the contract and they signed it this time. I also had referred the case to Charlotte County Department of Social Services and requested them to do a home study of the situation.

Q Was that home study able to be completed?

A Yes, it was completed.

Q All right.

A I did not get it until August but it was completed in August.

Q Were Mr. and Mrs. Toombs in Charlotte County at that time--at the time the home study was completed?

A They were when I got it but a few weeks later, I think, they moved back to Lynchburg.

Q Did you consider returning the children to the Toombs after this home study was made?

A Well, we were not entirely sure that it would be in the best interest of the children at that time. I had taken the children--well, Mr. Toombs came up in August and took the children back to his mother-in-law's

to stay for three or four days. Mr. Toombs was not to be paid for the tobacco until about October and he was just charging things at the store and the baby sitter that he had, wanted him to pay her like $100 a week, I think, to her to baby sit and--

Q So it didn't--

A --it was not a realistic situation.

Q All right. Now other than the time that the children went down to visit, I believe, in August was the sisitation, or can you describe the rate of visitation during 1978?

A In the winter after Carolyn was sick, I think they might have missed one more time when they went to Charlotte County. I think they came back around Easter and had a visit and he came back, I would say, around once a month on the average that they would come up and visit.

Q All right, were any more overnight visits allowed?

A I don't believe they had any more at that time in August 1978.

Q All right, now did Mr. and Mrs. Toombs remain in Charlotte County?

A No, they moved back in September and I was notified that they were back.

Q Is that in 1978?

A

[17]

A In 1978, right.

Q What was the situation at that time?

A I think they lived most of the time, I think that they were living here where they lived with Mrs. Toomb's parents and he may have had a couple of jobs off and on and he was trying to find a place to live.

Q Did they have a suitable, stable home that you would consider returning the children home to?

A No, they didn't. They really didn't get settled down.

Q How long did they remain in Lynchburg?

A I think they remained in Lynchburg until about January. They did have the children during the Christmas holidays. They took them to--

Q Was that the only visit between August and January of 1979?

A No, I said they had them probably once a month.

Q Oh, did the situation ever stabilize enough for you to consider returning the children to them?

A No, in January they moved to--

Q What was wrong with the situation?

A Well, they didn't really ever have a home to live in or he didn't have a regular job while they were here.

[18]

April, I think, to stay with her mother. I talked with Amelia County several times and I think they moved once. They got a house and they moved once and came back to Lynchburg finally. I think it was the first of June and Amelia County sent me a report but it was not complete because they moved back to Lynchburg before it was completed.

Q So by the time you had the investigation made in Amelia County completed, they had moved?

A Right. Back to Lynchburg.

Q What was the situation after they moved back to Lynchburg in January of 1979?

A Well, it was May when they moved back.

Q May?

A I think they moved to the parents for awhile and then they moved to a trailer where they are living on Route 29.

Q O.K. And they have been living there ever since?

A As far as I know, they have.

Q Have you been out there to the trailer?

A Yes.

Q Are they at the point where you feel they are ready to get the children back again?

[20]

Q Well, they were living with Mrs. Toombs' parents?

A Yes, then in January, they moved to Amelia County and he thought he had a job up there and they moved to Amelia County and--

Q This is January 1979?

A Right and we had tried to plan a lot of visits and he would call and the weather was bad and it was real foggy and he was concerned about having the children home then, and at one time he told me he was going to bring a lawyer down, I think, on Saturday, but he didn't come. But he said he was coming so on Saturday, I called Mrs. Toomb's parents home and let the phone ring to see if he was there and I tried to call the foster home and tell them that he was coming. There were a couple of visits that we had planned but he was not able to make.

Q O.K. Was he able to provide a suitable, stable home in Amelia County in January?

A Well, again, we requested the Social Services there to make a home visit. We referred them to Social Services to make a home study. In february, I believe, Mrs. Toombs was hospitalized because of her nervous condition in a hospital in Richmond. Then she came back in

A No, we just don't feel like it is a stable situation. Mrs. Toombs, I think, has been referred still to the Central Virginia Mental Health Clinic and the problem is still there. I think they visited the children in June and then a visit in July,on Saturday, was plannedthey planned to come but they did not show up. Mr. Toombs had to work and I was getting ready to go on vacation and I think--

Q Do they call and cancel their visits?

A No, they do not call and cancel their visits-- and they called right before I left for my vacation and I felt at that time that I needed to talk to them and to discuss the way the situation was and what we could do about it or the way that I felt about it because I had the feeling that probably it was going on the same way and one day I made an appointment with them and I told them that I did not feel the children should visit so we could have a conversation and Mr. Toombs called and I think he talked to a supervisor or somebody and he was very beliggerant because he couldn't see his children and that kind of thing, so as soon as I got back in August, he called and got in touch with me again and so we planned a visit for Saturday. He was working so much that I still got to go out and see

the trailer and so I had to go after my normal working hours and at least see where the children could visit and they did visit this Saturday in August, Saturday in August and after the visit, the foster mother said that Glenn Allen--

MORRISON I would object to the--what the foster mother said.

COURT Sustained.

A Well, I--

GARBEE Don't talk about what somebody else said.

A I am sorry. Well, I went out and called to Glenn Allen after that and he said he didn't think that William loved him any more and that he was fussing--

Q Glenn Allen told you that? He is one of the children?

A Yes, he is the oldest one, so I didn't really go into it any more than that, and at that time I felt like, you know, he said he would take the case back to Court before I ever would let the children go back home and so--

MORRISON Your Honor, I move to strike all the evidence of the children. I mean, if she is going to testify to what the children had to say, they are of age and it

[22]

would be better than her testimony. It would be better to request the Court to have the children themselves.

COURT You know, what the children say, it is not admissable proof of what they said but when children say certain things, I mean, the fact that they are children of at least this age, they have certain responses and say certain things, you know it sort of like observing symptoms of a patient involved in an accident or something. It is not admissable for the truth of what they said but only that the children were saying it. The chidren were going around saying that my parents don't love me, you know, or parents abuse. It may not be evidence of abuse but it is evidence of someone with this state of mind and all of this, I think, is material and relevant to the issues in the case. I think if the children said that, I think it has some relevance as to the relationship of a parent to the child. It might even be able to show that the father does love the child and that is what the child has said and it could be evidence in the child's or---all right.

Q All right, have you worked with Mr. and Mrs. Toombs since? I believe that the petition was filed in August of 1979. Is that the point that you have testified up to? Is that correct?

[23]

A Yes, I have talked with them several times.

Q All right, do you know anyting about an incident with Mrs. Toombs in December--calling the rescue squad?

A I know--I just know from the report from the Mental Health Clinic. It is reliable but it is not from personal experience.

Q Has Mr. or Mrs. Toombs ever paid you any support for the care of these children since they have been in foster care?

A No, they haven't been able to do so.

Q Does it go all the way back to December of 1977?

A No, no.

Q They haven't paid you any support?

A No, no.

Q O.K. that is all the questions I have. Answer Mr. Morrison's questions please.

A All right.

MORRISON

Q Apparently after the case was first started, one of the main real problems, as far as you all were concerned, was the fact that Mr. Toombs changed jobs

[24]

from time to time, isn't that right?

A You mean after we got temporary custody?

Q Yes.

A After he got out of prison?

Q Yes.

A Well, he was changing jobs, he was not staying in one place for any length of--

Q Right.

A --of time in any county, moving from county to county. He just didn't seem to be realistic about spending money or what it takes and that sort of thing.

Q Did he move around from place to place and job to job? That whole instability is what--

A Right, right.

Q And one of your objectives was for him to be more stable as far as his job and as far as his way of living was one of the objectives--

A Right

Q --that you were trying to work with him?

A Right.

Q Is it true that since April or May, I think, of last year, almost a year now that he has held one job and also has lived in one place, is that right?

A Well, I am not sure that I--that he will

[25]

still have the job. I think he is--

Q I think you have been through an investigation about everything else. You know he has a job, don't you?

A Well, I went out to see him last week and Mr. Turner and I and we stopped by and he said that he had taken off because he had business to attend to and that we wanted to make an appointment to see the children as the Court ordered and so Mr. Turner could see the reaction and he said that he would not be able to do that any time because he had to work, although he had taken off that day for some kind of business and when we went back on Friday and knocked and knocked and we went all around the trailer and the neighbors told us that he was there but I guess that he hearsay, I guess, but we couldn't get anybody to answer. We had the children to let him see them for a minute or two.

Q But I mean it is nothing to lead you to believe that he doesn't have the same job that he has had for the past year, is there?

A Well, the neighbor said he wasn't working so I don't know that he hadn't been working.

Q And you--have you checked with his employer?

A No, I haven't. I just haven't.

[26]

Q All right, and he had been quite upset, has he not, Mr. Toombs, because of the fact that you cut off the visitation rights when you filed the petition, isn't that correct?

A Well, he has been busy and I haven't talked to him that much. He probably is.

Q You know he is upset, don't you?

A I would think that he probably is.

Q And when you terminated the visitation, you did not get a court order to do that, did you?

A No, we didn't get a court order but--

Q You just did that yourself?

A It was for the best interest of the children and--

Q And eventually the children were allowed to once a month--

A Well, I had been rushed, like we had a lot of business to attend to when we plan a foster home, we have to get the children ready and they would sit and wait and nobody would come.

Q But it was set up for once a month, is that right?

A Well, about--right.

Q And there was no urgency or anything else

that prevented you from letting him see the children, was the situation as far as--

A Right, I think it had been going on long enough.

Q So you made the determination, and so the children's parents haven't had any visits since when? August?

A Since August. Mrs. Toombs visited with her parents on Christmas day, just bopped in.

Q You know that there is a Judy Evans who is a friend of the Toombs. You have heard her testify in Court, didn't you? In the Juvenile Court?

A If that was her name, yes.

Q And you know she did offer to babysit in the day time while Mr. Toombs was at work?

A Right.

Q Have you checked her out to see what kind of babysitter she would be?

A No, I haven't.

Q O.K. they are getting along pretty well in foster care, is that correct?

A I think they are.

Q How long does it take for the doctor to go through this as a rule, I mean, if the Court were to

terminate a biological, who could you talk with about it and tell you the options?

A Do you mean to place the children in adoptive homes or for the whole court process?

Q Yes, I am talking about to place them.

A Just to place them in the home?

Q Yes, in the home.

A Well, I think it could be done within four or six months.

Q Four to six months?

A Yes.

Q And with the present foster care parents, would foster care parents be eligible for adoption?

A That is something we haven't discussed. She has expressed an interest in them--

Q I see.

A And she hasn't made up her mind whether she would be able to.

Q O.K. she doesn't know what the situation would be--

A No.

Q --they haven't made up their mind to--

A No, we haven't discussed it. We don't feel we can discuss it until we have--

[29]

Q Right, right, All right, and, of course, if they were to, I mean, if termination were to take place and they were to adopt the children, would there be any long wait and--

A No, there wouldn't be any change.

Q O.K. are the children adjusted now?

A Yes, they are.

Q What is the school situation? When will they be going to school?

A Two older children are already in school. I would like to say that we had all three children evaluated by the Child Development Clinic because we were concerned with Glenn Allen. He said he went to kindergarten the year before this and they counseled him and he wasn't able to go to kindergarten so he was put in a pre-kindergarten program so at that time we started this counseling. They are developmentally slow and the Chhild Development Clinic, as well ad a Genetic Clinic in Charlottesville evaluated them last December and they didn't really find anyting really wrong with them except they are a little slow. All of their recommendations read that they need to be in a stable, secure home.

Q And you would keep them where they are now and let them finish school regardless of what the Court rules?

A Well, I think that I would. We, of course, if the determination, you know, was finished today, then we would certainly start looking more actively into finding what would be the best place for them.

Q Well, If determination took place, the Court ordered a determination and the determination was not until the end of May or something, you probably would be able to pursue whatever you needed to do before the first of the next school year, is that right?

A Well, I would hope so--

Q Yeah.

A --because the sooner we can know, the better.

Q And all along you have felt it was important, very important, have you not, to have Mr. Toombs evaluated by counsel?

A I have, right.

Q And you have tried time and time to have that done?

A I made several appointments, yes.

Q All right And you could not support them?

A I couldn't.

Q And also it is important, is it not for some one who is trying to figure out what their apparent skills are to observe with the children, is that important also?

[31]

GARBEE I object to that, Your Honor. I don't think she is in a position to tell how important Mr. Turner's observations or exactly what observations he has to make before he could make a --makes a recommendation.

Q I am not talking about Mr. Turner. I am just talking in general. She is talking about what--

COURT Well, I think it is a question--I think obviously he would be better off if he saw both of them. If he saw them with the children after his parents, it would stand to reason, I think it stands to reason it calls for the opinion of a witness who is not an expert and the Court is in a position to reach the same conclusion that she and I would assume that it would be helpful if he saw them too.

Q One of the--there were a lot of problems simply of communication between the Department and Mr. Toombs, is that correct? There had been a lot of--

A Well, it was really hard to get him to know if he could come in at a certain time or that he could be somewhere when you would go and see him. Yes, it is and was.

Q But he has always expressed an interest in these children, hasn't he?

[32]

A He has ever once in awhile.

Q I have no further questions, Mr. Day.

A Yes, sir.

DAY

Q Mrs. Hillman, you are with the Department of Social Services, and we are talking about a two-year old, a three-year-old and a six-year old?

A Well, I believe it is a six, a five and a three-year old.

Q Six, five, three?

A I believe that is right.

Q I see.

A Carolyn had a birthday in December.

Q O.K. 6,5, and 3?

A Yes.

Q Have you ever had an occasion to see these children just prior to or after their seeing the Toombs?

A Just on a visit when I--I took them, of course, the last time I took them was in August of 1978 because he couldn't visit most of the time except on week ends so rather than keeping him from seeing them, I would let him go ahead and--foster mother and--

Q What would be your observation as far as

[33]

interaction between the parents and the children, did you observe?

A The times that I have seen them with the mother, there wasn't really--there wasn't much interaction and the last time I picked them up in Charlotte County, they were all staying in this trailer and everybody seemed to be a little bit on edge and well, I guess I can tell you, the social worker that went there said that the children were--

Q Well, that is hear-

A O.K.

Q You can't get into that. Is there something physically or mentally wrong with these children?

A Not that I know of.

Q And when you said that the evaluations--did you --you have talked about slowness, we are really talking about stimulating environments?

A Right.

Q And some kine of mental retardation--

A Carolyn's teacher, I do have a school report and I have talked with her and she seemed really interested because when she first went to school in September, they thought that she would be placed in the EMR, educally mentally retarded and she is just blooming, doing so

well under the stimulation at school that they feel that they will be able, she might possibly be able to go to Kindergarten on time.

Q O.K. so we see a markedly increase in children's awareness and things of this--

A Right.

Q ---At this point where the children are at?

A Right.

Q Thank you.

MORRISON That is all we have so far as--

GARBEE There are a couple of more questions I thought I would ask.

GARBEE

Q Mr. Morrison was asking you about your attempts to have Mr. Toombs evaluated by a psychologist or a psychiatrist. What steps did you take in order to arrange this and what has been the result of those steps?

A Well, before we had this hearing in December in the Juvenile and Domestic Court, I made several appointments for both of them with Dr. Sloop. I made them in the evening so that they could both go and I called Mr. Morrison's office and told him that I would be glad to transport them. I had something else to do

that afternoon but another worker could pick them up an take them there. Then I was told that Mr. Toombs did not want to have to do that. Mrs. Toombs would go during the day somehow and somebody would give her a ride so I made another appointment for a morning appointment, and I think I wrote them a letter telling them when the appointment was.

Q This was for Mrs. Toombs?

A Right and--

Q Did you make another appointment for Mr. Toombs?

A I didn't at that time and then I had to go out of town on another case that day and so I had made it my position that they would get their own transportation so then the next day after I got back, I called the secretary, Dr. Sloop's secretary, and they said they had not heard from them and they didn't come. Through the whole thing, Mr. Toombs has said, well, he just hasn't wanted to be tested.

Q Did he tell you that?

A Yes. He didn't see any need for him to be tested.

Q Was this after the Court ordered it?

A Well, I think, I can't remember. I think I

have talked with him during the last month.

Q (inaudible-- short question and someone coughed at same time)

A In action of the J&D Court here and the trial, after we got together and the Court order, I made both of them an appointment with Dr. Ann Looney for Saturday and I thought maybe he would not be working and I could transport them on Saturday and I think maybe Mr. Toombs called me a couple of days before and again he said that he didn't think he needed to be tested and that Mrs. Toombs was already going to the Mental Health Clinic and why should she have to see somebody else and he sort of left it at that and said well, you will be hearing from my lawyer, I am getting me a lawyer and then Mr. Morrison called and we talked with him and it appeared like Mr. Toombs just wasn't going to go and I was worrind about making the appointments and having her there and them not showing up and so--

Q Do you feel that you have offered Mr. and Mrs. Toombs ample opportunity to get themselves evaluated?

A Well, I think I did.

Q I want to know if you saw the visitation between Mr. and Mrs. Toombs and the children after you filed the petition.

[37]

A Well, because at that time it was the agency's feeling that this was just not--after working with them for almost three years that this just wasn't going--they were not going to be able to make competent children and at this appointment that he was putting the children through to visit, it was just going to upset them.

Q Did you think it was to the children's interest?

MORRISON I object--leading question.

COURT Sustained.

GARBEE Did you think it was to the children's--did the best interest of the children enter your consideration?

MORRISON Same objection.

COURT Sustained.

Q Were you under a Court order to allow visitation between the children and the Toombs?

A No.

Q That is all the questions I have.

MORRISON

Q In a conversation with me concerning Mrs. Toombs, didn't you agree that it would be O.K. for her to be evaluated by a person at the--

A Right, right.

Q --Mental Clinic?--

A Right, right.

Q --so there is no question that Mrs. Toombs' willingness to be evaluated by a person she was being seen by, was there?

A Well, we had her evaluation--

Q Right.

A --but I did talk to the Center in person about testing. This was in February, I guess, and we could not get the appointments in time for her to do the reports of both of them. In fact, I set up the appointments and later cancelled them because--we would have had to continue the hearings again which we really didn't want to do and as it turned out, it was continued anyway.

Q Mr. Toombs--

A Mr. Toombs did call me a week or so ago about the testing and I told him that, you know, I had mentioned this to the people at the Mental Health Clinic to the one that was seeing Mrs. Toombs and then I thought that was what he wanted to do so if he wanted to do that that he should call them and make an appointment. I offered him the telephone number and he said he already had it.

[39]

Q So there is no question that Mrs.Toombs is being tested. It is Mr. Toombs, he is the one--

A Well, she has missed some appointments and--

Q She has always agreed to be tested?

A As far as I know, she has.

Q She has always agreed to be tested?

A As far as I know, yes.

Q All right, thank you.

COURT Thank you.

GARBEE I call Catherine Bower.

Q State your name and address please.

A I am Catherine Bower and I live at _____in Lynchburg.

Q Where are you employed?

A The Central Virginia Mental Health Clinic.

Q And in what capacity are you employed?

A I am a psychologist.

Q Do you know either Glenda Toombs or William Toombs?

A Yes, I know Mrs. Toombs.

Q First of all, tell the judge about your educational background and your experience.

A I have a B.S. in psychology from Lynchburg

College and a M.S. degree in community counseling in psychology from T____ State Univerity in Baltimore.

Q When did you receive these degrees?

A I got my B.S. degree in 1976 and I received my M.S. degree in June of 1978.

Q What has your work experience been?

A Right after I graduated from _____State I worked at the Training School as a psychologist for approximately a year and a half and I started working at the Clinic in September 1979.

Q O.K. now under what circumstances did you know either Mr. or Mrs. Toombs?

A I met Mrs. Toombs in 1979. Mrs. Toombs was being seen for supportive psychiatric therapy. Mrs. Sheppard left in December and I took over some of her case load and she asked me to take over the case of Mrs. Toombs.

Q Have you in fact taken over Mrs. Toombs' case?

A Yes, I have.

Q Have you seen Mr. Toombs?

A No, I haven't.

Q How many times have you seen Mrs. Toombs and when were those occasions?

A I will have to refer to my records. O.K. once was 7/23/79 and the--

[41]

Q What are you looking at there?

A Just some notes that I made from my files and I do not have the files with me today.

Q Did you make those notes yourself?

A Yes, I did.

Q And these were taken from the files that you have made here?

A Yes.

Q All right, resume.

A The second appointment I had with her was on February 21, 1980.

Q All right, have you had other appointments with her that she didn't--

A Yes, I had an appointment with her for January 15, and Mrs. Toombs called and cancelled. She said she didn't have transportation. I had another appointment with her on January 25 and on March 19 and she defaulted those appointments which means that the appointments were made and she didn't show for them or call and cancel them.

Q I show you a letter. And what is in it?

A This is a letter I wrote--I wrote it to Betty Hillman. She had--she gave me permission to write her a letter regarding Mrs. Toombs' present status.

Q O.K. is that the original letter that you wrote?

A Yes, it is.

Q O.K, is the contents of that letter true and accurate concerning your evaluation of Mrs. Toombs?

A Yes, it is.

MORRISON Your Honor, I would ask that--

COURT Any objection?

COURT Any objection?

MORRISON I have no objection

COURT Commonwealth's exhibit number one.

Q Yes, sir.

COURT All right, you may proceed.

Q Do you know how long Mrs. Toombs has been with the Mental Health Services?

A I think it was in 1971.

Q What is the purpose of your consulting and treating Mrs. Toombs?

A She was also seen at the Clinic by Dr. Beltry, our psychologist, and he prescribed some medication for her and he sees her on a regular basis for her medication and I see her for supportive level guidance counseling where I try to give her help with everyday problems where she needs help and to just try to keep

counseling as she has a tendency to be somewhat anxious and a very low profile and so I just wanted to keep tabs on that and we change her prescriptions when necessary and I consult with the psychologist whenever it is necessary.

Q Do you know of any incident in December where Mrs. Toombs--

MORRISON Objection--leading.

COURT Overruled.

Q Did you know of an incident in December where Mrs. Toombs apparently ran out of medication and ran into difficulty?

A Yes.

MORRISON I object on the same grounds.

COURT I don't think you should suggest the answer to the question.

A O.K. I was not seeing her at that time but from what we have in the records and from talking with Mrs. Sheppard, what happened was that she, Mrs. Toombs, ran out of medication and she became highly anxious for the medication that she takes to help control that anxiety and she called the rescue squad several times, I think it was three times during that day and told them

that she had run out of medication and for them to do something for her.

Q Do you know what the evaluation of Mrs. Toomb's condition is?

A Yes, the primary diagnosis is borderline mental retardation and the secondary diagnosis is schizoid personality disorder.

Q Have you confirmed those diagnosis in your treatment when consulting with Mrs. Toombs?

A I have contacts with her but I haven't tried to diagnosis but it is very difficult for me to make an accurate judgment about her since I have not had that many contacts with her, but Dr. Beltry is the one who would go along with the diagnosis because he sees her more.

Q Mrs. Bower, in your work with Mrs. Toombs, did you discuss and find out anything about her home life?

A We have talked a good bit about how she feels about her children and when I saw her back in February, we talked about the fact that she was going to Court again regarding the custody of her children, and we discussed that somewhat. We also discussed her situation with her husband and in February, she said her

husband had been laid off from work and that is pretty much the situation.

Q What were Mrs. Toomb's feelings when she spoke with you concerning her children?

A When I saw her in February, we talked about the custody and how she felt about having custody of the children and she said that she really wanted to have the children but she wasn't sure whether she was ready to have them back. She said she wanted to get her self straight and stabilized before she had the children to take home and have responsibility for them.

Q O.K. has she since then indicated to you that she feels that she is able to take them back?

A I haven't seen her since. That was the last time we talked.

Q O.K. since you have been seeing Mrs. Toombs, do you feel that she is--that her mental and physical condition is such that she would be able to care for her three small children?

A I would have a great deal of difficulty answering that question. I haven't seen her with her children and it has been my experience that people who are mentally retarded and do have mental disturbances often times have difficulty parenting. But there have

cases where people have been able to parent very successfully and I have never seen her with her children.

Q I am asking for your opinion, if you have one, based on what you know about Mrs. Toomb's personally, not other people with her condition.

MORRISON I object to the question.

COURT I think the question has been answered.

GARBEE Your Honor, I think she is qualified to answer and she didn't answer the question specifically and she was talking about people in similar situations.

MORRISON She said she coudln't answer the question. That might be her--she said she felt that without viewing the person with the children, to view parential skills, she couldn't answer the question.

COURT You would need to see her with the children to answer that question?

A Yes, sir.

COURT Sustained objection.

Q Did you make the statements in your report based on the volume of information in your file and discussion with her previous therapist and--

MORRISON Object, Your Honor, leading the witness.

Q Your Honor, I am just asking him this state-

ment in her report.

COURT I think that you are saying that the answer to the case is within a certainty of whatever your people of your profession in order to express an opinion would have to see the children?

A That is right.

COURT All right.

Q Your Honor I think that her opinion--

MORRISON She has.

COURT She is saying that to express her professional and personal opinion, she would have to see the child with the parents. That is sustained too.

Q O.K. that is all the questions I have.

A O.K.

Q Thank you, Mrs. Bower. Answer Mr. Morrison's questions.

MORRISON I don't have any questions, Your Honor.

COURT All right. All right.

DAY I would like to ask a question.

COURT All right.

DAY There is no question that Mr. Toombs did not cooperate, is there? Is that correct?

A Inaudible. That is true.

DAY All right, that is all.

COURT Is that all? All right, next witness.

GARBEE I call John Turner.

Q Your Honor, have you received a copy of Mr. Turner's report?

COURT No, I don't believe I hav e.

Q It was my understanding that one was to be delivered to you this morning.

COURT This morning?

A Yes, sir.

COURT Well, I did not receive it but I have been--

Q Your Honor, I object to this testimony until such time as Mr. Turner has had the opportunity to observe or see my client with the children and prior to that time to interfere with his testimony at this point based on not enough substantial evidence or foundation.

COURT The Court has already ruled and we have to have another hearing apparently anyway and we will proceed and get all the evidence we can in at this point. So far it appears that the reason there is not enough contact is because Mr. and Mrs. Toombs did not keep the appointments so I will overrule your motion at this time.

MORRISON Yes, sir.

GARBEE

Q State your name and address please.

A John Turner and I live in Nelson County.

Q What is your occupation?

A I am a family therapist.

Q Do you know William and Glenda Toombs?

A I have had a few brief contacts with the Toombs, yes.

Q And I believe that you were ordered by the Court to make an evaluation of Mr. and Mrs. Toombs in their suitability or lack of suitability to tace care of their three children, is that correct?

A Yes, sir.

Q Have you met with the three Toombs children?

A Yes, I have.

Q Would you tell the Court what your investigation consisted of and what conclusions you were able to draw as a result of your investigation?

A O.K. do you wish for me to go into a listing? I have a listing here of the contents of my report?

Q Well, have you been over the contents of your report with the Court?

a No, I haven't. I don't think the Court has a copy.

Q All right, will you explain to the judge what this investigation consisted of and what recommendations, if any, etc.

A O.K. there were fourteen interviews and/or contacts--

Q You made in this--

A --made in this evaluation. I have a list, judge, if you would like for me to go right by it, I can if you would like to.

Q Summarize it if you will.

A In my initial contact with the Toombs, I went with a social worker from the Lynchburg Department of Social Services and I tried to set up a time to come out habitually and meet with Mr. and Mrs. Toombs at which time I would have brought the children so I could have observed their interaction and when I tried to pin Mr. Toombs down as to the time, I had some difficulty. I finally--we finally agreed that I could come some time after 7 or 8 o'clock on several afternoons of last week but he said he couldn't be there, that he wouldn't be there so if I don't catch him--I said, how about coming out Saturday?

Q What was the purpose of the visits that you were trying to set up?

A Number one, to do a social history, the current circumstances, the economic circumstances, etc., and also to observe the--to observe the interaction between the natural parents and the children to determine the psychological attachment between those two.

Q Did you plan to take the children with--

A Yes, yes.

Q --with you on those visits?--

A Yes, I was.

Q --when you went out to see them?

A Yes, I had planned to bring the children along.

Q Go ahead.

A And, as I said, I had some difficulty trying to get Mr. Toombs to agree to a time. I then, in turn on the following day, again, I think it was a Friday, I have the dates right here. I came with the social worker and we knocked on the door and no one answered and we stayed about ten or fifteen minutes knocking on the door and the windows were open and I even called for both parents in the windows and still no response and when we got in the car and were attempting to leave, there was a lady with a child a few trailers up and we asked if they had seen the Toombs and she said they--

MORRISON I object to what they told.

Q Wait a minute, don't tell us what she said.

A O.K. and I returned on Saturday, April the 12th, to meet individually with the Toombs again and Mr. Toombs was present in the trailer and before I could get started, he informed me that he had hired an attorney, Mr. Morrison, and that he planned to hire another attorney.

Q O.K. were you able at this time to proceed with your investigation?

A No, I was not.

Q You hav e made in a report to the Court all the information you have about the situation--

A I have, yes.

Q --the family situation, and do you feel that you can rely on what information you have in the report? Is the report about the facts in the situation?

A Well, normally in an instance like this, there wouldn't be such an--I wouldn't have had access to such a large number--a large amount of case files, but in this particular case, there is an abundance of case material which covers a span of about nine years and with this case material plus the interviews I conducted, all the evidence consisted in terms of and leads to the three recommendations that I have given--that I have given in

the report. I feel that it would be almost impossible to find further evidence to be meaningful, what evidence I have found so far, but it is a pretty clear case.

Q What are your recommendations?

A Number one, I am recommending that the paternal rights of the natural parents be terminated.

Q What was the basis of that recommendation?

A Well, in my opinion, that is a very strong degree of psychological attachment between the foster mother and the children, and based on the length of time that the children have been away from the natural parents and the fact that there has been infrequent visitation, along with the ages of the children, it is a pretty safe assumption to say that there is probably very little psychological attachment, if any, between the natural parents and the children.

Q O.K.

A The natural parents would constitute psychological strangers at this point and time.

Q In the --is the basis of your recommendation solely the lack of relationship between the natural parents and the children or is there also relating to the situation of--

A Well it also relates to the parental capacity

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of the natural parents, and I base my opinion here on case material, an abundance of case material, which indicates that the parents probably do not have the capacity to maintain the type of relationship with the children that is necessary to promote emotionally and good healthy emotions and psychological growth. There are reports from the Child Development Clinic which indicates that the children at one point were suffering from a developmental blank and also there is an abundance of material which would indicate that the children have had a very rough time all the while they were living with their natural parents. It is just not very supportive.

Q All right, do you have any hesitancy in making the recommendations about the parental rights be terminated by the parents?

MORRISON Your Honor, I object to the leading of the witness.

COURT Sustained.

Q What were your other recommendations?

A The second one was--

MORRISON Excuse me, Your Honor, it is understood for the sake of the record that I am not objecting to each one of these separately but I want to clear it with the Court that--

[55]

COURT Do you object to his testimony for the reasons stated, now I don't know what that would necessarily cover--

MORRISON No, the leading questions--

COURT Right.

MORRISON I have objected to some of them but for lack of foundation, I mean, if he hasn't seen them and been with them that much and their relationships, I mean, what he saw them--and I mean, what he has read, we object on the grounds that he does not have substantial basis to make the opinions that he has given in the case, and based on the fact that he has not observed them very much and he has not observed them with the children at all, so if there is any question to my standing objection to his conclusions and all, I want to make it clear to the Court now.

COURT All right, as I understand his testimony, he said, based on the history that he had, he can, without any further contact with Mr. and Mrs. Toombs, he can express an opinion.

A I understand his testimony and we take an exception to the ruling and--

COURT Well, I think that goes more to the weight of his opinion than it is to the admissability of the thing.

MORRISON It, I think, it goes to the weight of the opinion and it also goes to the admissability of it, the fact that--

COURT Well, you don't have to see somebody to evaluate them. Many people have never seen a person alive or the body, they read and give facts based on the information they receive.

A Yes, sir, I think that certainly people who have had training to base solely on other people's report as Mr. Turner has done, from the Department of Social Services and some of these other departments, the Department of Social Services are used to conduct investigations and they conduct the investigation entirely on our motion and that is where his training is,not in evaluating other people's investigations but evaluating and making his investigation himself and reporting it based on his own findings, not someone else's. We would state that there has been no showing that he is competent to testify based solely on other people's reports.

GARBEE Well, if Your Honor please, Mr. Turner made his investigation on the motion of Mr. Toombs and he has tried to obtain more information from Mr. Toombs and was unsuccessful there and he has stated in his testimony

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that he feels he has gotten enough information together that he can make a recommendation and he has made that recommendation to the Court as ordered and we feel that his testimony is certainly admissable for all purposes.

COURT Well, in as far as the recommendations are concerned, that goes into the ultimate issue, that is, for the Court to decide what to do in the case but I think he can--

Q Are you able in working with other persons, similarly trained who hold themselves out to be professionals in your field, be able to evaluate a situation and come to and express an opinion that would be recognized by other professionals based upon the same information you have had in this case? Do I make myself clear?

A Yes, sir. Your Honor, I think a person who has had--who is competent in doing child evaluations would arrive at the same conclusion that I arrived at.

COURT But for instance, given the amount of information you have had in the case, do you think that other reputable persons who came from the same profession as you would feel that they could make--

A Oh I would say so.

COURT--express a professional opinion based on that type

of information such as you have.

A Yes, it is important that I also spend time with the children in the presence of the foster mother. So I am not approaching this purely from the point of view that I am only reviewing case material but also from contacts with the children and their current foster parents. I do--I think that a person in my position would probably feel the same way and could and would feel like they could make some recommendations based on the same situation.

Q Could I just ask one question more?

COURT Sure.

MORRISON Along that line, Mr. Turner, isn't it your opinion on divorce cases that you will not testify concerning custody unless you have had a chance to observe both parents and their child?

GARBEE Your Honor, I object to that. That is leading and irrelevant.

COURT Well, I think that is proper examination. Go ahead.

A Yes, definitely and my reasoning for that is that in a divorce case, almost without exception the children have spent, the children have spent time with both parents. The family has been intact and there

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hasn't --or there usually hasn't been a long separation between the parents and the children or one parent and child and therefore, in a divorce situation, you have to see both parents, both parents with the children. In a situation where there has been a long separation, especially children of these ages, of the Toombs children, I think the reasearch and the opinion would be quite strong in favor of what results I have seen.

Q Your witness.

MORRISON

Q Mr. Turner, you mentioned the ages of the children being a relevant fact--

A Yes, sir.

Q --what did you mean by that?

A Well, the younger the children are, the less likely they are to maintain psychological attachment to their natural parents. Once they have been separated from their natural parents for a length of time. See, if these children were teenagers and were separated from their parents or taken away from their parents, they probably would still have some psychological attachments, but probably a good degree of it/because the children are young, they will form psychological attachments much

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quicker to adults than--and I think it is an important factor here. These children are quite--from my observations, are quite attached to their foster parents and vice versa.

Q Were you able to observe any pattern between the children and the natural parents?

A No, I was not and I, again, base my opinion on the length of time in which, in which it has been a separation from their natural parents and children--and also there is some case material which indicates that following certain visitations with the natural parents, the children seemed to be bothered--pretty disturbed and a very good indication of witness not very much psychological attachment between an adult and a child when you try to force visitation. The children frequently become disturbed at that point and will continue to manifest problem behaviors or some type of disturbing behavior for a period of time after their visitation and that is usually a pretty good indication that there is very little psychological attachment there. If there was good psychological attachment there, they would enjoy the time with the adults and they would come back and probably feel pretty good about having spent some time with the adults and they would be cloer to them.

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Q O.K. That is all the questions I have, thank you.

DAY

Q Mr. Turner, part of the report deals with, I think you call it, psychological parents, that is the relationship of the parents to the children and as you have already testified, a large portion of that is based on the separation that has taken place and the age of the children?

A Yes.

Q Is that correct?

A Yes, the length of time they have been separated and also the case material which indicates that the parents do not seem to have the capacity to maintain an involved relationship to provide emotional nurture to the children.

Q Since August of 1979 do you know whether or not the parents have visited the children?

A It is my understanding that there was a Court Order to the effect that there could be no visitation.

Q Do you know whether the Department of Social Services terminated this on their own or--

GARBEE I object to his answering the question based on his knowledge--

COURT He can't say--we know--

Q So in most situations where we have a termination from August to April, that is certainly going to affect the psychological attachment of young children and their parents, isn't it?

A I would think that it would have an effect, yes, sir.

Q And as I understand it, there is no question that the children are getting along well with their foster care, is there?

A There is not a question, as far as I could tell.

Q There is no--did they move them out of their home or--

A No, there were reports from the schools indicating that they are doing well, the report from the UVS Genetic Clinic stating that the children are doing well, all the signs are favorable that the children are doing well there.

Q Right. And it is also a question about the fact that you would feel a lot more comfortable with your report if you had had the opportunity to really observe these children with the parents, wouldn't you?

A I certainly wouldn't.

Q Well, let me ask you one thing. Were any appointments ever made for you to see the children with the parents?

A Yes, we made, the Department of Social Services was going to try to go over there and set this up. The foster parents were, I tried to work toward that and again I felt that Mr. Toombs was reluctant or just plain refueed to allow that to happen.

Q The first time you were out there was the week before this, is that correct?

A Yes.

Q You were actually out there, but, of course, the Order was entered last week, but the letter requesting that was mailed--

COURT The hearing was back in February, wasn't it?

A Yes, and I wrote you a letter or communicated with you on March 7 setting forth what the investigation would be and Mr. Toombs said that he was busy and had a lot of work to do this past week--

A And he indicated he did.

Q Right and you could account for a lot of friction between Mr. Toombs and the Department of Social Services, couldn't you?

A Yes.

Q You could see that?

A Yes.

Q And he was very distrustful of the Department of Social Services, wasn't he?

A That was my opinion--

Q Right.

A --and impression.

Q And part of the problem that you had with Mr. Toombs is based on the fact that he saw you drive out with Miss Hillman, isn't it? A part of the problem?

A I wouldn't say yes that that was my impression, but--

Q Oh, I thought he didn't answer the door one day?

A The second time.

Q And once when you arrived the first time with Ms. Hillman, there were problems from then on out, were there not--or his attitude toward you, wasn't it?

A Yes, definitely by association.

Q All right, O.K.

COURT All right, is that all? Thank you.

GARBEE:

Q Mr Turner, did Mr. Toombs either face to

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face or conversation with you or on the phone to request you or anybody else to be present when you saw the children?

A Could you ask that question again?

Q I will rephrase the question, maybe I am confusing you. Did Mr. or Mrs. Toombs ever request that you as the evaluator or anyone else see the children and him interact together? Did he ever ask you that opportunity?

A He didn't ask for that opportunity. He--because by that time--by the time I saw him, things had deteriorated to the point but he did answer during the course of the conversation, he did mention that I will come out there with the children. He did mention during the conversation, you know, that I was to come out there with the children to see them interact.

Q All right, in your opinion, how long--you spoke of separation and reaction and the reaction of the children, how they feel when you try to force visitation. What type of thing were you talking about here? Let's suppose we did set up a series of meetings between the two, what time frame are you talking about?

A In order to accomplish what?

Q In order to accomplish a situation that would not be as adverse reaction.

A Well, I don't know because the things that I would be opposed to as a professional to try to force visitation, to try to force the children to adults who are psychological strangers so--

Q All right, there is no question in your mind that the Toombs children and the Toombs are psychological strangers?

A I think so and I think it--I think there have been some errors in the way some things have been handled but at this point, other things notwithstanding, I think it would be against the interest of the children to try to force--to try to force that thing now.

Q Can you see that thing forced in the foreseeable future?

A No, I don't think they should be forced at this point.

Q At this point, I am saying, do you feel the children, at this point, are not in a position to know these two people as their parents?

A Right, yes, I do.

Q In other words, we are talking about at this point. It is your professional opinion that these two people will never be accepted by those children as their--

MORRISON Your Honor he is--I will have to object at this point. I think that is going a little bit far afield and he is asking for opinions and--

Q Your Honor, this was brought up on cross examination by Mr. Morrison. He went into the time frame and the--

COURT What is the basis of the objection?

MORRISON I think it calls for an opinion that he does not have the evidence to, and it calls for a conclusion, and he doesn't have the facts to base it on. You have to lay a foundation to give an opinion such as that, and he had the foundation and whether he made the testimony for the Department of Social Services or even had a problem with visitation. So the premise of his question is on enforcing visitation and there has been no evidence of forced visitation.

COURT Mr. Turner, I am at somewhat of a disadvantage because I ordered this report and I think we all assumed that he would reach certain materials--but it is impossible if we said that he could only rely upon what Mr. and Mrs. Toombs told him in forming an impression. I think we would be here--as Mr. Day said, we would never finish this case. We can't wait that long.

DAY Well, Your Honor, the Order also required

that all county--all community service agencies were to make their records available to Mr. Turner.

COURT If he is objecting to what he relied upon, that is one thing, of course, now that is hearsay. But if he is saying that he showed _____, I mean, I am having trouble getting to what he is complaining about and whether or not he should have relied on what he got.

MORRISON I just don't think there is any foundation laid with the visitations--had been forced and description in the records, all the evidence that has come out in this case and even the hearing that we had before about visitations. I don't think there is proper foundation--it hasn't been laid upon the assumption that these chidren don't want to see their parents and they have to be forced to do so. And before that foundation is laid, it is an opinion based on facts not in evidence.

COURT Well, you have to ask him what he bases his statement on in order to--and if you do not have sufficient facts to base your opinion on, then you should not express it. Whether or not in your professional opinion--

DAY

Q Mr. Turner, how many times did you see these children on a face-to-face interview or just being with them?

A One time.

Q One time?

A Yes.

Q Did you ever discuss Mr. and Mrs. Toombs with the children?

A No, I haven't. I did some other things which--

Q Did you see them in the presence of an adult?

A The foster mother.

Q Mrs. Chapman?

A Yes, Mrs. Chapman.

Q What was your opinion, your observation for the relationship, the interaction of the three children and their foster mother?

A There was a lot of interaction between the three children and the foster mother. It was a very affectionate type of interaction and I also asked the two oldest--the oldest child to draw some pictures of his family, to put it in his own words and he drew a house and five figures and after he had finished, I said, "Now can you tell me who these figures are," and he said, "This is my grandma and my granddad"and I said, "who is grandma"and and he pointed to Mrs. Chapman and I said, "who are the others?" and he identified them as himself and his brother and sister and I said, "Now that is

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your family?" and he said, "Yes, that is my family." And I said, "Where do you live?" and he said, "Right here in my house." This is my home here and this is my family."

Q All right, during the conversation thereafter, did they ever make any remarks about--say their parents or Mr. or Mrs. Toombs directly?

A No, I was curious about that and in an individual interview with Mrs. Chapman, I asked her if the children ever remarked about their natural parents and she said--

MORRISON I would object to that. It is hearsay.

Q Based on that interview, if you will, and if you would just quickly review what records have you reviewed, if any, in coming to your conclusion you set forth in your report.

A Well, as I said, there is an abundance of material, there are psychologicals from the Child Development Clinic. I reviewed those. There are reports from the UVA Genetic Clinic. I reviewed those. There are extensive case loads from the Department of Social Services and I reviewed those. There are social histories from the courts and I reviewed those. Letters from the Mental Health Clinic among other clinics in the state for exhibits.

Q In light of the material that you have read and in light of your conversations with other people, in light of your investigation and your being mature, were there any interactions that you saw as far as you were able to observe--what is your professional opinion?

MORRISON Well, ask him first, can he express an opinion.

Q All right, sir. Based on that information, can you express an opinion, a professional opinion?

A Yes, I feel that I can do so comfortably. I do think I can.

Q All right, what is your opinion?

A My opinion in terms of psychological attachments?

Q Yes, in terms of psychological attachments and in terms of, to use your phrase, "psychological strangers" with their family, is it possible for you, in your professional opinion, to state a time frame, if you will?

A As far as like that--

Q State a time that it is possible for it to take for the Toombs and these three children to be, to use your phrase, I guess, "psychological family."

A Yeah.

MORRISON Your Honor, I object to--

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Q Basically, I don't think the question is clear to you.

A I think I can. You are talking about--

Q O.K. I do think as far as the length of time it takes for parents and child to be psychological strangers, there is a lot of determination in that sort of thing. There are some general principales usually the younger the children are, the more apt the children--if the children are young and there is a separation and infrequent visitation, a psychological distance occurs much quicker. It occurs quickly. With older children, it occurs more gradually. I do think that children--you can't specify a certain time limit, for it takes--I do think that there has been sufficient time in this case to burn out a considerable psychological distance between the children and the natural parents. This doesn't mean that the parents do this so much. It is the children. You have to keep that in mind. The parents' attachments will persist but the children's can shift very quickly.

Q Can you express an opinion as to the effect it would have on the children, if, based on the investigation that you have done, what effect would the transferring or changing custody at this point?

A To the natural parents?

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Q To the natural parents?

A Well, it is pretty obvious. I think a competent person could predict that the children would probably--because these things have happened in the past and when there has been significant separation, the children would probably develop a number of physical problems, maybe bedwetting and social support, there would probably be a reduction in their ability to do well in school, there would be behavioral problems.

Q All right, in your review of the children's records, have you ever seen any of those instances?

A When there has been separations?

Q Yes.

A Yes, it has been docketed in some of the reports, yes.

Q All right, that is all.

A O.K., thank you.

LAWYER

Q Will you repeat what attempts you made to observe the children with Mr. and Mrs. Toombs?

A O.K. Well, number one, the social worker and I went there to make the initial visit and at that time I

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tried to set up a meeting with the Toombs and the children and I had great difficulty getting Mr. Toombs to agree on a definite time. He was very evasive and we couldn't agree on a time.

Q Were you able to come to an understanding of when you were going to--

A Yes, I said I would come out on the afternoon of the 7th or 8th and he said, "O.K. I might be here but I can't promise you."

Q Was that for a specific night?

A No, he wouldn't give me a definite day. He wouldn't give me a definite date. I said, "Well, how about Thursday or Friday," and he said, "O.K., I might be here and I might not." He was unsure what his schedule was.

Q Did you make any other attempts?

A Yes, I came up the following day accompanied by the social worker.

Q What time was that?

A It was approximately ten o'clock in the morning and we went up to the--

Q What day was this?

A It was on a Friday morning at ten o'clock on April 12.

Q All right.

A And we were unable to get a response. We knocked on the door and called.

Q All right.

A I came back on Saturday and talked with Mr. Toombs and I tried to set up an appointment on Saturday.

Q Were you successful?

A I talked with him at that time and he indicated that he no longer wished for this type of service and he said he wanted to find someone else to do the evaluation.

Q All right.

APRIL 25, 1980, 3 p.m.

Bailiff Opened court.

COURT All right.

GARBEE Mr. Turner said he was going to be here this morning to give an evaluation of the interaction between the parents and the children.

COURT All right.

A I don't think he is here yet but he is coming. She said he is here.

COURT All right.

CLERK Do you solemnly swear that the evidence you give the Court in the case now before the Court to be the truth, the whole truth and nothing but the truth, so help you God?

A I do.

GARBEE

Q You are John Turner?

A Yes, sir.

Q And you testified in this case on April 14, I believe, concerning William and Glenda Toombs, is that right?

A Yes, sir.

Q All right, at that time you had not had the opportunity to observe Mr. and Mrs. Toombs with the children, is that correct?

A Yes, sir.

Q All right, at that time you had not. Since that time, have you had an opportunity to observe them with the children?

A Yes, I have.

Q When did that observance take place?

A Tuesday afternoon, April 15.

MORRISON Excuse me, Your Honor, I do not recall having the witnesses in court and I can't recall at the prior hearing whether there was a motion to separate them. I don't have any problem with that but--

COURT O.K.

DAY I WOULD move that they be separated.

COURT All right, call your witnesses up and let them be sworn and separated.

CLERK Do you solemnly swear that the evidence you give the Court in the case now before the Court to be the truth, the whole truth and nothing but the truth, so help you God?

A I do.

COURT All right, proceed.

GARBEE

Q Mr. Turner, will you tell the judge under what

circumstances you were able to observe Mr. and Mrs. Toombs and the children?

A Yes, I picked the children up at Mrs. Chapman's and transported them to the trailer of the Toombs and observed the interaction and then transported the children back.

Q How long a time period did this take?

A The transportation process back and forth took about an hour and the actual visit took approximately thirty to forty minutes.

Q Now what were you able to observe in relationship between Mr. and Mrs. Toombs and the children?

A Of course, there are three children involved here and so there is some--

Q Did you talk individually with each child?

A O.K. in regard to the two younger children, they were more outgoing. Regarding Glenn Allen, the oldest, he--generally he did not exhibit a great degree of interest with his parents and it seemed like once the parents realized this, they responded similarly and seemed to throw out more energy and more interest into the two y ounger children, Carolyn and Thomas.

Q Will you explain it to me about whether or not appearances--if they were reacting or not reacting and their response to that?

A O.K. This is a subjective thing but I can do that. When we first walked into the trailer, Glenn sort of looked around and he interacted a little bit with his natural parents and then after that point though when the parents asked Glenn something and tried to get something going with him, he seemed to sort of ignore it. He didn't have much to say in response or he seemed to be preoccupied with something else. At one point, he began to draw a truck on a piece of paper and that was pretty much the stopping endeavor on his part. At some point his parents, especially Mr. Toombs, who made some comment about the picture and what he was drawing but Glenn did not seem to respond to them. In fact, he was pretty quiet during the transportation down there.

Q Will you explain what you meant by Mr. and Mrs. Toombs' reaction to their behavior?

A Yes, it is a sort of thing where if a youngster doesn't respond to you very much, after awhile you lose interest and then start directing that energy to the child who responded more to your gestures or to your overtures. It is just that simple.

Q All right, throughout the interview, was there more interaction between the parents and the other two children?

A Yes, Carolyn displayed the most interaction with her parents and that seemed to be basically because Carolyn is more outgoing, warm, agressive, and seemed to want attention more than the other children. They seemed to respond a certain way and a larger percentage of the time in interaction with Carolyn and there were problems in the interaction between the parents and the children.

Q And you say the children were with Mr. and Mrs. Toombs for thirty to forty minutes?

A Yes.

Q And did you observe anything remarkable in the relationship between the parents and the children or anything, say a pattern, etc.?

A Yes, if you--one time I observed a pattern of the mother was more of a marginal figure as far as being a responsible parent for the children. The father seemed to assume more responsibility for getting things for the kids or toward initiating interaction with the kids and seemed to be more--the responsible parent of the two. Another thing I observed--

Q Explain why you formed that conclusion about the parents and--

A Well, for awhile, for example, some of the

participation was going on, she sat in a chair in the living room and looked down at the floor like this, and didn't seem to have--didn't seem to want to interact with the children. Kind of like she was preoccupied with something else and the kids--not that she wasn't aware of what was going on, but she appeared to be aware of what was going on but not too concerned. She did not initiate a lot of interaction with the children.

Q Will you describe the trailer itself, especially in regard to the advisability or suitability of it, you know.

A O.K. The trailer is located in the Tanglewood Trailer Park and is on Route 29 south of Lynchburg and it is a two-bedroom trailer. I don't know how old it is but it looks like it had some age on it. It has two bedrooms, a living room, kitchen and they have a bath room and the bedrooms are quite small. There is not very much floor space which is not covered by the beds, and it was fairly clean and it was warm and it was a sort of a cold day and it was warm and my impression was that it would be sort of cramped situation for five children, for five people.

Q Did you discuss with Mr. and Mrs. Toombs exactly what the sleeping arrangements would be if the

children were returned to them?

A Yes, Mr. Toombs indicated that the parents would be sleeping in one bedroom and two of the children in the other and then the third child would sleep on the sofa in the living room.

Q All right, based upon the purview of the various cases and all the agencies in Lynchburg and Campbell County on February 14 and from your report and also from your observation of the children interacting with their parents, were you able to form an opinion concerning the advisability of returning the children to their natural parents at any time now or in the future?

A Yes, it is my opinion that the children should not be returned to the parents at this point and at any point in the future.

Q That is all I wanted to know. Thank you.

MORRISON

Q Mr. Turner, could you have been there as little as a half an hour?

A Sir?

Q Is it possible that you were there for as short a period as a half an hour?

A I would say approximately thirty to forty minutes.

Q About a half an hour?

A Not under a half an hour.

Q Now you mentioned in your report--it was pretty much subjective and you also, in this short period of time, were pretty superficial too?

A Well, in my opinion, not so superficial with training experience and with the training I have had, I can observe patterns in a short period of time.

Q Well, you are talking about the psychological make up of the parent-child and interrelationships, that is basically what we are talking about, is that right?

A Yes, sir.

Q And a psychologists would obviously have a lot of input in that sort of determination, wouldn't they not?

A It just depends. I think a child's evaluation calls for such a skill. Academic training and credentials may not prepare one to conduct such a child's evaluation.

Q But you use psychiatry and psychology in your agency, is that correct?

A Yes, we do.

Q That bed you were talking about, that sofa bed?

A Yes a sofa bed.

Q A sofa bed, thank you.

COURT All right, is that all?

[58]

DAY

Q Mr. Turner, did you prepare a report?

A Yes, sir, I did.

COURT May we have it?

A Yes, sir.

DAY I would like to admit it into evidence.

COURT Have you seen it?

MORRISON Let me see it.

COURT I just filed a copy of it with the papers in the case.

MORRISON We object on the basis that we did last time, insufficient evidence of--

COURT We have a copy of it in writing and it should be in the record. This testimony is the evidence in the trial and I think it is sufficient--

MORRISON I just don't want the record to--

COURT All right, thank you.

DAY May this witness be excused?

COURT Yes, sir.

COURT All right.

MORRISON I would like to call Katherine Viar to the stand.

Q Ms. Viar, you have previously testified in this case, have you not?

[89]

A Yes, sir.

Q I will ask you two questions.

Did you send me a letter dated April 15 concerning this particular matter?

A Yes, I did.

Q And in that letter, did you state that one visit with the Toombs family at the clinic would provide very limited data for you and it would only be a superficial observation of the family surroundings? Is that your opinion?

A Yes, sir.

Q All right, thank you.

COURT Mr. Garbee?

GARBEE I have a couple of questions.

Q Did you appear on April 14 when this case was heard before, and I believe at that time you were skeptical about seeing Mr. and Mrs. Toombs and the children, is that correct?

A Inaudible (no mike, apparently)

Q Did you see Mr. and Mrs. Toombs and the children since that time?

A Inaudible

Q Was it _____ for you to see Mr. and Mrs. Toombs and the children?

A Inaudible.

Q Do you know of any events that took place to help you form an opinion?

A Inaudible.

Q As far as you know, were the visits made to--

A Inaudible.

Q You are talking about yesterday?

A Inaudible.

Q And that is the first you have heard about it?

A That is right.

Q Thank you.

MORRISON Your Honor, I would like to call Mr. Glenn W. Deaner.

Q Mr. Deaner, will you state your full name for the Court?

A Glenn W. Deaner.

Q Where do you live, Mr. Deaner?

A 2009 Kingston Avenue, Lynchburg.

Q How long have you lived in Lynchburg?

A About 15 years.

Q And do you work here in Lynchburg?

A Yes, I did. I worked 37 years here in Lynchburg.

Q Where do you work?

A Craddock-Terry.

Q Thirty-seven years?

A Thirty-seven years.

Q Are you related to either one of the Toombs?

A She is my daughter.

Q Mrs. Toombs is your daughter?

A Yes, sir.

Q How well do you know these children?

A Well, I know them good.

Q There has been some evidence introduced to the Court about some psychological problems that your daughter has had over the years. How has she been doing for the last year or so?

A Well, I think--

GARBEE Your Honor, I object to Mr. Deaner testifying to Mrs. Tombs' psychological problems.

COURT I think that is a, you can ask how she has been doing.

GARBEE I don't think he knows about her physical or psychological problems.

COURT Well, I will take it as we go along.

GARBEE That just calls for an expert and I don't know how he can--

MORRISON

Q Have you observed any changes, I understand you are not a doctor.

A Oh, yeah, I think she is a whole lot better.

Q Why do you say that?

A Because I have been looking at her and checking on her.

Q How does she feel about her children?

A She feels like she ought to have them back.

Q Does it bother her?

A Sure it bothers her.

Q How about Mr. Toombs?

A He is all right, he don't go to work and keep a job like he ought to.

Q Has he been better on the job?

Has he been working better for the last year or so?

A A whole lot better.

Q How about the place where they live? Have they been staying in one spot recently?

A Yes, sir.

Q Tell us about what you have observed. Do you have a hard time hearing?

A No, I can't hear too good.

Q Tell the Court if you will please about how the parents, the Toombs, how they do with the children. What have you observed?

A Well, I think they do all right if he would keep his job like he is supposed to and work and every thing and take care of them. They are able to do.

Q Have you seen how the children act toward them?

A They act real good, they love them.

Q Have you seen them mistreat any of them?

A No, sir, no, sir.

Q Have you ever seen them not feed the children?

A No, sir.

Q I don't have anything further, Your Honor.

COURT All right.

GARBEE

Q How many times have you seen Mr. Toombs with the children during the past year?

A All I can say is about six or seven times, something like that.

Q When was the last time you saw them together?

A It must have been about Easter.

Q When?

A Easter when we had the birthday party.

Q This past Easter?

A Yes, sir.

Q And you said Mr. Toombs was all right as long as he kept a job?

A Right.

Q He has had some problems with his job during the past year, hasn't he?

A WELL, if he would go on and keep one job, he would be a whole lot better off. He keeps changing jobs.

Q All right, when was the last time he changed jobs, do you know?

A Well, I am not sure but he changes too often.

Q Has he changed during the past six months?

A I think he has, yes.

Q Do you know where he is working now?

A He was laying brick but I am not sure that was within the last two weeks.

Q And had he been out of work before that?

A Yes and he cuts grass and, you know, I don't know, he has done all kinds of work. He has worked at the stock market.

Q When was that?

A That has been about a month ago. The stock market. He works out there when they--I don't think that he worked out there but two or three days a week though.

Q Was that the only job he had at the time?

A At the time, yeah.

Q All right, what did he do before that time?

A Well, like I said, he worked laying brick for awhile.

Q Do you know when he stopped doing that?

A I don't know.

Q Do you know when he stopped laying bricks?

A I think it was about two months ago.

Q O.K. thank you. That is all the questions I hav e.

DAY

Q Mr. Deaner, how long has your daughter had these problems?

A What do you mean mental problems?

Q Yes, sir.

A Well, she has had them 14 years.

Q Has them all the time?

A Yeah.

Q Does she come and go, get better and--

A Yeah. She used to but she is doing a whole lot better now since she is stying off that medicine they had been giving her. They have been giving her too high powered medicine.

Q All right, how old is--

A Sixty-two.

Q Sixty-two?

A Yes.

Q Have you ev er kept the children?

A Oh, yes.

Q You have? When?

A I kept them a couple of years ago.

Q Do you love the children?

A Oh, yes.

Q That is all I have.

MORRISON

Q Let me get this straight. Do you know how many months ago did you say you saw these children?

A I say I saw them Easter.

Q How many months was that ago?

A Well, you know when Easter was, don't you?

Q This past Easter?

A Yes.

Q Where was that?

A We went down there and took some _____down there.

Q Did you say this was at a birthday party? Did you say something about a party?

A We just took some _____down there.

Q All right, thank you.

That is all I have, Your Honor.

COURT All right, thank you, Mr. Deaner.

MORRISON Mr. Sam Burns

Q All right, would you state your name please?

A Mr. Sam Burns.

Q Where do you live, Mr. Burns?

A 1911 Second Street, Lynchburg.

Q And where do you work?

A Country Roads.

Q And how long have you worked there?

A I worked there for six years and quit a year and came back to Lynchburg and quit and come back again.

Q How long have you known the Toombs?

A Before he and his wife got married.

Q Do you know their three children?

A Oh, yes, sure.

Q How many times--how do you happen to know them? When did you see them together?

A Well, I saw them when they were first born and I have come down and carried them places and spent the week end with them.

Q You said you have given them transportation to go down and pick the children up?

A Oh, yes.

Q How did the visits go?

A What?

Q How did the visits go between them and the children go?

A It went just fine.

Q How did the children act toward them?

A They just loved it, I know that.

Q How do you know? What did you see?

A Well, when I carried them back where they were staying, they cried when they had to get out of the car, I know that.

Q They didn't want to leave them?

A That is the truth.

Q And how long has it been since the last visit?

A I believe it was the birthday party, I don't know.

Q How long ago was that?

A I think it was in August.

Q August of last year?

A I think so.

Q O.K. tell the Court what happened during that visit.

A Well, we went down to the mothers and had lunch and attended the birthday party and took them by the store when we carried them back and got them candy, cake and drink or whatever they wanted.

Q The children seemed to be happy, did they?

A Sure they were happy.

Q How do Mr. and Mrs. Toombs feel about the children?

A They love them as far as I know.

Q Well, what makes you think they love them?

A Well, they seemed to every time I have been around them.

Q I have no further questions, thank you.

COURT All right.

GARBEE

Q How many times have you seen Mr. and Mrs. Toombs and the children during the past year?

A Well, I used to carry them up about every week end.

Q I am talking about the past year.

A This year?

A Since May of last year.

A In 1980?

Q Well, since May of 1979.

A Just about every week end, I think but one or two.

Q How many is that?

A I can't count.

Q Could you give a rough estimate?

A Well, --

Q Since August of 1979, how many week ends have you seen the children and the parents together?

A Since the birthday party, I think once or twice.

Q O.K. that is all I have.

DAY

Q Mr. Burns, do you ever--

A My children call--

Q What do they call them?

A Glenn Allen, Thomas Lee and Carolyn Ann.

Q When you see them together, does Mrs. Toombs usually just sit around and--

A No, not all the time.

Q Not all the time?

A No, both of them work together when they have them to take care of them.

Q They do?

A Yes, they do.

Q Thank you, that is all I have.

COURT Next witness.

MORRISON Mrs. Cox please. Josephine Cox.

Q State your name for the record please.

A Josephine Cox.

Q How old are you?

A Twenty two.

Q And where do you live, Mrs. Cox?

A Lot 37, Tanglewood Trailer Park, Rustburg.

Q How long have you lived there?

A It will be a year in July.

Q How long have you known the Toombs?

A Almost a year.

Q What sort of people do they appear to be?

A Nice people. I like them a whole lot.

Q How close do you live from where they live?

A I live across the road in a trailer.

Q Have you had a conversation with either Mr. or Mrs. Toombs about possibly doing some baby sitting for the children if they are allowed to go back to the Toombs?

A Yes, sir.

Q Could you do that for them?

A Yes, sir.

Q Now have you ever seen the Toombs and their children together?

A Yes, sir.

Q And how did they act when they were together?

A Well, they love the kids and the kids love them back. They love the children and the children do love them and when they get ready to leave, they don't want to leave.

Q Have you ever seen the Toombs do anything in any way to them?

A No, sir.

Q All right, thank you.

Q Are you married?

A Divorced.

Q Do you work?

A No, sir.

Q How many times have you seen Mr. and Mrs. Toombs with the children since last summer?

A Once or twice.

Q When was that?

A I think that was the day that--

Q Roughly.

A About two months ago.

Q Where do they go to see the children?

A I don't know.

Q WELL, did you see them when they went to see the children?

A No, I didn't.

Q I am talking about when you saw the children and the Toombs together when was the last time you saw them together?

A It was this month or last month.

Q O.K. That is all the questions I have.

All right, that is all I have.

[104]

DAY

Q Have you ever baby sat these children before?

A No, sir.

Q Have you ever been around them?

A Yes, sir.

Q You have? How are the children? Are they excited and act like any children their age?

A Uh, huh.

Q Thank you.

COURT Thank you.

A Uh, huh.

MORRISON Mr. Toombs.

CLERK Do you solemnly to tell the truth, the whole truth and nothing but the truth, so help you God?

A I do.

Q Will you state your full name for the Court please?

A William Allen Toombs.

Q And you are the father of the children in question, is that correct?

A Yes, that is right.

Q Could you tell the Court briefly about how you feel about the children?

Q Well, I love my children and am going to aim to take care of them the best I can.

Q Where have you been living for the past year?

A Lot 40, Tanglewood Trailer Court.

Q Have you been at that place for a year?

A Close to it, one year and eight months.

Q Tell us about the trailer?

A I keep it pretty clean, I think.

Q Now up until August of 1979, had you seen the children pretty regularly?

A All is said and done, I have.

Q You saw them regularly?

A No, I can't say that because sometimes I have made arrangements to go and something happened and I couldn't get there until it would be too late for me to call anybody and I don't call.

Q But how often do you go a month?

A Well, I expect we go two times and maybe some months only once.

Q Only once sometimes?

A Yes.

Q You see them sometimes once and sometimes twice?

A Yeah.

Q How do you do with the children?

A I think we do fine if they will let us take them back. They was all right until we got to the house to take them up there but when we got to the house there the little girl, Carolyn, John took us back and I took them in the house, the two little boys and the little girl was in the back seat crying, so I had to go back out there and get her and bring her in.

Q How is your wife doing now? She has had some problems, hasn't she?

A Yes, sir, they have been giving her too much medicine and they come back in 25 minutes and she took too much medicine and she wanted to sleep all the time.

Q If your children are returned to you, could you find a baby sitter?

A Yes, sir.

Q All right, tell us how you feel about the children.

A I love them. I am crazy about them and I want them back.

Q And you will do whatever is necessary to get them back?

A Yes, sir.

Q Will you go to see a psychiatrist?

A I said I would and the woman said I wouldn't go but I called last week and every time I called, she

was not in and I finally got them Tuesday, I believe it was.

Q You called when?

A I called week before last, I show did.

Q Have you encouraged your wife to go to the doctor when the doctor told her to come in?

A Well, I don't have no way to carry her to the doctor.

Q If she would not go, you would try to help and encourage her to go, wouldn't you?

A Yes, but I do, and I gav e her some money but I have to work.

Q Has there ever been a problem with trying to take her for--

A Yes, I don't have no phone and I have to stay up there for one half hour trying to get the line.

Q That causes you some problems?

A A whole lot of problems. I mean sometimes I try to get to the phone booth and the line is busy and you never get to use it, somebody else is there trying to use it and you have to stand there and wait and all.

Q So you have a problem calling your lawyer and doctor and it is a difficult problem sometimes, is it?

A Yes, like I say, most of the times you call and can't get them and you have to stand up there until you can get it and that phone up there at the store just stays busy.

Q How did you feel when your visitation rights were terminated?

A I didn't like it.

Q You didn't like it?

A No, sir, I show didn't. I didn't think it was right.

Q What did you do the other day when--

A Well, I just represented myself, and I didn't have an attorney and I can represent myself and I still can.

Q O.K. I have no further questions.

GARBEE

Q Mr. Toombs, you have been offered appointments and you have been referred by different people, including the judge of the J&D Court, Judge Wingo, and Mr. Morrison and various people to see a psychiatrist, is that true?

A I don't think Judge Wingo said nothing about it. I was by Judge Moon which I have--

Q You don't remember Judge Wingo?

A Yes, sir, I know Judge Wingo, and I remember him saying it myself.

Q O.K but this has been going on since last October or November, hasn't it?

A No, sir, no, sir. (Inaudible)

Q I am sorry, I didn't hear what you said.

A No, sir, it hasn't been going on since last October or November.

Q You don't remember that Judge Wingo advised you and your attorney to see somebody?

A Back in October or November, I wasn't, no.

Q O..K. You said you gav e Mrs. Toombs some money to go to see the doctor but you were working--

A Yes, that is what I said.

Q O.K. are you working now?

A No, sir.

Q You are not hauling--

A There is nothing to do this week and I aint done nothing since back there in November or December. I helped with some tobacco for Roy Whitten and I got sick. He turned me off and he told me when business picked back up he would hire me back and the boy next door told me to come over there this week. This guy who lives above

me there, he said he has some work over here for a lawyer somewhere and he asked me to help him.

Q What have you and Mrs. Toombs been living off of since the first of the year since you have been out of work?

A Well, we have been living off of what income she could make out of food stamps when the weather was bad.

Q Now you haven't paid any support for your children since they have been in foster care in December of 1976, have you?

A No, I haven't paid any support but I have bought clothes and Christmas stuff and all that for them.

Q That is all the questions that I have.

DAY

Q Mr. Toombs, do you think, do you want your children to have an education and try to get ahead in life?

A I want them to have a better one than I had, yes, sir.

Q But do you think that there are some other people who might be better able to give them that?

A No, sir, I do not.

Q Thank you, that is all.

[111]

MORRISON

Q Come on down there and have a seat. Do you think you can take the stand?

A I will try.

Q You just take your time now or you can sit right there if you want to. Had you rather sit right here or would you like to go up there?

A I will go up there.

Q O.K. just take your time, we are not going to hurt you.

CLERK Do you solemnly swear that the evidence you give the Court in the case now before the Court to be the truth, the whole truth and nothing but the truth so help you God?

A I do.

MORRISON

Q Now Mrs. Toombs, I know you are a little bit nervous but speak up so we can hear you.

Q You do love your children, isn't that correct?

A Yes, I do.

Q How do you feel about them?

A I love my children a lot.

Q Have you been going to the doctor regularly when they have asked you to go?

A I try to go to the doctor when they want me to.

Q Are you feeling any better now since going--

A Yes, I feel some better now.

Q Do you think you are going to continue to get better?

A I hope so.

Q You are going to try?

A Yeah.

Q All right.

GARBEE No questions.

COURT All right, thank you, Mrs. Toombs.

O.K. Is that all of the evidence?

MORRISON We rest, Your Honor.

COURT All right.

[113]

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG

COMMONWEALTH OF VIRGINIA	)	
	)	
IN RE: GLENN ALLEN TOOMBS	)	O R D E R
	)	

This day came the Lynchburg Division of Social Services, by counsel, which has petitioned the Court for the permanent separation of GLENN ALLEN TOOMBS from his parents and placement of said child with the Lynchburg Division of Social Services for the purpose of Adoption;

And it appearing to the Court as follows:

That the name of said child is GLENN ALLEN TOOMBS, and that he was born on August 13, 1973.

That the mother of said child is Glenda Carol Deaner Toombs;

That the father of said child is William Allen Toombs;

That the said mother, Glenda Carol Deaner Toombs and the said father, William Allen Toombs, Frank W. Morrison, attorney for the said Glenda Carol Deaner Toombs and William Allen Toombs, and Sherwood S. Day, guardian ad litem for the said GLENN ALLEN TOOMBS, are present in Court;

That the said GLENN ALLEN TOOMBS is in Court by reason of coming within the purview of the law within the meaning of Title 16.1, Chapter 11, of the Code of Virginia, (1950), as amended;

That the evidence presented is clear and convincing and it is in the best interests of GLENN ALLEN TOOMBS that the residual parental rights of his parents be terminated and that said parents,

without good cause, have been unwilling or unable within a reasonable period to remedy substantially the conditions which led to the child's foster care placement, notwithstanding the reasonable and appropriate efforts of social, medical, and mental health or other rehabilitative agencies to such end.

UPON CONSIDERATION WHEREOF, the Court, having heard the evidence upon said Petition and being of the opinion that the said GLENN ALLEN TOOMBS comes within the jurisdiction of the law as embraced in Title 16.1, Chapter 11 of the Code of Virginia (1950) as amended, doth so adjudicate and doth ORDER that the said GLENN ALLEN TOOMBS be committed, and doth hereby commit him to the care and custody of the Lynchburg Division of Social Services; and

It further appearing to the Court from the evidence and from proper studies heretofore made and filed herein that it is for the said GLENN ALLEN TOOMBS best interests, and that of the state, that said child be separated permanently from his parents, the said Glenda Carol Deaner Toombs and William Allen Toombs, and that all residual parental rights of said parents be terminated, it is so ORDERED; and the said Lynchburg Division of Social Services shall be free to place said child for adoption and consent thereto and make such permanent plans for said child as may otherwise be within the scope of their authority.

It is further ordered that Frank West Morrison be awarded the sum of $100.00 for his fee in representing the parents of said child herein, that Sherwood S. Day be awarded the sum of $100.00

for his fee as guardian ad litem herein, and that John Turner be awarded the sum of $125.00 as his fee for conducting an independent investigation in this cause.

Finally, the request of the parents of said child that the Court appoint an attorney to perfect an appeal of the Court's that should they wish to perfect such an appeal, that they immediately attempt to hire an attorney should they have the resources to do so, and should they not be able to hire an attorney to contact immediately the Virginia Legal Aid Society, Inc.

ENTER: 6/6/80

Norman K. Moon
JUDGE

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VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG

COMMONWEALTH OF VIRGINIA	)	
	)	
IN RE: CAROLYN ANN TOOMBS	)	O R D E R
	)	

This day came the Lynchburg Division of Social Services, by counsel, which has petitioned the Court for the permanent separation of CAROLYN ANN TOOMBS from her parents and placement of said child with the Lynchburg Division of Social Services for the purpose of Adoption;

And it appearing to the Court as follows:

That the name of said child is CAROLYN ANN TOOMBS, and that she was born on December 14, 1974.

That the mother of said child is Glenda Carol Deaner Toombs;

That the father of said child is William Allen Toombs;

That the said mother, Glenda Carol Deaner Toombs and the said father, William Allen Toombs, Frank W. Morrison, attorney for the said Glenda Carol Deaner Toombs and William Allen Toombs, and Sherwood S. Day, guardian ad litem for the said CAROLYN ANN TOOMBS, are present in Court;

That the said CAROLYN ANN TOOMBS is in Court by reason of coming within the purview of the law within the meaning of Title 16.1, Chapter 11, of the Code of Virginia, (1950), as amended;

That the evidence presented is clear and convincing and it is in the best interests of CAROLYN ANN TOOMBS that the residual parental rights of her parents be terminated and that said parents, without good cause, have been unwilling or unable within a reasonable

appropriate efforts of social, medical, and mental health or other rehabilitative agencies to such end.

UPON CONSIDERATION WHEREOF, the Court, having heard the evidence upon said Petition and being of the opinion that the said CAROLYN ANN TOOMBS comes within the jurisdiction of the law as embraced in Title 16.1, Chapter 11 of the Code of Virginia (1950) as amended, doth so adjudicate and doth ORDER that the said CAROLYN ANN TOOMBS be committed, and doth hereby commit him to the care and custody of the Lynchburg Division of Social Services; and

It further appearing to the Court from the evidence and from proper studies heretofore made and filed herein that it is for the said CAROLYN ANN TOOMBS best interests, and that of the state, that said child be separated permanently from his parents, the said Glenda Carol Deaner Toombs and William Allen Toombs, and that all residual parental rights of said parents be terminated, it is so ORDERED; and the said Lynchburg Division of Social Services shall be free to place said child for adoption and consent thereto and make such permanent plans for said child as may otherwise be within the scope of their authority.

It is further ordered that Frank West Morrison be awarded the sum of $100.00 for his fee in representing the parents of said child herein, that Sherwood S. Day be awarded the sum of $100.00 for his fee as guardian ad litem herein, and that John Turner be awarded the sum of $125.00 as his fee for conducting an independent investigation in this cause.

Finally, the request of the parents of said child that the Court appoint an attorney to perfect an appeal of the Court's decision to the Virginia Supreme Court, is hereby denied, and Frank West Morrison is relieved of any further responsibility to represent them in this matter, and the said parents are advised that should they wish to perfect such an appeal, that they [illegible] to contact immediately the Virginia Legal Aid Society, Inc.

ENTER: 6/6/80

Norman D. Moore
JUDGE

Copy. J.O.B. 1 page 67

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG

COMMONWEALTH OF VIRGINIA	)	
	)	
IN RE: THOMAS LEE TOOMBS	)	O R D E R
	)	

This day came the Lynchburg Division of Social Services, by counsel, which has petitioned the Court for the permanent separation of THOMAS LEE TOOMBS from his parents and placement of said child with the Lynchburg Division of Social Services for the purpose of Adoption;

And it appearing to the Court as follows:

That the name of said child is THOMAS LEE TOOMBS, and that he was born on June 18, 1976.

That the mother of said child is Glenda Carol Deaner Toombs;

That the father of said child is William Allen Toombs;

That the said mother, Glenda Carol Deaner Toombs and the said father, William Allen Toombs, Frank W. Morrison, attorney for the said Glenda Carol Deaner Toombs and William Allen Toombs, and Sherwood S. Day, guardian ad litem for the said THOMAS LEE TOOMBS, are present in Court;

That the said THOMAS LEE TOOMBS is in Court by reason of coming within the purview of the law within the meaning of Title 16.1, Chapter 11, of the Code of Virginia, (1950), as amended;

That the evidence presented is clear and convincing and it is in the best interests of THOMAS LEE TOOMBS that the residual parental rights of his parents be terminated and that said parents, without good cause, have been unwilling or unable within a reasonable

eriod to remedy substantially the conditions which led to the child's foster care placement, notwithstanding the reasonable and opropriate efforts of social, medical, and mental health or other ehabilitative agencies to such end.

UPON CONSIDERATION WHEREOF, the Court, having heard the evidence pon said Petition and being of the opinion that the said THOMAS LEE TOOMBS comes within the jurisdiction of the law as embraced in itle 16.1, Chapter 11 of the Code of Virginia (1950) as amended, oth so adjudicate and doth ORDER that the said THOMAS LEE TOOMBS be committed, and doth hereby commit him to the care and custody of the Lynchburg Division of Social Services; and

It further appearing to the Court from the evidence and from proper studies heretofore made and filed herein that it is for the said THOMAS LEE TOOMBS' best interests, and that of the state, that said child be separated permanently from his parents, the said Glenda Carol Deaner Toombs and William Allen Toombs, and that all residual parental rights of said parents be terminated, it is so ORDERED; and the said Lynchburg Division of Social Services shall be free to place said child for adoption and consent thereto and make such permanent plans for said child as may otherwise be within the scope of their authority.

It is further ordered that Frank West Morrison be awarded the sum of $100.00 for his fee in representing the parents of said child herein, that Sherwood S. Day be awarded the sum of $100.00 for his fee as guardian ad litem herein, and that John Turner be awarded the sum of $125.00 as his fee for conducting an independent investigation in this cause.

Finally, the request of the parents of said child that the Court appoint an attorney to perfect an appeal of the Court's decision to the Virginia Supreme Court, is hereby denied, and Frank West Morrison is relieved of any further responsibility to represent them in this matter, and the said parents are advised that should they wish to perfect such an appeal, that they immediately attempt to hire an attorney should they have the resources to do so, and should they not be able to hire an attorney to contact immediately the Virginia Legal Aid Society, Inc.

ENTER: 6/6/80

JUDGE

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ASSIGNMENTS OF ERROR

(1) The actions of the Court in denying the appellants' motion for reasonable visitation rights and in terminating the appellants' parental rights after they had been deprived of reasonable visitation. (Order of April 8, 1980; Transcript pp. 49, 89, 115.)

(2) The action of the Court in terminating the appellants' parental rights solely upon evidence that the appellants, despite their sincere and conscientious efforts to remedy the conditions leading to the placement of the children in foster care, had been unable to do so.

(3) The action of the Court in terminating the appellants' parental rights without clear and convincing evidence that the appellants, without good cause, had been unwilling or unable within a reasonable period to remedy substantially the conditions which led to the children's foster care placements, notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such end.