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IN THE

SUPREME COURT OF VIRGINIA

AT RICHMOND

RECORD NO. 802063

KAREN LACKS DURRETTE,

Appellant,

v.

GORDON E. DURRETTE,

Appellee.

APPENDIX

William F. Burnside
P.O. Box 1062
Virginia Beach, Virginia 23451
Counsel for Appellant

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2068

VIRGINIA:

IN THE GENERAL DISTRICT COURT OF SPOTSYLVANIA COUNTY

GORDON E. DURRETT,
Petitioner

v.

KAREN LACKS DURRETT,
Defendant

PETITION

TO THE HONORABLE WILLIAM J. COX, JUDGE:

Your petitioner, Gordon E. Durrett, represents unto the Court as follows:

1. That he is married to the defendant, Karen Lacks Durrett, and the parties last lived together in Spotsylvania County, Virginia, where your petitioner now resides with his two children; namely, Michael Elliott Durrett and Christopher Gordon Durrett, twins born on October 2, 1976; and,

2. That the defendant, Karen Lacks Durrett, recently left the parties' home, taking the parties' children with her, but at petitioner's insistence returned them to the home where they are now living with him; and,

3. That your petitioner believes that he is well qualified to have the custody of the said children and is better qualified than the defendant.

WHEREFORE, your petitioner requests that he be allowed to file his petition and that an Order both temporary and permanent be entered granting him custody of the said two children, and that he may have such other relief as the Court may deem advisable.

GORDON E. DURRETT

By _____
of counsel

RAWLINGS & PRUITT
ATTORNEYS AND COUNSELORS AT LAW
FREDERICKSBURG VIRGINIA

RAWLINGS & PRUITT
405 Amelia Street
Fredericksburg, Virginia 22401

Mr. Burnside

15TH DISTRICT CIRCUIT COURT

CUSTODY INVESTIGATION UP-DATE

| | | | |
|---|---|---|---|
| NAME: | Michael Elliott Durrette<br>Christopher Gordon Durrette | FATHER: | Gordon Elliott Durrette |
| AGE: | 3 RACE: White SEX: Male | DOB: | 8/18/51 |
| DOB: | 10/2/76 | ADDRESS: | 306 Beechnut Drive<br>Fredericksburg, Va. 22401 |
| ADDRESS: | c/o Gordon E. Durrette<br>306 Beechnut Drive<br>Fredericksburg, Virginia 22401 | MOTHER: | Karen Lacks Durrette |
| | | DOB: | 7/06/52 |
| | | ADDRESS: | Rt. 2, Box 509<br>Spotsylvania, Va. 22553 |
| PETITIONER: | Karen L. Durrette | | |
| RELATIONSHIP TO CHILDREN: | Mother | CONTESTED | |

SOCIAL WORKER: Brenda L. Perry

DATE: July 1, 1980

I. PRESENT SITUATION

The original petition for custody of Michael and Christopher Durrette was filed by Gordon E. Durrette in the Spotsylvania Juvenile and Domestic Relations Court . The case was heard on February 26, 1980, and Mr. Durrette was granted custody of his two children. Mrs. Durrette appealed this decision, and wishes to obtain custody of the children.

II. PREVIOUS AGENCY CONTACT

The Spotsylvania Department of Social Services conducted a custody investigation of both Mr. and Mrs. Durrette, submitted a report to Juvenile and Domestic Relations Court on February 20, 1980. Please refer to this report for background information on both the parents and the children.

III. FATHER

Mr. Durrette's situation has remained the same within the last six months, and he continues to desire custody of both children. Both boys are residing with him at his residence in Spotsylvania County, and day-care is provided by Mrs. Emily Minter, who comes to the Durrette home at 6:45 AM. Mr. Durrette's mother, Garnette Durrette, takes care of the twins from 4:00 until the father gets home at approximately 6:00. According to Mrs. Durrette, this arrangement has worked out very well, and the boys seem very happy in the home with him.

Mr. Durrette feels strongly that the boys should remain in his custody, and feels that his life is more stable and suitable for the boys at this time. He exhibited some doubts about his wife's social life, and stated that he worries about the children when they are visiting with her. Mrs. Durrette's visitation with the

boys begins Sunday mornings, and she returns the boys on Tuesday morning. Mr. Durrette stated that there have been no problems with this visitation arrangement.

IV. MOTHER

Karen Lacks Durrette has recently relocated to a mobile home in Spotsylvania County. She has lived there approximately three months and the worker recently made a visit to this home. The home contains three bedrooms, a living room, kitchen, one and a half baths, and is well furnished and neat. Mrs. Durrette rents the home for $160 a month, and has an electricity bill of approximately $40 a month. The trailer is heated with oil heat. Mrs. Durrette has a bedroom nicely furnished with twin beds for the two boys, and the visitation has been going smoothly. The worker was able to observe both boys in the home with Mrs. Durrette, and they seemed very healthy and well adjusted to the situation. Mrs. Durrette also stated to the worker that the visitation has gone very well.

Mrs. Durrette told the worker that she feels strongly that the boys should be in her custody, as she believes that children their age should be with their mother. She feels she can provide a stable environment for the boys, and is anxious to have them in the home with her.

V. MICHAEL ELLIOTT AND CHRISTOPHER GORDON DURRETTE

The Durrette twins are still in very good health, and have had no recent developmental or physical problems. They both seem to have adjusted well to the separation of their parents and appear to enjoy being in both homes.

VI. EVALUATION

The homes of both Mr. and Mrs. Durrette are quite suitable for the care of these children. From the worker's observation, each seems to be a loving and concerned parent, and each would be able to provide for the children's needs. Both parents have stated to the worker that there seems to be no plans for a reconciliation in the future, and both are concerned that the twins not be affected any more than necessary by the separation.

From the few contacts that worker has had with both parents, it is impossible to make a recommendation as to the most suitable home for the boys. It is hoped that the parents can work out an arrangement for the boys to spend as much time as possible with both parents, and that custody can be shared equally through liberal visitation.

Respectfully submitted,

Brenda L. Perry

Brenda L. Perry
Social Worker

Diane H. Kash

Diane H. Kash
Social Work Supervisor

BLP/bkw

VIRGINIA:

IN THE CIRCUIT COURT OF SPOTSYLVANIA COUNTY

GORDON E. DURRETTE,
Petitioner

v.

KAREN LACKS DURRETTE,
Defendant

ORDER

This cause came on to be heard on appeal from an order of the Spotsylvania Juvenile and Domestic Relations Court dated February 26, 1980; upon evidence taken ore tenus on behalf of the petitioner and defendant on July 2, 1980; and was argued by counsel for both parties through Memoranda submitted to the Court.

And the Court being of the opinion that the custody of the parties' two infant children should be awarded to the petitioner, Gordon E. Durrette, for reasons set forth in the Court's letter of August 19, 1980, it is accordingly ADJUDGED, ORDERED and DECREED that the custody of the parties' said two infant children; namely, Michael Elliott Durrette and Christopher Gordon Durrette, be and the same hereby awarded to the petitioner Gordon E. Durrette, with the right of visitation to defenant, Karen Lacks Durrette, as set forth in the Order of the Spotsylvania County Juvenile and Domentic Relations Court dated February 26, 1980, to which ruling of this Court the defendant by her counsel objects and notes her exception for reasons given in her attorney's Memorandum.

And it is further ADJUDGED, ORDERED and DECREED that this matter be referred to the Spotsylvania Juvenile and Domestic Relations Court for supervision and alteration of custody and visitation rights as that Court may deem advisable.

HAWLINGS & PRUITT
ATTORNEYS AND
COUNSELORS AT LAW
FREDERICKSBURG
VIRGINIA

And nothing further remaining to be done in this matter, it is ORDERED that the same be stricken from the docket of this Court and the papers filed among the causes ended.

Enter: _____ Judge

Date: 9/29/80

We ask for this Decree as to custody and visitation rights but object to and note petitioner's exception to the holding of the Court in the letter opinion that "other things are equal":

RAWLINGS & PRUITT

By _____
George C. Rawlings, Jr.

Seen, objected to and exceptions noted:

_____
William F. Burnside

RECORDED IN LAW ORDER
BOOK X PAGE 133

RAWLINGS & PRUITT
ATTORNEYS AND
COUNSELORS AT LAW
FREDERICKSBURG
VIRGINIA

White case child was 6
Burnside child was 7

Brooks age 3
child born 1
Teche age

# Commonwealth of Virginia

FIFTEENTH JUDICIAL CIRCUIT

Fundern age 7 and 5


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COUNTIES OF
NORTHUMBERLAND
WESTMORELAND
SPOTSYLVANIA
KING GEORGE
LANCASTER
CAROLINE
STAFFORD
RICHMOND
HANOVER
ESSEX
CITY OF FREDERICKSBURG

August 19, 1980

promulgated

George C. Rawlings, Jr., Esquire
Rawlings & Pruitt
405 Amelia Street
Fredericksburg, Virginia 22401

William F. Burnside, Esquire
P. O. Box 1062
Virginia Beach, Virginia 23451

Re: Gordon E. Durrett vs. Karen Lacks Durrett - Circuit Court, Spotsylvania County

Gentlemen:

The question in this case concerns the custody of twin boys born October 2, 1976. The matter was heard on July 2, 1980, at which time many witnesses for both sides appeared and testified. Memoranda of argument have been submitted by both counsel.

The Court is of the opinion that the twins are in good health and have no developmental or physical problems; that both parents are fit; that both homes are quite suitable for the care of the children; and that "other things" are equal. The Court, however, is of the opinion that the four year old twin boys are not necessarily children of "tender years" as defined in the Mullen case and as further defined in subsequent opinions. Therefore, the Court finds that the best interest of the children is for the custody to be awarded to the father with liberal visitation to the mother so that the twins can

spend as much time with each as possible. Therefore, the order of Judge Cox of February 26, 1980, will be confirmed and the matter will be referred back to the Juvenile and Domestic Relations District Court. Mr. Rawlings is directed to prepare the order and send it to Mr. Burnside for his objections.

The Court would make certain observations that cannot be placed in the order. Some individual and undivided attention must be given to the boys by each parent. Karen Durrett should not always rely on her twin sister and other members of the family during the visitation but should plan some activities with just the twins. Gordon Durrett, for himself and for the twins, should plan schedules to be removed from the total dominance of his mother. The twins are old enough to spend some time at playschool or preschool with others of their own age. A transfer to another church where both parents would be comfortable to attend with their children might be appropriate. Both parents and families must constantly point out the good qualities of each parent.

Yours very truly,

Richard H. C. Taylor
Judge

RHCT/jyh

cc/ Department of Social Services
Spotsylvania County
Spotsylvania, Virginia 22553

## ASSIGNMENTS OF ERROR

The trial Judge committed reversible error in granting permanent custody of the children involved in the proceeding to the natural father, Gordon Durrette.

## ASSIGNMENTS OF CROSS-ERROR

The trial Court erred in holding that "all other things are equal," with respect to its custody award, even though it awarded custody to Appellee.

TESTIMONY OF GARNETT FARMER DURRETTE

Gordon has bought. It is located in a subdivision in Spotswood Estates. It has four bedrooms, living room, den, utility room, and two baths. It is a nice house.

Q Do you know how old it is?

A Approximately two years, one way or the other.

Q Now, directing your attention to your son's marriage, and his children, how often do you see the children?

A Right now?

Q Yes.

A Every day, except Monday.

Q And will you tell what the arrangements are for taking care of the children, and where do they stay in the home, and how are they taken care of in the home.

A Well, I think they are taken care of excellent. Gordon has a babysitter that, she is there in the morning on Tuesday when Karen returns the children. They have --

Q What days does --

A (interjecting) They have twin beds in their room. They each have a bed to themselves, and they have a bath to themselves. What day did you say?

Q What days, at the present time, what days does Mrs. Karen Durrette have the children?

A Karen picks the children up on Sunday, every other Sunday at 9:30, and she takes them to Sunday School; and the other Sunday, she picks them up at 11:30, and she brings them back on Tuesday morning, anywhere from eight o'clock until 11:00.

Q Now, who takes care of the children? Where does your son work, Gordon?

A Gordon is an employee of the United Parcel Service. He is a truckdriver.

Q And generally, what are his hours?

A Gordon leaves home at 7:00, and returns at 5:30. Now, I don't say 5:30 right on the minute every day, because all of us know when we work out in the public, we cannot be there at the exact moment.

Q Who is with the children? First, let me ask you, how old are the children?

A The children will be four years old the second day of October.

Q And what are their names?

A Christopher Gordon, and Michael Elliot.

Q And who takes care of the children from the time Mr. Durrette leaves in the morning, until he returns?

A His aunt, Mrs. Emily Mentor. She leaves at 3:30, and I am there until after I serve the supper. And I leave, and Gordon gives them their baths.

Q And who takes them on the weekends? On Sundays when they are with him, who takes them to Sunday School?

A He takes them to Spotswood Baptist Church.

Q Do you know whether they go to the Spotswood Baptist Church on the Sundays when Mrs. Durrette has them?

A They were at first, Mr. Rawlings,

COPY

but she changed and carried them over to another church in Fredericksburg. However, she did come back to our church this past Sunday. Mrs. Dawson is one of her witnesses, that she is our Sunday School teacher at Spotswood, and these children do like Sunday School, and I would like to say too, Mr. Rawlings, that since Gordon has had these children, since the end of February, he has taught -- I was teaching them when he --

MR. BURNSIDE: I object to this unsolicited testimony.

THE COURT: Mrs. Durrette, you have to respond to the questions that are asked you. Mr. Rawlings.

MR. RAWLINGS: Well, I had gotten to asking her how the children were doing.

THE WITNESS: I'm sorry.

THE COURT: Be a little more specific, Mr. Rawlings, so Mr. Burnside knows what is coming.

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BY MR. RAWLINGS: (continuing)

Q Well, tell us how your son gets along with the children, and what his association with the two children is.

A It is a good association. Gordon takes them places. He has taught them to say their blessing at night, the prayer at night, which they didn't do; and he takes them to the doctor; and he sees that they have the proper kind of food to eat; and he has time for them before they go to bed; and they take a nap each afternoon, which is something that they don't take with the mother.

Q How do you know that.

A Because she told me.

Q Are you present when the children are picked up, or returned by the mother?

A Yes, sir, I am.

Q And what can you tell us about this?

A And I hate to say this, but it is the truth, and she is a mother. When Karen comes to

COPY

pick up the children, they are all right until they see the bag that Gordon fixes for them to take, and they begin crying, and I have to go --

MR. BURNSIDE: Objection.

THE COURT: You can't say what somebody else says. You can say what you observed, but don't say what somebody else says.

Q Don't tell what the children say, tell what they do.

A Well, I'm there, and they cry and say they don't want to go.

MR. BURNSIDE: Your Honor, she is a hostile witness, and it is starting to come out.

THE WITNESS: I'm telling the truth.

Q Mrs. Durrette, you can't tell what the children have told you.

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A I see the children cry each morning, Sunday morning when she picks them up. When they return on Tuesday morning, they get out of the car, and come running to the house.

THE COURT: Let the Court say that these are always emotional things, and we have to still comply with the rules of evidence.

THE WITNESS: I'm sorry.

THE COURT: We will all just keep calm, and answer the questions as they are asked you.

THE WITNESS: Yes, sir.

THE COURT: Go ahead, Mr. Rawlings.

BY MR. RAWLINGS: (continuing)

Q Can you tell, during the time since Mr. Durrette has had the children, can you tell how their actions compare with the time before that, when you saw them?

A Yes, I can.

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THE COURT: Again, we have to have some specific references.

MR. RAWLINGS: The times before he got the custody of them when he saw them.

THE COURT: In what regards are you talking about? Their health?

MR. RAWLINGS: Their actions, and the way they acted, and behaved. I think that --

THE COURT: Mr. Burnside.

MR. BURNSIDE: Your Honor, it sounds more like a fishing expedition on direct examination that doesn't -- I mean, for any witness to be asked that question, I don't see how a witness could understand that question.

THE COURT: I think you can ask them to describe their actions, Mr. Rawlings.

MR. RAWLINGS: Would the Court permit me to ask the actions prior to the time that he got custody of them, and since that time?

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THE COURT: Yes, I think that is proper. I'm not talking about the time-frame. I'm trying to get a question phrased so Mrs. Durrette knows what you are asking, and Mr. Burnside knows what you are asking.

MR. BURNSIDE: Just to be a little more specific. Actions in relation to what? Are you talking behavior, are -- you know, they could be actions in the back yard, front yard.

THE COURT: She can describe what they do, Mr. Burnside, and I will determine what the actions are about.

MR. BURNSIDE: All right, sir.

BY MR. RAWLINGS: (continuing)

Q Mrs. Durrette, would you tell us what the behavior of the children was prior to the time when you saw them, prior to the time that Mr. Durrette got the custody, and since he got the custody.

A On the 24th of February, which

was on a Sunday, these children came to my house after Sunday School, and I said to them, "Are you all going to sit in the chair --

MR. BURNSIDE: Your Honor, what her private conferences are with the children are not relevant to the proceeding. It is hearsay.

THE COURT: I think she can say what she said to the children, and what their response was, not in words, but what their actions were.

THE WITNESS: I think this is very important.

THE COURT: No comment from you, Mrs. Durrette.

THE WITNESS: I'm sorry.

A -- On the 24th day of February, the children are sitting in the rocking chair, and I went out there and I said to them, I said, "What are you all doing?" They were playing with their penis.

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MR. BURNSIDE: Your Honor, I'm going to object. She is going into what the children told her.

THE WITNESS: No, I saw it.

MR. BURNSIDE: She has related what the children are telling her.

THE WITNESS: I saw it.

MR. RAWLINGS: She said she saw it.

THE COURT: Say what you saw, Mrs. Durrette.

THE WITNESS: I did see it.

A And they were playing with themselves, and they got real hard, and I said to them, "What in the world is wrong with you?" They called themselves a B, and they said, "We are playing with our B's."

MR. BURNSIDE: Your Honor, I know she is trying to head into some area about what these children talked about, and I would like --

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THE COURT: You can't say what they said, Mrs. Durrette, and every time you say what they said, I disregard it.

MR. RAWLINGS: If it is not to prove a fact, she can say, in the process of what they were doing, something they said. She can say that. It becomes almost in the form of a res gestae, Judge. They are not telling her something they did. She is talking to them when they are right there in her presence.

THE COURT: Can't she describe what they are doing?

BY MR. RAWLINGS: (continuing)

Q Don't say what they said, Mrs. Durrette.

A They were playing with their penis.

THE COURT: Go ahead, Mr. Rawlings.

COPY

1 Q And what has been their behavior
2 with this respect since they have been living with Mr.
3 Durrette?
4 A They never do it except on Tuesday
5 when they come back. When they are ready for their nap
6 time, they go into their room, they put them in the bed,
7 and they take off their underwear, and they begin to play
8 with each other's penis.
9 Q Does that happen when they are
10 there with you, or the babysitter?
11 A Yes, sir.
12 Q Well, does it happen all the time?
13 A No, sir. Mostly Tuesdays.
14 Q Can you tell us anything about
15 the behavior of the children as between the time before
16 Mr. Durrette didn't have them, and when he now has them.
17 A Well, the children are more settled,
18 Mr. Rawlings. Before Gordon got custody of them, Chris
19 would vomit a lot, and Mike would wet the bed continually.
20 And when he first got them, when they came back home, they
21 would wet the bed during nap time, and that night. And

after that, they didn't. The children have been through a lot, and it has worn on them emotionally. But now, they are much more settled.

Q Can you tell the Court anything about the physical condition of the children when they return from the visits with their mother.

A Well, sometimes they are not very clean, and their clothes look like they may have worn them two days, but they are not filthy. When they get out of the car, they are always glad to get home.

THE COURT: Again, Mrs. Durrette, that is not responsive to Mr. Rawlings' question. Go ahead, Mr. Rawlings.

Q I believe maybe we have been into this, but prior to the time that Mr. and Mrs. Durrette separated, when Mrs. Durrette was there, did you have occasion to observe her treatment of the children, and action towards the children?

A Karen would lock the children in the bedroom to take the naps, and also they would

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climb up on her lap at night when she would be sewing for Christmas, and she would take their foot and push them back and tell them to get down and go to their daddy.

Q Do you know -- have you been to the place where Mrs. Durrette lives now?

A No, sir.

Q Do you know whether or not she is working?

A Yes, sir. She says she is.

Q What hours?

A I don't go there and see her. She works some days, and then two or three nights a week.

Q And do you know, have you seen the place where she lives?

MR. BURNSIDE: He asked that question before.

A No, sir. All I know is what the children tell me.

Q Do you know a person by the name of Keith Lacks?

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direct - G. F. Durrette

A Yes, sir.

Q And who is he?

A He is the brother of Karen, and he is the one that told the children they --

MR. BURNSIDE: Objection, Your Honor.

THE COURT: Objection sustained.

Q You didn't hear him tell them that?

A No, sir.

Q Do you know whether the children are ever in his company?

A Yes, they are. I have seen it. I saw it last Monday.

Q Which was when?

A Monday before last.

Q And what circumstances did you see them?

A They were in the car with him.

Q And do you know how they happened to be in the car with him?

A Their mother had carried them to King's Dominion, all of them.

Q And what was their reaction when they got home? Well, let me ask you this, where did you see them in the car?

A In front of Gordon and Karen's home.

Q And did you notice anything about their actions after that?

A Just that they got to playing with each other again.

Q Mrs. Durrette, during the time that Mr. Durrette has had the children, and they have been visiting with their mother, can you tell the Court anything unusual about the condition of the children on times when they come back?

A Yes, sir. They have marks on them. Of course, all children fall, but one particular time Michael came home, it was in May, and he had a

COPY

1 bruise on him. I asked him what it was, and he said Garrett
2 had hit him.
3 Q Don't say what he did.
4
5 MR. BURNSIDE: Objection.
6 A Excuse me.
7 Q And had you noticed anything else
8 about their condition, physical condition when they come
9 back from visiting with their mother?
10 A They have never had any breakfast,
11 they are hungry when they get there.
12 Q Do you know if anything unusual
13 happened with respect to Mrs. Durrette on April the 20th?
14 A Yes, sir, I do.
15 Q What happened?
16 A She came to the house that morning
17 around 8:30, and she was real tired, and she was crying,
18 and she was shaking. And I took her in my arms, and I
19 asked her, I said, "Karen, please let me help you." She
20 said, "I can't even help myself. I don't know what I'm
21 doing."

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Q Then what did she do?

A Well, she went on to Sunday School, and she got upset, so she put the children in the nursery, and then she came back and got them, and she went to her trailer, and I asked her sister to call, and see if she got home all right, and her sister said that she would.

MR. BURNSIDE: Objection. So much of what she says has been hearsay throughout this thing.

THE COURT: Yes, I understand that.

MR. RAWLINGS: It's hard for her not to say these things.

BY MR. RAWLINGS: (continuing)

Q Mrs. Durrette, we don't want you to talk about what somebody told you, but just what you know.

A I know that.

THE COURT: Fine.

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MR. RAWLINGS: I believe that is all I want to ask her.

THE COURT: All right. Do you want to cross examine her, Mr. Burnside?

MR. BURNSIDE: Just on a few points, Your Honor.

CROSS EXAMINATION

BY MR. BURNSIDE:

Q. Mrs. Durrette, I think, as you so aptly stated earlier --

MR. BURNSIDE: Excuse me, Your Honor, do you prefer counsel at the table?

THE COURT: You may go anywhere in the Courtroom, Mr Burnside, as long as you don't leave.

Q You know Nancy Dawson, right?

A Yes, sir.

Q And you have known her for years?

A I don't really know, and I don't lie because I stay in the nursery with the small children just about every Sunday during worship in the morning, and I go in at nighttime.

Q So, you are not actually in the service, you are with the children, caring for them?

A Yes, sir, because there are such a few people that cares about children, and I do, and the choir members can't keep the children, and it has to be the rest of us. And I think it is about ten of us that keep them.

Q In other words, you are caring for the young children.

A A lot of Sunday mornings, yes, sir, I do.

Q Obviously, if your son left the church, and didn't attend the worship, you wouldn't know one way or the other, would you?

A No, I don't know nothing.

Q Now, during the time that your son and his wife lived together, for the most part,

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during these children's first two years, Karen did not work, did she?

A No, sir.

Q She stayed at home with the children.

A She didn't work.

Q That's right, that is what I'm saying. All right. She stayed at home with the children.

A I say that she didn't work.

Q She stayed at home with the children and cared for the children, right?

A I don't know.

Q Well, you seem to know a whole lot in direct evidence when you couldn't have been there.

A I'm not going to tell any story.

Q Okay. Did you ever encourage your son, during that time, to leave Karen, that she was not a fit mother?

A No, I did not. And I tell you, she packed twice before she left to leave him, and she didn't.

Q Obviously, during this period

of time then, you saw no reason to believe that the children were being neglected, or abused when your son and Karen lived together, did you?

A She did not abuse them, except putting them in the bedroom.

Q All right, now --

A (interjecting) With locked doors. To my knowledge.

Q I guess you know the pediatrician that took care of these children.

A I certainly do. And they took care of the father too. He is a good man.

Q Doctor John Painter?

A Yes, sir. He was summoned, but he's not here today.

Q Just as he stated, he found that no evidence of neglectful play, or any other form of child abuse --

MR. RAWLINGS: I object to any statement by --

THE COURT: I don't think she

COPY

Q Now, the testimony of, I believe it was Mrs. Hairfield, that she wanted you to take care of the children on a Saturday so that she and your wife could go out, or go shopping, or whatever. Would you tell the Court how often, if ever, that occurred, and why you didn't take care of the children.

A During the week, I would have worked all week long. Like I say, on Saturday, I would have to cut grass, doing something or another, not every Saturday. But she wouldn't even let me keep them. She wanted to take them to her sister. And I said, "Let me watch them for Saturday for a while," and she said, "No, that is all right, Carol will watch them," and she wouldn't even let me watch them. And you can't cut grass with two year old children sitting on your lap, on a lawn mower safely.

Q Did you, at any time, refuse to take care of them when you had nothing else to do?

A No, sir, I did not.

Q Were your hours any different at that time than they are now?

A Yes. I was working a little later

COPY

TESTIMONY OF EMILY D. MENTOR

direct - E. D. Mentor

BY MR. RAWLINGS: (continuing)

Q What is your relationship, if any, to Gordon Durrette?

A I am his aunt.

Q And how old are you, Mrs. Mentor?

A Forty-seven.

Q Forty-seven?

A Yes.

Q What, if anything, have you been doing in the Durrette home in recent months?

A Taking care of the twin boys.

Q Is that what you have been doing?

A Yes, sir.

Q And how long have you been doing that?

A I think I started the last two weeks in February.

Q And what hours do you do this? What days?

A From twenty minutes of seven in the morning, until twenty minutes of four in the afternoon.

COPY

COPY

Q What days?

A Tuesday through Friday.

Q And who is there when you arrive in the morning?

A Gordon.

Q And who is there when you leave in the afternoon?

A His mother.

Q Now, tell the Court how the children get along with you there in the home during the time that you have been babysitting with them.

A I think they do extra good, because they are always telling me they say, "Emmy, I love you," and things like that.

Q Who fixes the meals for them?

A I fix them the breakfast in the mornings, and I fix their lunch, and then I put them down for naps, and most of the time they are down for naps when the grandmother gets there.

Q When you first went to take care of the children, can you tell how they acted then as opposed to now? Is there any difference in the way --

COPY

THE COURT: That is not the question.

MR. RAWLINGS: That is not what I asked.

MR. BURNSIDE: What I'm asking, Your Honor, did she care for these children before he got custody, because that is the groundwork -- it seems to be the direction you are headed.

MR. RAWLINGS: That was not what I asked. That was not what I was driving at.

THE COURT: Go ahead, Mr. Rawlings.

BY MR. RAWLINGS: (continuing)

Q I'm directing your attention to the time when you first went to take care of the children, and also the present time, in your observation of the children, and their actions, can you tell us if there is any difference in the way they acted and behaved between those two times?

A Now, they are more calm, and, you

COPY

1 know, they pay attention and listen when you try to correct
2 them, and a whole lot better than they did when I first
3 started.
4 Q Do they -- do you know of any
5 playmates that they have?
6 A No. Because, I mean, there is
7 no -- really, the ones in the neighborhood just don't,
8 you know, come. She took them to Bible School, and they
9 had little playmates and things like that, but nobody
10 comes to the house.
11 Q Are you there, are you present
12 when they return from their visits with their mother?
13 A Yes, I am there on Tuesday morning
14 when she brings them in. I get them.
15 Q Tell me how they act when they
16 come back from the visits with their mother.
17 A Well, they usually come, you know,
18 into the house, and they will talk, and they will -- they
19 just play around for a while. But, they are nervous type
20 children when they get back. You have to, you know, be
21 kind of positive with them at first to make them realize,

you know, that they need to settle down and people do love them, especially their mother. I mean, the grandmother and the daddy, and myself --

Q Do you notice anything unusual that they do when they come back from their visits?

A Only thing unusual I notice is when I put them down for their nap.

Q What happens then?

A They just play with each other.

Q What do you mean by that?

A Well, you know, they just play with each other's privates, I call it.

Q Does that go on the whole time?

A Well, it mainly it is on Tuesdays is the worse time.

Q And what is Tuesdays?

A When Karen brings them home to me, and I give them -- I usually play with them outside, take them outside and play with them on the swings, or on their bicycles if the weather is permitting, and then feed them their lunch, and when I put them to bed, they

have separate beds, but they will be talking and if you go in there, a lot of times, one or the other is in the bed with the other one and they are playing with each other.

Q Does this go on all week?

A Well, they started first, the beginning of the time it did, but here the last couple weeks now, usually it is just mainly on Tuesdays.

Q What happens, what do you observe when the time comes for them to leave to go on a visit with their mother?

A I am not there.

Q You are not there?

A She picks them up on Sundays, and I'm not there. I don't work the weekends.

Q Do you have occasion to see them with their father?

A Oh, I have seen them a lot with Gordon.

Q How do they get along with their father?

COPY

direct - E. D. Mentor

A I think they do extra good, because sometimes I kid them, telling them about Gordon, and I will say, "Your daddy is bad, I'm going to spank him," something like that. They say, "No, he is not. He is a good daddy," and things like that. They are always kidding, and they talk a lot about their daddy.

Q And have you observed his actions towards them?

A Well, in my opinion, Gordon is an extra good father. I think --

MR. BURNSIDE: She was asked for a description, not an opinion.

THE WITNESS: I don't know what is the difference. I'm sorry.

THE COURT: I will disregard it. Go ahead.

Q When the children return on Tuesday from their mother, what time, usually, is that?

A Most times, she gets there quarter after ten, not unless she has, you know --

COPY

Q At when?

A She usually brings them at quarter after ten.

Q And what time do you serve meals on those days?

A I usually try to give them their lunch between 12:00 and 12:30, and then I put them down for their nap at 1:30.

Q Is there any difference between the way that you do this when they come back from their mother than regular times?

A No. I try to keep it on a schedule like that, because I think it is better to keep them on a schedule.

Q Mrs. Mentor, are you married?

A Yes, sir.

Q Is there any reason why you couldn't continue to take care of these children?

A No, sir. My four children are grown.

COPY

cross - E. D. Mentor

Q Well, how frequent was your contact with the children prior to February? In other words, I'm sure, as a relative, you probably saw them on holidays, occasions, but apart from that, did you see them regularly?

A I don't know what regularly would mean. I would see them like I do kinfolk.

Q Would you see them as much as once a week?

A No, I wouldn't say once a week.

Q Once a month?

A Probably once or twice a month, because I see them a lot in town with her.

Q Until February, essentially, you saw the children with Gordon or with Karen once or twice a month, at most, and probably for short intervals, is that right?

A Right.

Q Now, during that time, I'm sure that all you ever observed and ever thought about prior to these people separating, were that both parties were adequately providing for these children.

COPY

cross - E. D. Mentor

A Oh, I'm sure they were.

Q You had no reason to believe that Karen had never neglected, abused these children at all, had you?

A That never crossed my mind.

Q That's right. All right. I guess it was your understanding, when you first started babysitting at the end of February, that the children were being changed from Mrs. Durrette's custody to Mr. Durrette, right?

A Yes.

Q In other words, when you started babysitting, they had been with their mother, in their mother's custody.

A Right.

Q Wouldn't you think it was natural for two children that have just undergone a change from their mother to father, from their mother to their father, would be nervous, unsteady, unstable?

MR. RAWLINGS: This is calling for an opinion.

MR. RAWLINGS: If he asked for hearsay, she is entitled to answer it. I would like to have her answer it.

THE COURT: If Mr. Rawlings does not object, you have to answer the question, Mrs. Mentor.

A Well, they never asked about her. If you asked them about Karen, they would talk about her, but they never asked for her, no.

Q Now, how long do you think they were upset, for a week, two weeks?

A Well, you can't put it like that, I wouldn't think, because she picks them up on Sunday, and brings them back on Tuesday, so it is the same thing over and over. So, looks like, in the afternoon, say, about Thursday, or Friday, they begin to realize that the time is drawing near where they go with her again. They begin to get extra nervous, and upset, and they don't rest as well.

Q Is Mrs. Durrette, the grandmother, is she there on Tuesday mornings?

COPY

TESTIMONY OF ROBERT CARTER

ROBERT CARTER, a witness, being called for examination by counsel for the plaintiff, first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DARLINGS.

Q State your name and where you live.

A Robert Carter. I live at 312 Beachnut Drive, Spotswood Estates.

Q How long have you lived there?

A It will be four years in October.

Q Do you know Gordon Durrette?

A I have known Gordon since childhood on up.

Q Do you know his wife Karen Durrette?

A Only since they have been married. I didn't know Karen until then.

Q Do you know the Durrette children?

A [illegible] yes, indeed.

Q How often do you see the children?

A Every day.

Q Directing your attention to the time since February 24th, 1980, of this year, have you had occasion to see the children at the Durrette home?

A Yes, sir, about every evening, every morning too. I would see them about every day that goes by. They are there ninety percent of the time, and I see them just about every time they are home.

Q That's been during the past several months?

A Oh, yes. Yes, indeed. If they are outside, I usually see them.

Q Do you recall the time that Mr. and Mrs. Durrette were living there together?

A Yes, indeed.

Q Do you recall the time that they stopped living together?

A I remember, yes, indeed. I remember at the time that they stopped.

Q And since Mr. Durrette has the children there with him, how have they gotten along?

COPY

direct - R. Carter

A I don't think they could have gotten along any better, as far as the home and the surroundings is concerned. They have been getting along fine, and it is apparent he has done an outstanding job with them.

Q How often do you see him?

A I see Gordon every evening, just about every day. I speak to Gordon on the average of every day when he comes home off of the truck.

Q Do you see him with the children?

A Well, as soon as he gets his mail and then he comes on out and he stays with the children until they are ready for bedtime. He stays there right in the yard with them.

Q What do they do?

A They go out there and he plays with them on the swings, and certain things. The children will play, and once in a while, he will take them in the car and take them for a ride before he gets ready to give them a bath and get ready for bed, and so forth

COPY

COPY

Q How do the children appear with respect to him? How do they appear to feel towards him?

A A hundred percent. What I mean by that, they are perfectly satisfied in every way.

Q Have you -- did you see them with their mother before she left there?

A Yes. They used to come out in the yard when Karen was home, and I seen them out there playing around in the yard with them.

Q Do you know anything about Mrs. Durrette's actions prior to her leaving home, as far as staying there at the house?

A Nothing that I could testify against, no.

Q Can you tell -- do you know of anything that would disqualify Mr. Durrette from having custody of the children?

A Not a thing in the world. I do not. I think he's done an excellent job, and I think he would continue to do so. I don't have any doubt in my mind, or have any reason to suspect he wouldn't.

COPY

A Yes, I do.

Q I believe she is a young mother that lives a few doors down.

A That is correct.

Q I think you find her to be an excellent mother also?

A So far as I know.

Q Do you recall that when Karen lived with Gordon, that Karen used to go down to Sandra Ogle's, or Sandra Ogle would come down there.

A Right.

Q Their children played together?

A That's right.

Q That is not true now.

A It is not by choice. It is not because -- but they come up there occasionally. They will come across there occasionally and play.

Q Not like they did when Karen lived there though.

A Well, I don't know what the reason for that would be, but they do come up there.

Q But not like they used to when Karen lived there.

A Maybe not as much, let's put it that way.

Q All right, other than that though, evidently, the children played together quite a bit in the back yard, or front yard.

A Mostly played right around the home, right.

Q Do you know Mrs. Mentor?

A Yes, I do.

Q Evidently, also from what you have stated, you know of no reason why Karen should not have custody of her children either, as far as you were concerned when she lived in the neighborhood she was a good mother, tended to the children and so forth?

A As far as I know.

MR. BURNSIDE: That is all I have, Your Honor.

THE COURT: Mr. Rawlings.

COPY

TESTIMONY OF LEWIS DURRETTE

COPY

LEWIS DURRETTE, a witness, being called for examination by counsel for the plaintiff, first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RAWLINGS:

Q State your name and where you live.

A Lewis Durrette, 4802 Hood Drive.

Q What is your relationship to Gordon Durrette?

A He is my son.

Q Do you know his wife, Karen?

A Yes, sir.

Q Mr. Durrette, do you know how often do you see your son, Gordon, and his children?

A About every day.

Q Can you, directing your attention to February the 24th, 1980, when your son was given custody of these children, can you tell the Court what, if any, difficulty there was between the time that you saw them then, and the way they acted and behaved, and the present time.

A Well, at that time, when they went to the table to eat, they didn't know how to chew their food. They just, if you put meat in their mouth, or give them meat to eat, they would sit there and just suck on it. And we worked with them and got them to where they can chew their food now. And they didn't talk like they should. Since my wife has been working with them, and the babysitter, they talk now more freely, and they are more happy now.

Q Do you recall any other instances?

A Well, just before he got custody of the children, the children used to didn't want to go up to the mother's when they carried them back on Sunday evening.

MR. BURNSIDE: Objection, Your Honor. That is hearsay.

THE WITNESS: That is not hearsay, sir.

MR. RAWLINGS: It is what they said.

COPY

THE COURT: Ask him to describe.

Q What made you think that?

A When my son had to carry the children up on a Sunday evening, they cried and didn't want to go, because I went with him to carry the children up there one evening, and when we pulled in the driveway, both children started crying and didn't want to get out of the truck. And my son took them, and carried them both out on the sidewalk, and squated right down with them and told them that they would have to go and stay with their mother.

MR. BURNSIDE: Objection.

THE COURT: Objection sustained.

Q Did they go?

A He carried them to the door, and both of them was crying, didn't want to leave him.

Q Is that all you can say about the actions of the children, the only instances that you can recall?

COPY

direct - L. Durrette

A Well, only that that evening the mother of the children, and their grandmother was fighting at my son when he carried the food and stuff to the door, and used some bad language, and I made him come away from the door, and we left the children.

Q Did you have occasion, prior to the time that Mrs. Durrette, Karen and Gordon separated, did you have occasion to talk with Karen about the children?

A Well, we was down on Christmas Eve, just before Christmas, and we were visiting with them, and I had lent Gordon and Karen some money to make the downpayment on the house, and they hadn't paid any payment back on it for about three months. Karen asked me how much money that they still owed me, and I told her it was seven thousand and three hundred dollars, and she said, "Well, we will give you the boys for that money." But I didn't make her any comment on that. We was getting ready to leave at the time.

MR. RAWLINGS: I believe that is all I want to ask him, Judge.

COPY

TESTIMONY OF PAUL McKINNEY

PAUL McKINNEY, a witness, being called for examination by counsel for the plaintiff, first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RAWLINGS:

Q State your name, and where you live.

A Paul McKinney, Route 2, Box 516, Spotsylvania, Virginia.

Q Do you know Karen Durrette?

A Just by face, not personally.

Q Do you know when you see her?

A Yes, sir.

Q Do you know where she lives?

A Yes, sir.

Q Where does she live?

A She lives next to me in Spotsylvania. Our property joins.

Q When you say it is her property --

A She is renting a trailer. It was originally owned by Clyde Blankenship. Charlie Cannon was renting it before she was.



COPY

Q How far is this trailer from your property?

A About a hundred yards.

Q And how far is it from the Cannon house?

A I'd say about a hundred and fifty yards.

Q Can you -- have you been in the trailer?

A Yes, sir. It's been about eight years ago when Mr. Blankenship lived there himself.

Q Can you describe the outside of the trailer, the condition of the trailer.

A The condition of the trailer? The condition of the trailer is fine. It's got a light post outside directly in front of it. I'm real familiar with the property. I'm developing a piece of property in the back that runs directly around Blankenship's property.

Q Are there many houses in the neighborhood?

A No, sir. Let's see, I'd say maybe six or seven in the general vicinity.

COPY

1 Q Now, do you know a person by the
2 name of Gary Bullock?
3 A Yes, sir. I don't know him personally.
4 I have run into him by accident.
5 Q You know him when you see him?
6 A Yes, sir.
7 Q Do you know his car or his vehicle?
8 A Yes, sir.
9 Q What can you tell me about --
10 well, at any time, have you ever seen that car in your
11 neighborhood?
12 A I have seen that car on my property,
13 sir.
14 Q On your property?
15 A Yes, sir. I got involved in this
16 very indirectly. On April the 16th, we have had a lot
17 of vandalism in our area, I was riding back on the road
18 that I developed, and went down to check on Paul Battoff's
19 house, as we do occasionally, and turned out and came
20 back out, and as we came to the road, this '70 Pontiac
21 LeMans directly cut us off, and it's a private road, and

COPY

Mr. Sluter and I had turned and blocked the road so we stopped him and asked him his name, and he said, "Gary," wouldn't say his last name. And I said, "I have no other alternative --

MR. BURNSIDE: Your Honor --

Q Don't tell us what he said.

MR. BURNSIDE: Not only that, but I don't see the relevance.

THE COURT: I hope Mr. Rawlings is going to tie it in.

Q Where was he coming from at that time?

A He come out from behind the trailer. There are two lanes that sort of run there together. I have a road there, and there is a lane that runs back to the property that Karen is living on.

Q And he came from the trailer, you said?

A Yes, from behind the trailer.

COPY

direct - P. McKinney

1 Q Are you familiar with Mrs. Durrette's
2 automobile?
3 A Yes, sir.
4 Q Was that there at the time?
5 A Yes, sir.
6 Q On what other occasions, if any,
7 have you seen them there together?
8 A To give you explicite dates, only
9 one, and that was last Saturday. I seen them both there
10 together in the morning. It was around seven o'clock.
11 Q And what did you -- where did
12 you see them?
13 A Just both cars sitting behind
14 the trailer.
15 Q Did you see the cars leave?
16 A No, sir. I did not see the cars
17 leave.
18 Q Do you know the Durrette children?
19 A I have seen them on occasion.
20 I don't know them, not on a personal basis.
21 Q Have you ever seen them at the
trailer?

COPY

TESTIMONY OF PAUL BOTTORFF

COPY

PAUL BOTTORFF, a witness, being called for examination by counsel for the plaintiff, first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RAWLINGS:

Q State your name and where you live.

A My name is Paul Bottorff. I live at 5 Payne Circle, in Todds Tavern, B-O-T-T-O-R-F-F.

Q What kind of work do you do?

A School teacher.

Q Do you know Karen Durrette by sight or personally?

A No. Not by sight or personally, no, I do not. I have only seen the lady in the yard of her residence.

Q You what?

A I have only seen Mrs. Durrette in her front yard, going to her car on occasion as I am leaving my residence. But I do not know her, no.

direct - P. Bottorff

Q Do you know her when you see her?

A Yes.

Q And where does she live?

A It is my understanding that she lives in a trailer --

MR. BURNSIDE: I would object, Your Honor, to his understanding.

Q Just tell what you know. Tell what you know.

THE COURT: Let him describe where he's seen her. I think that might help.

Q Just say where you have seen her.

A I have seen this lady in the yard of a trailer, which is to the right of the road that enters my subdivision.

Q Have you seen anybody else there at the trailer with her?

A Not with her. I have seen a gentleman with two small boys there on one occasion, as I was coming home from work.

COPY

Q You don't know what gentleman it was?

A I do not know the gentleman's name, no.

Q Have you seen him before?

A No.

Q Can you describe him to us?

A He is about five ten, with light brown hair, and a beard, sort of stockily built.

Q Have you seen that person before that time, more than once?

A

MR. BURNSIDE: Excuse me, he asked that question before, and the witness responded no, that is the only time he saw the man.

THE WITNESS: I have only seen the gentleman once, yes.

THE COURT: That cleared it up. Go ahead, Mr. Rawlings.

Q Are you familiar with the automobile he was driving, or drives?

COPY

A I have never seen that gentleman in the automobile. I have seen the automobile, which is registered to him, out there on several occasions.

Q And where you say out there, where did you see this car?

A I have seen that automobile in front of the brick, Cannon's home, and in front of the trailer also.

Q Do you know the time of day you saw these cars, the car?

A This car? I have seen it in the morning, and in the afternoons, and in the evenings.

Q Let me ask you this, you say this is your subdivision --

A It is not mine, I live there.

Q Do you know how many children live in the area?

A In the subdivision, there is only my home. It's a new subdivision. There is only one home there. There are no children in the subdivision. Out on the road, there are some smaller children.

COPY

Q What road?

A On the main road. There are Paul McKinney's children, there are some children that live next to Mr. Slutter, and Mr. Profit, but in that immediate area, and in that subdivision, there are no children.

Q How far are these away from the trailer?

A Five hundred yards, maybe.

MR. RAWLINGS: I believe that is all I want to ask him, Judge.

THE COURT: All right, you will have to answer Mr. Burnside's questions.

CROSS EXAMINATION

BY MR. BURNSIDE:

Q I might not have gotten your last name.

A Bottorff.

Q You mentioned the brick Cannon's

COPY

1 home, do you happen to know that Mr. Cannon's name?

2 A Charles Cannon, Jr.

3 Q Charlie?

4 A Yes.

5 Q This automobile that you referred

6 to, I would imagine that you have seen this automobile

7 at Mr. Cannon's home mornings, afternoons, and evenings.

8 A I have seen it at Mr. Cannon's

9 home, and in front of the trailer.

10 Q I understand that. We are just

11 dealing with Mr. Cannon's home. You have seen it there

12 in the morning, the afternoon, and the evening.

13 A Yes. I have seen it there several

14 times, yes.

15 Q Now, the one time you saw the

16 gentleman who you don't know --

17 A (interjecting) The only gentleman,

18 on that particular day, that I knew, was Charles Cannon,

19 and he was painting the lamp post in front of the trailer,

20 and there was another gentleman there in the driveway

21 with the two boys.

COPY

Q This is during daylight, evidently?

A Yes. It was when I was returning home from school, coming back from work.

Q Evidently, about 4:00, or 4:30?

A Yes, about 4:00, or 4:30.

Q And Mr. Cannon, who is a neighbor, I think you said he was painting the lamp post?

A Somebody was spray painting a lamp post. Now, I didn't pay that much attention. It looked like Charlie Cannon to me. The road does not pass that close.

Q Now, apart from this, have you ever seen children, these same children, on other occasions?

A I have seen the children on one occasion with Mrs. Durrette, and another lady, as I was going out to get the paper, or something.

Q Anything unusual that you noted at that time when you saw the children?

A No, sir. There was a younger boy there, maybe fourteen or fifteen with them.

COPY

cross - P. Bottorff

Q Then obviously, you didn't see the children being upset or anything of that nature?

A No.

Q They didn't look unattended, or she wasn't neglecting them?

A I --

Q Not letting them run out in the street, or that type of thing.

A I didn't stand there and watch what was going on.

Q But everything was normal?

A As I was going by they were getting out of the car.

MR. RAWLINGS: I just have on question, Judge.

THE COURT: All right, Mr. Rawlings.

COPY

REDIRECT EXAMINATION

BY MR. RAWLINGS:

Q What is the closest house to the trailer?

A That would be Charles Cannon's home.

Q And how far is that away?

A Fifty or sixty yards.

Q And after that, what is the closest house?

A It would be either my house, or Mr. Jones' home. Mr. Jones is right on the end of the subdivision road.

Q How far are they away from the trailer?

A I'd say about three or four hundred yards, three hundred yards, something like that.

Q Each of them the same distance?

A About that. Well, my home is through the woods from Mr. Cannon's home.

TESTIMONY OF CHARLES H. SLUTTER

COPY

CHARLES H. SLUTTER,

a witness, being called for examination by counsel for the plaintiff, first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RAWLINGS:

Q State your name and where you live.

A Charles H. Slutter, Route 2, Box 512, Spotsylvania, Virginia.

Q What do you do, Mr. Slutter?

A I am a parts manager for Case Equipment Dealer.

Q Do you know where the Cannon household is?

A Yes, sir, I do.

Q How far is that from your house?

A Oh, that is approximately, I'd say, three to five hundred yards.

Q Do you know either personally or by sight, Karen Durrette?

direct - C. H. Slutter

A Yes, sir.

Q Do you know whether she lives anywhere in the area?

A She lives in a trailer at the Cannon property.

Q Do you know her car when you see it?

A Yes, sir.

Q Have you seen any other automobiles at her house?

A Yes, sir, I have.

Q What?

A It was a Pontiac LeMans, chocolate colored, and it had a Virginia tag number of VDU-150.

Q That was what now?

A Pontiac LeMans, chocolate brown, with a license number of VDU-150.

Q Do you know the person who was driving that car?

A Yes, sir, I do.

Q And who was it? Who did you see driving it?

COPY

direct - C. H. Slutter

A A young fellow by the name of Bullock.

Q And did you see that car at any time at the trailer?

A Yes, sir, I have.

Q More than once?

A Yes, sir.

Q How often?

A Oh, I'd say two or three times that I can specify.

Q Do you know what time of the day you saw it there?

A Evenings. And just recently, it was there one morning.

Q What morning?

A It was Saturday, this past Saturday morning.

Q And what did you see?

A I seen him go in the driveway and park the car right alongside the trailer, and that was at approximately seven o'clock in the morning, and left at approximately 10:00, 10:00 in the morning.

COPY

direct - C. H. Slutter

Q Did anything happen when he left?

A He just left. Shortly after he left, about five or six minutes, why, the young lady left in her car.

Q The time that you saw his car there, did you see any other car there?

A Her car was there.

Q Have you, at any time, seen Mr. Bullock and Mrs. Durrette together any other place other than the trailer?

A I have seen her car come out one time -- of course, I'm over on my own property -- on the 14th, or 15th, when they had a party over there, several weeks ago, and there was two people, two occupants in the car. That was on a Saturday, I think the 14th. And then on Sunday, the 15th, he come over to my place late in the evening, or afternoon. I should say, to borrow some tools.

MR. BURNSIDE: I would object to any conversation between these two.

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Q Don't say what he said to you.

THE COURT: He can say he borrowed some tools.

Q Did he borrow the tools?

A Yes, sir, he borrowed the tools.

Q Then what did he do?

A He left, and about 9:00, 9:30, he came back, returned the tools with her car.

Q Was there anybody else in the car but him?

A He had some other young fellow with him. I have no idea who he was.

Q Have you, at any time, seen Mrs. Durrette and Mr. Bullock in the same car together?

A I couldn't swear that it was them, because everybody today has long hair.

Q Could you tell us anything unusual about Mr. Bullock's condition when he came to get the tools?

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MR. BURNSIDE: Objection, Your Honor. All of this, the last three witnesses, are totally irrelevant. He hasn't connected this in any form whatsoever to a custody proceeding.

MR. RAWLINGS: I believe --

THE COURT: I think you can show the cases, I understand, Mr. Burnside, he can show the lifestyle of either party And I think that is what he is attempting to do.

MR. BURNSIDE: There hasn't been any lifestyle shown yet. There has just been two automobiles. That is all.

THE COURT: You can argue that at the end. Go ahead, Mr. Rawlings.

BY MR. RAWLINGS: (continuing)

Q Can you tell us anything about his condition at the time he came to get the tools?

A He was in a high condition.

Q What kind of condition?

A High.

Q What do you mean by that?

MR. BURNSIDE: We don't even know that Mrs. Durrette was at home.

MR. RAWLINGS: That is a matter of weight to the question.

THE COURT: Ask him what he observed, Mr. Rawlings.

Q What did you observe to his condition?

A When he come over to borrow the tools, he was in a very high condition. Now, whether he was on alcohol, or that, I couldn't say.

THE COURT: That is not the condition. What did he do?

THE WITNESS: "Hey, man, do you remember me? I live over here in the trailer."

MR. BURNSIDE: I object to all this hearsay again.

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THE WITNESS: It is not hearsay, sir.

THE COURT: Don't argue with him. Objection sustained. Go ahead, Mr. Rawlings.

MR. RAWLINGS: I believe that is all I want to ask him.

THE COURT: Do you want to cross examine Mr. Slutter, Mr. Burnside?

CROSS EXAMINATION

BY MR. BURNSIDE:

Q You let him borrow your tools that evening?

A Yes, sir, I did.

Q You referred to a Pontiac LeMans, sir, I believe you have seen that same one just as the previous witnesses, at the Cannon house, correct?

A Yes, sir.

Q And, as I understand it, on the one Saturday morning that you saw him, you saw this car drive up to the trailer.

A Yes, sir, I seen it.



COPY

TESTIMONY OF MICHAEL WHITE

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MICHAEL WHITE, a witness, being called for examination by counsel for the plaintiff, first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RAWLINGS:

Q State your name and where you live.

A Michael White, and I live in Locust Grove, Virginia, Star Route Box 150, Mine Run, Virginia.

Q What is your occupation?

A Private Investigator.

Q Are you acquainted with, or know when you see Karen Durrette?

A I know her when I see her, yes.

Q Do you know what kind of automobile she drives?

A She drives a Chevrolet, license number FWE-465.

Q Do you know a person by the name of Gary Bullock when you see him?

A I have seen him once. I think I would know him if I saw him again.

Q Do you know what kind of car he drives?

A I have his license number was VDU-150, and it is on a Pontiac two-door.

MR. BURNSIDE: Your Honor, I would, of course, object to who a license number is registered to, because it necessarily relies upon hearsay evidence from the Department of Motor Vehicles.

THE COURT: Yes, sir. Mr. Rawlings can ask him if he observed Mr. Bolluck in the car, and what kind of car that was.

BY MR. RAWLINGS: (continuing)

Q Have you seen Mr. Bullock in his car?

A No, sir, I have not.

Q Have you seen a car with that license number?

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A Yes, sir, I have.

Q Where did you see it?

A I have seen the car at a mobile home located near Todds Tavern, on State Route 612.

Q Do you know who lives in that trailer?

A I observed this lady here at the trailer, a Mrs. Bullock, and she's been staying there. I have seen her there several times. (witness indicating)

Q Are you pointing to someone?

A Mrs. Bullock.

MR. BURNSIDE: I hope she is not.

THE COURT: Let the record show he was pointing to Mrs. Durrette.

THE WITNESS: I'm sorry. I got my names confused.

Q Directing your attention to April the 14th, 1980, were you in the neighborhood of the trailer that you referred to?

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MR. BURNSIDE: Excuse me, Your Honor, I would like to inquire at this time, I note that he is looking at his notes. I would like to inquire if he is refreshing his recollection, and if so, that I be permitted to see whatever it is that he is reading from.

THE COURT: Yes, I think that is a proper request.

MR. RAWLINGS: Yes, that is certainly all right.

NOTE: At this time a paperwriting is handed to Mr. Burnside by the witness.

MR. BURNSIDE: Excuse me a moment, Your Honor. Fine, Your Honor.

THE COURT: Go ahead.

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BY MR. RAWLINGS: (continuing)

Q As I say, directing your attention to April the 14th -- well, first let me ask you this, do you know by sight or personally the Durrette children?

A Yes, sir.

Q Directing your attention to April 14th, 1980, did you see them at that time?

A Yes, sir, I did. At 7:30, around 7:30 p.m., I set up an observation of a house located at Route 10, Box 639, Mrs. Durrette's mother's house, out near Chancellor. I left around 7:00 -- around 8:00, and returned again.

Q When you left at eight o'clock, did you notice anybody there?

A There was nobody there except Mrs. Lack's car. I didn't see any other vehicles, or any people at that time, nobody. I came back at approximately 10:00 p.m., checked the house again. Again, I observed Mrs. Lack's car. No other cars there. I went around behind the house. There is a field behind the house, and from the road, on the other side of the field,

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I could see through the window at the far end of the house from the road, and I could see Mrs. Lacks changing the children into their pajamas at that time, around ten o'clock.

Q Do you know what day of the week that was?

A No, sir, I don't. It's April 14th, 1980, is the date.

Q Well, I would like to show you -- I can show you my calendar, or we can agree that this is my calendar. Can you tell us what day of the week the 14th is?

THE COURT: As it is shown on your calendar.

MR. RAWLINGS: I guess it is a correct calendar. Let's show it on the Judge's calendar.

A It's a Monday.

Q Did you see Mrs. Durrette at that time?

A No, sir, I did not.

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Q How long did you stay there?

A I stayed approximately eleven o'clock before I went home.

Q Did you see her arrive at any time? Did she arrive at any time that you were there?

A No, sir, not while I was there.

MR. RAWLINGS: I believe that is all I want to ask.

THE COURT: Cross examination, Mr. Burnside.

CROSS EXAMINATION

BY MR. BURNSIDE:

Q This Mrs. Lack who you referred to concerning the evening of April 14th, that is the mother of this young lady? Correct?

A Yes.

Q And further, as I understand it, you were absent from the area from eight o'clock p.m., until ten o'clock p.m.

A A little after eight o'clock, until just before ten o'clock.



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TESTIMONY OF JERRY DAVID HAMILTON

COPY

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WITNESS STOOD ASIDE

MR. RAWLINGS: Jerry Hamilton.

JERRY DAVID HAMILTON,

a witness, being called for examination by counsel for the plaintiff, first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RAWLINGS:

Q State your name and where you live.

A My name is Jerry David Hamilton. I live at Route 1, Box 309D, Spotsylvania County, Virginia.

Q What is your occupation?

A Private Investigator.

Q Do you know Mr. Mike White?

A Yes, I do.

direct - J. D. Hamilton

Q Are you acquainted with, or do you know on sight Mrs. Karen Durrette?

A I have never met her.

Q Do you know when you see her?

A Yes, I do.

Q Do you know a person by the name of Gary Bullock when you see him?

A I believe I could identify him.

Q Have you, in the last, within the last week, had occasion to see one or both of these two people?

A Yes.

Q Where and when?

A I observed, last Saturday morning, at 10:00, 10:00 a.m., Mr. Bullock and Mrs. Durrette leave the trailer that was described to me as being the residence of Mrs. Durrette. The woman followed the man to a vehicle. It was a Pontiac, license tag number VDU-150. Mr. Bullock opened the trunk of the car, put something inside, I couldn't see, and closed the trunk. He entered the car by the driver's door, sat in the driver's seat, and Mrs. Durrette

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COPY

leaned inside the door, which was still opened, in a manner in which I would believe she kissed the driver.

MR. BURNSIDE: Objection. He described a manner. It is obviously an opinion. He's speculating on what happened.

THE COURT: He can describe what he observed, Mr. Rawlings.

Q Just tell us what you observed her do.

A I observed her lean inside the door in front of the driver, approximately one to two seconds. She got out of the vehicle, closed the door, then she returned to the trailer. The driver backed the car up, and drove off to the left of my position.

Q How far were you away?

A Approximately one hundred and fifty feet. Close enough that I could, without special optics, read the tag number of the vehicle.

Q Have you, at any time prior to that, seen these two people at this place?

A Not to my knowledge.

MR. RAWLINGS: That is all I want to ask him.

THE COURT: Cross examine, Mr. Burnside.

MR. BURNSIDE: Just one question, Your Honor.

CROSS EXAMINATION

BY MR. BURNSIDE:

Q Sir, what time did you get to that residence?

A I arrived at the residence, or a position where I could observe the residence at 9:00 a.m.

Q All right, so, in other words, as Mr. Slutter previously testified, you would not have knowledge of the fact that a car drove up to this location at seven o'clock. You have no recollection of how long it was there, or anything of that nature.

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cross - J. D. Hamilton

A No, I do not. May I add --

Q Excuse me. Did you prepare a report and file the same with Mr. Rawlings, a written report?

A I prepared a report that was placed in a file at my office.

Q Do you have that written report with you today?

A Yes, I do.

Q Did you rely upon that in testifying today? In other words, did you review your report in coming to Court today?

A Yes, sir, I did.

MR. BURNSIDE: I would like to see that since he used it to refresh his recollection, Your Honor.

NOTE: At this time a paperwriting is handed to Mr. Burnside by the witness.

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TESTIMONY OF GORDON E. DURRETTE

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NOTE: At 12:25 p.m., a break was taken. At 12:35 p.m., all parties present as before, the matter continues as follows:

GORDON E. DURRETTE, the plaintiff, being called for examination by counsel for the plaintiff, first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RAWLINGS:

Q State your name and where you live.

A Gordon Durrette, 306 Beechnut Drive, Fredericksburg.

Q Describe the house in which you live, Mr. Durrette.

A Four bedrooms, two full baths, kitchen, dining room, den, family room.

Q What construction is it?

A Brick.

Q How many homes are in the area, in the subdivision?

A I'd say three hundred.

Q Now, directing your attention to February of this year, when the custody of your children was awarded to you, what can you tell the Court about their behavior and attitude at that time, as opposed to the present time?

A Well, she'd bring them back on Tuesday mornings, the babysitter would try to get them straightened out because they were running around the house, throwing the food on the floor, using some pretty bad language. Now, they, you know, they listen good, they mind, you can do anything with them, you can take them anywhere you want to go and they will behave themselves, whereas they wouldn't, and you couldn't do anything with them when I first got custody of them.

Q How did the children react to going to visit their mother?

A On Sunday mornings --

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MR. BURNSIDE: Excuse me, Your Honor, the way that question is phrased opens up for what the children might have said to him.

THE WITNESS: I'm not going to tell you what they said, I'm going to tell you what they did.

THE COURT: Just say what you observed. Go ahead, Mr. Durrette.

A When she arrives to pick them up on Sunday mornings, one Sunday morning it is 11:30, the next Sunday morning it is 9:30. They know it is Sunday morning because I fix them a little goodie bag to take with them. When she pulls in the driveway with her car, they hear the rocks, the gravel in the driveway. They go to the window and both begin to cry. They do not, do not want to go with their mother.

MR. BURNSIDE: I object, Your Honor.

THE WITNESS: They cry they do not want to go out. They go in the other room, in the kitchen. Is that all right?

THE COURT: Don't argue with the counsel.

Q Don't argue with the counsel, just tell it. Are you present when they come back from their mother?

A No, sir, I'm not.

Q During the Sundays that the children are picked up at 11:30, what happened before that time?

A We wake up on Sunday morning at seven o'clock, approximately. We go upstairs, we have our breakfast, I fix breakfast for them. We say our blessing every meal before we eat. I then go downstairs and dress them, and we all go to Sunday School together, and then we come back home. I give them a quick bite at eleven o'clock because she picks them up at 11:30. I try to get some food into them before she arrives.

Q What church do you go to?

A Spotswood Baptist Church.

Q On the mornings that they are picked up at 9:30, what happened to them? Do you know?

MR. BURNSIDE: I'm going to object, Your Honor, unless he is following her car, he wouldn't have knowledge.

MR. RAWLINGS: I want to ask him if he knows.

THE COURT: He can describe what happens while he is with the children.

A When she arrives to pick them up, they both cry --

MR. BURNSIDE: We have been over that, Your Honor.

Q Do you know what happens to them after the leave?

A No. I have no idea, no, sir.

Q Have you talked with your wife about it?

A No, sir. Other than having seen her at Sunday School before, that is the only thing I know that she does on Sunday with them.

Q You said you have seen her at Sunday School?

A I have seen her car there on occasions when I take them. I have seen her car in the parking lot. I have not seen her in the church.

Q Do you have occasion to talk with, or see your wife when she picks up the children?

A She won't come in. She stands on the sidewalk and rings the door bell.

Q Have you heard any comment she has made?

A Yes, I have. One Sunday morning she came to pick them up. The children were --

MR. BURNSIDE: Could we just identify what Sunday that was, Your Honor.

THE COURT: You have to put that in in some kind of a time frame, Mr. Durrette.

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THE WITNESS: Yes, sir. Just one second.

MR. BURNSIDE: Since he is referring to notes, Your Honor, I will look over his shoulder.

A That was on Sunday morning, the 11th of May. The children came out on the sidewalk together with their mother. They were crying, told her they did not want to go, and --

MR. BURNSIDE: You Honor.

A -- she said she did not give a shit whether they wanted to go or not, they were going.

Q Did she say that in the presence of the children?

A Yes, she did. Right on the sidewalk.

Q During the time that you and your wife were living together, can you tell the Court about her actions with respect to the children, and how she cared for the children.

A During the evenings when we used to put the children to bed at eight o'clock at night, they were getting, you know, older, and they didn't want to go to bed. She would take and lock them in the bedroom to make them stay in there, because they weren't old enough to realize how to unlock the door, and that is how they went to bed at night. They were locked in their rooms so they couldn't get out, so they had to stay in the bed.

Q Do you know whether your wife, at that time, was with the children all hours during the day?

A No, sir, I do not. I was seventy miles away. I don't know what she did.

Q Do you know where she is living at the present time?

A Now I do, yes, sir. When she first moved, she would not tell me where she lived. She would not give me her phone number in case I needed her while I had the children during the week. I could not get in touch with her if anything happened to them. I didn't have any idea where she lived, and she finally told me where she lived at, and she gave me her phone

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number. But all during this time I have had these children, she has never called during the week at all to see about them. She picks them up Sunday, brings them back Tuesday, and Tuesday through Sunday morning, no phone calls, not even to inquire how they are, are they feeling all right, are they sick, what are they doing, or anything.

Q Now, can you describe the place where she is living now?

A No, sir, I cannot.

Q You know where it is?

A Yes, I know. Yes, I know where it is. I have never been in the yard. The trailer sets off the road approximately a hundred yards, I believe. I have never been to the trailer itself.

Q Do you know how far the trailer, where she is living, is from where the house where her mother lives?

A Approximately fifteen miles.

Q Do you know anything about the children's attendance at Bible School? How do they happen to get there, or do they get there?

A My mother took them down on Friday. Do we --

THE WITNESS: Do we need the date on that?

THE COURT: Just answer the questions the best you can.

A It was two weeks ago. Took them down on a Friday before they started, to enroll. I asked Karen if she would bring them back that Monday so they could attend Bible School, and she had something to do. They couldn't attend that Monday. But they did attend the Tuesday, Wednesday, Thursday, and Friday after that.

Q Do you know Gary Bullock when you see him?

A Yes, sir, I do.

Q Do you know whether or not he's married?

A Yes, he is.

Q Have you, at any time, seen him with your wife?

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A I have seen him in her car driving up and down the road, our car. It is in both our names, together.

Q Have you had any discussions with your wife Karen about the children? Has she made any statement to you about them?

A She has called me up and told me why shouldn't I just give the children back to her, and she wanted them back, and I told her that I wanted them too.

Q Directing your attention to April the 7th, would you tell the Court what, if anything, occurred with respect to your wife on that date.

A Let's see, that was on a Monday. I called her mother's house. That is when she had them that weekend, you know, she picks them up, as I say, on Sunday and brings them back on Tuesday. Called about seven o'clock at her mother's house --

MR. BURNSIDE: The rest of the note is a hearsay.

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Q Don't say what the mother-in-law said, just say what you did.

A I asked to speak to Karen. Karen was not --

MR. BURNSIDE: Obviously, this --

Q You asked to speak to her. Did you speak to her?

A I did not speak to my wife on the phone. I called back again. I still could not speak to my wife on the phone.

Q What time was the last time you called her?

A At ten o'clock. And then I still could not speak to my wife. She called me the next morning to see what I wanted.

Q Directing your attention to April the 20th, and I ask, if you can, tell us what you saw, what happened with respect to the children and your wife.

A That was April 20th. That was Sunday. She arrived at my house at 4:45 a.m., in the morning,

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wanted to come in.

MR. BURNSIDE: Excuse me. I'm going to ask, because of this constant reliance here, when these notes were prepared. I think I have a right to inquire on that, Your Honor.

THE COURT: Yes, I think you do.

THE WITNESS: The days all these situations happened, they were notes being made this whole time. That is why I have them stated in this book as such.

MR. BURNSIDE: You are relating that you wrote all of these down at the time?

THE WITNESS: At the time these occurrences happened.

MR. BURNSIDE: Why are you relying upon these notes in testifying in response to Mr. Rawlings' questions?

THE WITNESS: I am relying to dates. I know what happened.

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MR. BURNSIDE: Well then why are you looking at the notes to find out what happened on those particular dates?

MR. RAWLINGS: If the Court please, if he made the notes at the time the events occurred --

THE COURT: I am going to let him refer to them. You can cross examine him on them.

Go ahead, Mr. Rawlings.

BY MR. RAWLINGS: (continuing)

Q Tell us what happened on the 20th.

A She arrived at quarter to five, 4:45, on Sunday morning, said that she hadn't slept all night, and she wanted to come in. So, I let her in. She went downstairs and laid on the couch for about ten minutes, and I told her she would just have to leave. So, she got up, left, came back at 8:30 very upset, crying, didn't know what she was doing. I asked her could I please help her in any way that I could to get herself straightened

out. She couldn't help her own self, so I couldn't help her. She came over that Saturday morning before, same thing.

MR. BURNSIDE: Is that written down here, sir?

THE COURT: You can cross examine him on that later.

Q Has that happened on other occasions, or just that one time?

A Well, this Saturday morning before, which was the 19th, she came over. She had these hickies all over her neck, said that she was out in the yard cleaning up, and a stick flew up and hit her on her neck. Then I confronted her about the Sunday morning the next day. This time she had been laying in the sun, and had too much iodine and baby oil on this one spot on her neck, which caused these very red blemishes.

Q How long did she stay at that occasion?

A She arrived about 8:30 to pick

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the children up, and she left, well, 9:30. That was the morning, one of the Sunday mornings that she was to pick them up at 9:30. That is the morning she went to church.

Q I direct your attention to May the 4th, if you can tell us what you recall happening on that date.

MR. BURNSIDE: What was that date, again?

MR. RAWLINGS: May the 4th.

A She was supposed to pick the children up at 9:30 on that morning. She called me at about 8:00 and she had a terrific headache, could not, just couldn't make it, would I mind taking them to Sunday School and she would pick them up after that at 11:00 like she usually does. So, about fifteen minutes later, she calls back again, said she would go ahead and pick them up at 10:30, right after Sunday School. So, then, about ten minutes later, she calls back again, and said she had just took some medicine, and she felt perfect, and she would be there at 9:30 like she was supposed to be. Just very unpredictable. I had dressed the children to go to church

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with me. Then I get the phone call that she is coming --

MR. BURNSIDE: Objection, Your Honor, as to --

THE COURT: Mr. Rawlings, ask him another question.

Q All right, directing your attention to June the 8th, what happened? Do you recall what happened that time?

A She came to pick our children up that morning, and had two other children with her, and she, you know, wouldn't tell me who they were, or where they lived, and said that she was going to another church that morning.

Q Directing your attention to June the 10th, if you can, tell us what happened then.

A They played with their bodies again, you know, when they arrived home. I saw them doing that. And the day before, they had been with her, her brother.

Q When you say playing with their bodies --

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A Both of them removed their pants and just played with one another.

Q And that is the first time you saw them do that?

A No, sir. I have seen it on quite a few occasions.

Q When were those occasions?

A Well, when she had them, they would do it every Tuesday when they came back.

MR. BURNSIDE: Objection, Your Honor. That is hearsay, because he's already stated he is never there at the house when she returns the children.

THE COURT: He didn't say what time on Tuesday, Mr. Burnside. Lead him in the right direction, Mr. Rawlings. He has to state times and places and dates.

Q You didn't see them at that time, did you?

A I saw them in the evenings when I arrived home from work, yes, sir.

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Q Were they doing it then?

A Yes, sir. I did not see them at ten o'clock when they were brought back.

THE COURT: All right, sir, go ahead, sir.

Q Directing your attention to June the 15th, if you can, tell us what happened.

A I can't say it, because if I do, I won't be able to say it anyhow. So, you will just have to skip over that date. I will get into that hearsay again, so we will just drop that one.

Q Now, are you familiar with your wife's work habits? Do you know of your own, know of your own knowledge?

A Yes, sir. She is off on Mondays, Tuesday she goes in at 11:30 in the morning, and doesn't return home until 8:30, nine o'clock at night. Wednesday is day work, Thursday is the same thing, 11:30 to -- she arrives home 8:30 at night. And Fridays, more day work. Saturday is mostly day work, but it is Tuesday, Thursday nights that she is away from home until 8:30.

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Q What day of the week is she off?

A Sunday and Monday.

Q I show you this --

THE COURT: Show it to Mr. Burnside so we won't get into any objection.

NOTE: At this time a paperwriting is handed to Mr. Burnside by Mr. Rawlings.

THE COURT: Let's go down, start down the road, Mr. Rawlings.

Q Can you tell us what this is, Mr. Durrette.

A This is a check my wife received from --

MR. BURNSIDE: Your Honor, I object to the check, and him testifying to the check, because one, it is not the original document.

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THE WITNESS: This check here is not my name on this check. I did not sign my name on this check.

THE COURT: Don't argue with one another.

MR. BURNSIDE: I object, Your Honor.

THE COURT: You haven't gotten far enough down the road for me to know what is going on. I will exclude it later if it is improper.

Q The check is payable to whom?

A G. E., and K. L. Durrette. This is a check she received for an accident she had in January, involving the car that we own. She went to Sears, the Allstate office, and they wrote her a check for two hundred ninety-one dollars and two cents. She, in turn --

MR. BURNSIDE: Objection.

Q Did you sign the check on the back?

A I did not sign my name on the back of this check, and she received two hundred and ninety-one dollars and --

MR. BURNSIDE: I am going --

THE COURT: I am going to sustain the objection as irrelevant.

MR. RAWLINGS: I just have a few more questions, Judge, and I will be done.

THE COURT: I believe you, Mr. Rawlings.

Q Mr. Durrette, are you asking the Court for custody of your children?

A Yes, I am.

Q Why do you feel that you should have custody and not your wife?

MR. BURNSIDE: Objection, Your Honor.

MR. RAWLINGS: I think that is a good question, Judge.

THE COURT: Why is it a good question?

MR. RAWLINGS: I want him to tell you his reasons, to tell you why he thinks--

THE COURT: That is my decision, Mr. Rawlings.

MR. RAWLINGS: He can give you his reason so that you can weigh them.

THE COURT: I will let it in. Go ahead, Mr. Durrette.

A Well, first thing, I love my children, and they know I do. My wife has told us, my children and me, before that she cannot show her affections. She cannot show her love, and there is no way for a child, in my opinion, to be raised if a mother can't show affection, or can't show love to her own family.

I can provide for them. I have a place for them to stay. I have people to watch them. There is just so many things that we do together, and I'm positive that I can provide a good home for them.

MR. RAWLINGS: Answer Mr. Burnside.

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THE COURT: Now, we are going to recess for lunch before you cross examine, Mr. Burnside. Take your seat back down there, Mr. Durrette.

NOTE: At this time the witness leaves the witness chair and returns to counsel table.

THE COURT: Bring the witnesses in, Sheriff, so I can instruct them.

NOTE: At this time all witnesses enter the Courtroom in the company of the Sheriff.

THE COURT: Are these all the witnesses? Now, these instructions go to you witnesses, and go to the parties. And as to the parties, when you talk to your lawyers, what I'm going to say is excluded. You may talk to your lawyers.

I don't want any of

the witnesses to discuss anything to do about the Durrettes, or the little boys during the lunch hour. Don't mention it. And talk about the weather, or talk about why your crops are burning up, or something of that nature. We are going to recess for one hour. I want everybody in the Courtroom at two o'clock. All right, Sheriff.

NOTE: At 1:00 p.m., a lunch recess was taken. At 2:08 p.m., all parties present as before, the matter continues as follows:

MR. RAWLINGS: I would like to ask Mr. Durrette a couple more questions, and then I will be finished.

THE COURT: You are still under oath.

BY MR. RAWLINGS: (continuing)

Q Mr. Durrette, what hours, what days do you work during the week?

COPY

direct - G. E. Durrette

A Monday through Friday.

Q Monday through Friday?

A Yes, sir.

Q The house you live in, what is the nearest school?

A Nearest school is about a quarter of a mile, Spotswood Elementary.

Q And would you tell the Judge, on a regular day, when you are with the children, what do you do for the children? You said you work certain hours, what do you do for them before you go to work, and when you get back?

A In the mornings, mostly, sometimes they wake before I leave, get up about 6:30, sometimes, and they go to the window and watch me go, tell me bye, and things. When I come home in the evenings, and Saturdays, we just get up and have our breakfast, and get dressed, and go out and play, and just work around the yard, ride over the airport. I work for United Parcel. They love to go over there and look at the trucks. We ride over town, fly kites, just, you know, stuff that little children enjoy, I guess.

COPY

direct - G. E. Durrette

Q How about on the evenings when, on your working days, when you get home?

A Come in and eat, and just go on outside with them, and play around the yard. They swing -- I have got a swing set out back, and we ride around on the lawmower. They like to ride. I built a little cart for them to pull behind. They like to ride around the yard. Just, you know, they help me do a lot of things, work in ghe garden together. They help me pick beans, and pull grass. Just hang around with me all evening. Then we go in and take a bath, get dressed, and go to bed.

Q Who does that for them?

A I do. I bathe them, and dress them, and watch TV for a few minutes, and give them a little milk, or something, before they go to bed. We usually go to bed around 9:30.

Q How do the children react to you?

A They just with me all the time. I mean with me. They are just right on my legs, and arms, holding my hand all through the yard. They just stay

COPY

with me. As soon as I get home, as soon as I back up in the driveway, they are there.

MR. RAWLINGS: I believe that is all I want to ask him.

THE COURT: All right. Cross examine.

CROSS EXAMINATION

BY MR. BURNSIDE:

Q Mr. Durrette, what is your monthly income? Let me put it more conveniently to you. Are you paid by the week?

A Yes, sir, by the week.

Q By the week. What is your gross salary?

A Is that before they take taxes out?

Q That's right, before they take taxes out.

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A About, I'd say, five fifty, five seventy-five, depends on how many hours you work overtime.

Q What do you normally bring home each week?

A Average of about, say, three seventy-five, three eighty, three ninety. Like I say, the overtime helps.

Q I understand you are an UPS driver.

A Yes, sir.

Q The little bit I know about UPS, I would imagine that during peak seasons, like Christmas, Easter, maybe there is more overtime than there would be at other times during the year.

A As of last year, there was, but there isn't now. We had to get so many people working, so much overtime, we had to get the union representative down there, and now nobody works past six o'clock, 6:30, 7:00 at the latest during Christmas. Our Union won't allow it.

Q So, the latest you would work overtime would be till seven o'clock.

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A Now, yes, sir.

Q How many hours of overtime do you think you average, say, on a weekly, or if it is more convenient, on a monthly basis?

A As of now, since Christmas, the most overtime I have worked is two hours a week. That would be -- our eight hours is up at five o'clock. That is your eight, and then, say, you work a half hour over each day, you say work four days. Most I have ever had is two hours since Christmas.

Q How far is your place of employment from where you work?

A About three miles.

Q Now, apparently, from what you have related, or you have suggested, prior to Christmas, there were -- you worked more overtime.

A Yes, sir, I did. I got a brand new house. I have to pay for it.

Q All right, so, in other words, would it be fair to state that during the time that you and Karen lived together, you had considerable overtime

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1 that would keep you, occasionally, at work until maybe
2 as late as 8:00, 9:00, maybe ten o'clock.
3 A Not very often till 10:00, unless
4 I broke down.
5 Q But you would go to 8:00, or 9:00.
6 A Sometimes, not very regularly.
7 Q Now, did your wife, during 1979,
8 prior to your separation, did she work?
9 A Yes, sir. I believe she worked
10 at Safeway.
11 Q Now, during the time that she
12 worked, isn't it true that she actually took the children
13 to the babysitter, and she would pick the children up?
14 A One particular babysitter that
15 occurred with, but then my mother started watching them.
16 She would have to work until 10:00 at night. I would
17 go pick them up when I got off from work. I usually
18 was there by 6:00.
19 Q How often would that have been,
20 I mean, per week? Once?
21 A I would say twice.

Q Would it be a fair statement that when she was a working housewife, so to speak, that the vast majority of the occasions, she delivered the children to the babysitter, and she would pick them up?

A Yes, sir.

Q Now, based upon what you have already related, your job requires you to get up very early in the morning.

A I get up at --

Q Earlier than us lawyers and so forth, probably.

A I leave my house at seven o'clock, so that is not real early, I don't think.

Q Well, in any event, that is always been true for you, correct?

A No, sir. I used to leave a little earlier, because the way the job is we didn't have anybody to load our trucks, and we went in to do it ourselves.

Q So, in other words, when you and Karen were living together, she was really the one who took care of the children in the morning, because you had to get up early.

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A Well, during the night, I would have to -- I would get up and help her some, you know, children that age.

Q I'm talking about from the time that you normally got up in the morning for the purpose of going to work.

A If the children aren't awake, there is no reason for anybody to take care of them.

Q Isn't it true that she, in fact, took care of those children day after day in those morning hours when they would get up?

A If I left home at seven o'clock, she would have to take care of them.

Q It just requires a yes or no answer, sir. Isn't that true? Didn't she take care of those children every morning when they woke up?

A Yes.

Q From the time that the children were born, I believe, your wife did not work until sometime in the middle of 1979, is that right?

A That's right. She had to get away from the children. They upset her so bad she wanted a job of her own so she could get away.

Q There were two and a half years where she took care of the children, essentially, right?

A Her and I together. When the children were born, I was on strike, you know. We have twins, she would do one, I would do the other. It was kind of a fifty-fifty deal there, you know.

Q How many days were you on strike?

A Twelve weeks.

Q Out of the two and a half year period. Now, during the two and a half year period, other than the twelve weeks, essentially, she took care of those children Monday through Friday until you came home in the evening, correct?

A Yes, sir. It would have to be.

Q At any time during that two and a half years, did you ever feel the necessity of calling in a housekeeper or a nurse?

A I didn't call in one, but I felt we needed one.

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Q But you never called one in, did you?

A I didn't want to get any harassment from it.

Q Did you ever lock the children's bedroom door?

A No, sir.

Q Did you ever unlock it?

A Uh huh.

Q Did you ever fight with your wife about her locking the door at all?

A I didn't see any point in it. I asked her why.

Q All right, that is fine, thank you. Now, do you know Sandra Ogle?

A Yes, I do.

Q Have you taken the children up there to visit with her children?

A Yes, I have.

Q Since the separation?

A Yes, I have.

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Q How many times?

A How many times has she seen me, or how many times have I been up?

Q I ask you how many times have you personally taken your children.

A Anywhere from five to ten times.

Q I'm going to warn you right now, she is going to state to this Court that from the time of the separation, you have never done it. Do you want to recount?

A Well, I know her husband has been out there a lot of times when I have been up there with those kids, because they have been riding bicycles up there, and those hot wheels, and they come over to my house and ride the hot wheels outside in my backyard some evenings after I get home.

Q You do not want to recount? In other words, Mrs. Ogle, who is not related to you, not related to Karen, that is her axe to grind, you will say that she is wrong, is that right?

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A She is not out there to see me. Well, okay, there is no reason to get -- I have taken the children up there.

Q Well, I noted that you did not relate that in response to Mr. Rawlings when he asked you what you did with the children. You were always every evening in the back yard, just you and the children, with them clinging to you. So, evidently, then, you did not consider it important at that time to relate to the Court that, in fact, they do play with children, is that right?

A I guess so.

Q Now, in December when your wife left, she took the children, right?

A That's right.

Q And I believe, maybe I'm wrong on the date, correct me if I'm wrong, it was either December 26th, or 27th, was the date she left, is that right, which day is it?

A 27th.

Q Did you have the children the very next weekend? That would have been New Year's weekend.

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A I can't truthfully answer. I know I talked to her on the phone, and asked her -- I know I talked to her that weekend, but I can't truthfully say whether the children were there or not.

Q But in any event, not too much time elapsed that she voluntarily gave you the children for you to visit with them, correct?

A Yes, sir.

Q Was it on that occasion when you refused to return the children to her, yes, or no?

A Yes.

Q You kept the children in your custody until the Juvenile Court issued a temporary order telling you to return the children to her?

A Yes.

Q Was it from the time you first got the children on visitation, until that Court order, would it be correct that approximately two weeks went by in which you had the children with you?

A Yes, sir.

Q And during that entire two weeks,

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1 did not your wife call on several occasions requesting
2 to see the children?
3 A Yes, sir, she did.
4 Q And, in fact, she was not permitted
5 to see the children, yes or no?
6 A No. She was told to come any
7 time she wanted to.
8 Q After she got the children from
9 the order, the Juvenile Court order, it was approximately
10 five or six weeks before the actual hearing in Juvenile
11 Court, correct?
12 A Yes, sir.
13 Q Do you have any receipts indicating
14 that you provided her any support during that time for
15 the children?
16 A Not with me.
17 Q You did not give her any.
18 A I gave her --
19 Q Did you give her any checks?
20 A I gave her no cash.
21 Q Did you give her checks?

A I supplied the children with food to last them. I took food back every Sunday afternoon, and she did not want it. She wanted money.

Q And you refused to give her any money.

A Yes, but I took plenty of food.

Q And you refused to give her any checks.

A Correct. They had clothes and food. Children aren't old enough to go to town and buy anything for themselves.

Q And you, in fact, at this point in time, were netting about three hundred ninety dollars a week take-home.

A I thought we said three seventy.

Q All right, I'm sorry, three seventy to three ninety. Okay? I will even go down to three fifty, if you want. You were netting at least three hundred fifty dollars during those five to six weeks, correct?

A Correct.

Q Now, during the marriage, is it

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not true that your wife took the children to Doctor Painter as the pediatrition?

A Yes, sir.

Q Did you ever talk with Doctor Painter at all during the time that you and Karen lived together?

A (no response)

Q So, obviously, your wife saw to them having their shots, that they had their proper annual physicals, that type of thing.

A Yes, sir.

Q And furthermore, you never received any complaints from Doctor Painter with regard to the care of these children.

A No, sir.

Q Now --

A (interjecting) If I had of been off, I would have taken them with her. I took them last Friday.

MR. BURNSIDE: Your Honor, I haven't elicited any comments from the witness.

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THE COURT: Just wait until he asks you another question. Your lawyer will take care of you when he gets you back on direct examination.

Q Now, when the children go to Sunday School, evidently, due to their age, they must be placed in a nursery?

A Yes, sir.

Q And is that the same nursery that your mother --

A (interjecting) Helps out in?

Q Yes.

A Yes, sir.

Q After you deliver the children to the nursery, what do you then do?

A I go upstairs to my class.

Q On every occasion?

A Just about every other Sunday. When I take the children to church with me at 9:30, I go ahead on to my class.

Q Do you go to the actual morning worship service?

A No, sir.

Q So, evidently, you pick up the children from the nursery.

A I have to have them back home for her to pick up.

Q Well, there are four Sundays in the week, and she only sees them two, right?

A Right.

Q What do you do on the other two Sundays?

A Well, I go to Sunday School, I come back home. I don't attend the preaching services. I mean --

Q At all?

A No, the sanctuary.

Q You don't attend those at all, right?

A Not in the sanctuary, no, sir.

Q And that is whether the children are with you or not with you, right?

A Right.

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cross - G. E. Durrette

Q Now --

MR. BURNSIDE: Excuse me a moment, Your Honor.

Q As I understand, Mrs. Mentor never took care of the children prior to the time that you got temporary custody, correct?

A No, never took care of them, no, sir.

MR. RAWLINGS: Now, if the Court please, I don't know whether this is necessarily proper or not, but counsel has been referring to him getting temporary custody. This was nothing temporary about it. It was appealed, but at the time, it was a permanent custody.

THE COURT: Let's just call it custody.

MR. RAWLINGS: It wasn't temporary.

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MR. BURNSIDE: My understanding of the law is that custody is always temporary.

THE COURT: Let's just call it custody, then I don't have to make a ruling.

MR. BURNSIDE: That is all I have, Your Honor.

THE COURT: Redirect, Mr. Rawlings.

REDIRECT EXAMINATION

BY MR. RAWLINGS:

Q Mr. Durrette, when your wife went to work prior to your separation, did you ask her to go to work?

A No, sir, I did not.

Q Why, did she give any reason for going to work?

A She wanted -- she didn't have enough money. I brought home so much money a week. She didn't have money to spend on herself. She had things she wanted to do. And the children, she just had to

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1 get away. She had to get away from them, so she wanted
2 a job to get away from the children. She couldn't stay
3 cooped up all day in the house with the two children.
4 Q Did she get any money from you?
5 A She came every Friday morning
6 and picked up my check. I signed it, three hundred fifty,
7 eighty dollars. I got my allowance. It was twenty dollars
8 a week. She handled the rest.
9 Q Now, when Judge Cox, when you
10 went -- you had the children for two weeks, and then there
11 was a temporary order, a temporary order by Judge Cox
12 giving them to your wife.
13 A Yes, sir.
14 Q Who requested the hearing for
15 such a move?
16 A I did. I had them for those two
17 weeks before that, and I came out here to the Courthouse,
18 and tried to get a hearing to get them settled, instead
19 of this bickering back and forth.
20 Q Did you, during the time that
21 your wife had the children for several weeks before the

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1 last hearing by Judge Cox, did she discuss money with
2 you for the children?
3 A Wait a minute.
4 Q You said you were taking food
5 and clothes over there.
6 A Well, no, not that I recall. I
7 took the clothes. I give them clothes, new clothes, and
8 food during the weeks on Sunday when I took them back,
9 and every time I did take that back over there, I used
10 to put it in their mother's front door, sit it right inside.
11 She told me she did not want that garbage.
12 Q Did she ask for any money?
13 A Yes. I told her to give me whatever
14 they needed, to let me know exactly what they needed,
15 and I would get it for them.
16 Q Do you know if anybody other than
17 your wife ever took your children to Doctor Painter?
18 A My mother has taken them quite
19 often.
20 Q Do you know who took them more
21 times?

A No, sir.

Q Why was it that you didn't go with them to Doctor Painter?

A This Tuesday, before, when she returned them, one of them had an ear infection --

MR. BURNSIDE: That is not responsive to the question. The question was why didn't you take them back to the doctor.

A They had to go back in two weeks to make sure the ear infection was cleared up.

MR. BURNSIDE: That is not responsive to the question.

Q What I'm asking you, you tell us why you didn't go. You testified before that you didn't go with your wife with the children to Doctor Painter.

A Because I have to work Monday through Friday.

MR. RAWLINGS: I believe that is all.

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TESTIMONY OF GREGORY L. DURRETTE

direct - G. L. Durrette

A Gregory L. Durrette, 4802 Hood Drive, in Fredericksburg.

Q Are you related to Gordon Durrette?

A He is my brother.

Q Do you know his wife Karen?

A Yes, sir.

Q Do you know his children?

A Yes, sir.

Q Have you seen him with his children?

A Oh, yes, sir.

Q How does he get along with his children?

A Very well, I would say.

Q What does he do? What kind of a father does he make?

A A very good father, I think, in my opinion. They seem to be very happy when they are with him, and when he is working, they always ask for him, "Where is he," "What is he doing."

Q Have you ever been to, with him or by yourself, to their mother's home, to Mrs. Durrette's home after she separated from him??

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A I was with him on two or three occasions to carry them back when she was living with her mother.

Q And how -- what took place then?

A We would try to pacify them on the ride out there. And the first time he carried them, they knew where they were going, and they were very upset, and so I rode with them, and we told them we were just going riding, and when they did find out where they were going, they were very upset, and they would cry and didn't want to go in.

Q Did they go in?

A Yes, he told them that they had to. They asked to please not make them go in --

MR. BURNSIDE: Excuse me, Your Honor. This is hearsay.

Q Don't tell what they say, just tell what you did.

A How do you mean hearsay? This is what the children told me.

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THE COURT: Don't worry about that, Mr. Durrette. You say you saw them go in?

THE WITNESS: Yes, sir.

Q Who took them in?

A Their father carried them to the door.

Q Did anything unusual happen on any one of these occasions?

A Not in my presence, no.

MR. RAWLINGS: I believe that is all I want to ask him right now, Judge.

THE COURT: All right. Mr. Burnside.

CROSS EXAMINATION

BY MR. BURNSIDE:

Q How old are you, Mr. Durrette?

A Twenty-nine.

cross - G. L. Durrette

Q Are you living with your parents?

A I do?

Q The two or three occasions that you went with your brother to Karen's mother's home, this period of time is when she had custody of the children, is that correct?

A That is correct.

Q Now, as I understand it then, Mr. Durrette merely escorted the children up to the door, is that correct?

A Yes.

Q Did he carry anything with him?

A Yes.

Q What was that?

A It would be groceries, and things that they would need during the week until he would have them again.

Q Now, these two or three occasions, when were they?

A Excuse me?

Q When were they?

COPY

cross - G. L. Durrette

A I can't give you a date. It would be on a Sunday.

Q Did you go shopping with your brother when he bought these groceries?

A No, I did not.

Q Evidently, then, you don't know what was in the bags unless you are a super inquisitive person.

A I can tell you what was on the top of the bags. No, sir, I didn't go through the bags. They were groceries, foods, that the children would eat.

Q Well, now, were you with your brother the night that he followed his wife from her place of employment?

A I met my brother at the shopping center on Route 3.

Q First, let me ask you what date was that, and what time was that?

MR. RAWLINGS: Now, if the Court please, I don't believe we raised this in

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direct examination. It would not seem to me to be a proper line of cross examination.

MR. BURNSIDE: I would recall him as an adverse witness, Your Honor.

MR. RAWLINGS: If you are going to do that, you might as well do it now.

THE COURT: Just call him as an adverse witness, and go forward.

BY MR. BURNSIDE: (continuing)

Q What was the date and time?

A I can't give you a date. I'm sure you know it, or you wouldn't be asking me about it. The time was between 6:00, and eight o'clock. My brother was there. I met him. He told me that he had had --

Q I didn't ask you what he had told you.

A All right. I will wait for you to ask the question then.

Q All right, now. That was sometime between 6:00, and eight o'clock?

A In my estimation. To the best of my knowledge it was.

Q I'm not disputing the time. How long did you and your brother stay out that night?

A I don't know how late my brother stayed out.

Q What time did you leave him?

A I stayed in the parking lot approximately thirty to forty-five minutes.

Q Did he leave?

A Yes.

Q Now, you stayed there thirty or forty-five minutes, and obviously you left. When you left, had your brother returned, or was he still gone?

A We left at the same time, in different directions.

Q Did you see Karen that night?

A Yes.

Q And I believe she was with -- she was getting off work.

A I don't know where she was coming from.

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Q She was with another female companion, or another two female companions.

A That is correct.

Q And after she pulled off, in fact, your brother followed her, right?

A He left at the same time she did. I did not see the direction in which he traveled.

Q Do you and your brother do things together?

A We don't do things together as some people do. We work on cars together, and see each other occasionally, yes. We are very close.

Q Do you go out together in the evenings at all?

A No, sir.

Q Does he have any friends his age that he goes out with, be it to play golf, or go fishing, you know, whatever?

A He does not play golf. He has friends that he sees. I don't know how occasionally, how regularly that is.

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Q When --

A (interjecting) Most of his time is spent at home with the children.

Q I didn't ask for any comments, sir.

A Strike that from the record. I'm sorry.

Q Just as obviously, since you live with your mother, and you said you don't get together, you don't know what he does, in fact --

THE COURT: You can argue that to me, Mr. Burnside.

MR. BURNSIDE: That is all I have of this witness.

THE COURT: Redirect, Mr. Rawlings?

MR. RAWLINGS: Yes.

COPY

TESTIMONY OF WANDA MIDGETTE

direct - W. Midgette

Q Do you have any children?

A Yes, sir.

Q How many, and what age?

A I have two. A little girl nine, and a little boy six.

Q Do you, in order to supplement your family income, perform any duties at all?

A Babysit, since my husband wasn't at home, which I enjoy children.

Q How many years have you performed babysitting services?

A Around five. Maybe a little bit more.

Q Now, other than, let's say, a housewife that may ask you on one or two occasions to babysit, how many families have you babysat for their children on a regular basis?

A Around eight, maybe a little bit more.

Q Have you ever had your services

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terminated for inadequate care of any children that you have babysat for?

A No, sir.

Q When did you first meet Karen Durrette?

A About in December.

Q Of what year?

A '79.

Q And was there a purpose for you and she to meet?

A I was asked if I would like to babysit her two twin boys.

MR. RAWLINGS: Judge, can you ask her to speak up a little louder.

THE COURT: Yes. You will have to speak up, Mrs. Midgette. I can't hear you.

A I was asked to babysit for her two twin boys.

Q Did you?

COPY

direct - W. Midgette

A Yes, sir.

Q For how many weeks? What is your best estimate?

A Close to two months, maybe.

Q Other than just merely being a babysitter in the sense of watching over children, do you do things for the children, such as reading, arts and crafts?

MR. RAWLINGS: Let him ask what she does.

THE COURT: That is a leading question.

Q Do you do anything?

A Read stories, we take walks, we go with other children also where we have them to go -- one lady down the street has a swing set, so they swing, go to parks, craft time.

Q Do you have a craft time each day?

A Just about every day.

COPY

direct - W. Midgette

Q Now, when you say craft time, so we can be a little more specific, what do you mean by that?

A Color, clay, fingerprinting.

Q Now, you also say you go for walks. Are there any other women in the neighborhood doing the same type of thing that you are doing?

A Two or three.

Q Are there children either with you, or with these two other neighbors of yours that are the age of Chris and Mike, the two children involved in this proceeding?

A Yes, sir, close to the age, or at their age.

Q All right, now, you said something about walks. What do you mean walks?

A Well, we walk, say, maybe two or three blocks, you know, for activity, you know, instead of just sitting in a house. You have to do other things always with a child.

Q Is that done with anybody else other than the children that you are caring for?

COPY

direct - W. Midgette

A Well, with the other mothers and the other children also.

Q Now, did you have any difficulty with these children at all during the two months that you were providing the babysitting services?

A No, sir.

Q Would you describe them?

A Sweet.

Q Pardon me?

A Sweet. They are really good boys. Typical little boys.

Q They never provided you with any discipline problem?

A Well, no, not really.

Q I mean out of the ordinary little boys.

A Oh, no, no.

Q Okay, now, when you first -- excuse me, would you describe for the Court, during these two months, the relationship that you observed between these boys and Karen when she would deliver the boys, and when she would come and pick them up.

COPY

A They loved her. And at the time their mother and father were separated, I could tell the difference in the boys, but after a while, you know, it was hard on them.

MR. RAWLINGS: I just cannot hear what she is saying, Judge.

THE COURT: I can't hear either. You will have to speak up, Mrs. Midgette. Talk to the Sheriff in the back of the room back there.

Q When you talk up, make sure you know I'm going to be hearing you, because I am furtherest away, okay. You say they loved her. How did they express their love for their mother?

A By wanting her at certain times. They, you know, they wanted to know when she would be there. But they always, you know, I wouldn't say they really cried a lot.

Q How about when their mother would come to pick them up, and it was obvious to you that the

COPY

children realized their mother was there. What would they do?

A Run to her, or hug her, or kiss her.

Q Now, when the children were delivered to you in the morning, what was their appearance?

A Neat, clean.

Q Did you ever have to feed them immediately?

A No, sir.

Q Now, are you able to provide this same service in the future should Karen be awarded custody of her sons?

A Yes, sir.

Q You were not under any current military orders for your family to leave this area?

A No, sir.

Q Now, what is the size of your home? I know we are getting into a little -- but I mean room wize. How many bedrooms and so forth?

A Three bedrooms, two full baths,

COPY

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1 kitchen, dining room. We have a split foyer. The down-
2 stairs is not finished yet.
3 Q Now, should you take, should Karen
4 have her boys, and you started providing these same services,
5 say, in a couple of weeks, other than your own children,
6 would you be babysitting for any other children?
7 A I just do part-time. It might be
8 two days a week for this little baby I keep.
9 Q In other words, the maximum amount
10 of children around the household would be five, at any one
11 time.
12 A Yes, sir.
13 Q That you are taking care of.
14 A That is plus mine.
15 Q Right, I understand that includes
16 yours. Have you, from observing Karen, from taking care
17 of these youngsters, ever observed anything that gave you
18 cause for alarm, such as --
19
20 MR. RAWLINGS: Now, Judge, such
21 as --

Q Any cause for alarm.

A I don't understand.

Q Have you ever seen -- when you have seen the children, have you found anything wrong with them medically?

A No, sir.

Q Have you seen her take any action against the children which would have alarmed you?

A No, sir.

Q Is there anything that you have observed about her, or about the children which would cause you to feel that she should not have custody of her sons?

A No, sir.

MR. BURNSIDE: Answer Mr. Rawlings' questions.

CROSS EXAMINATION

BY MR. RAWLINGS:

Q Mrs. Midgette, how long have you lived here in this area?

COPY

cross - W. Midgette

A Where I live now, seven months, but we have been in Hanover, Virginia a little over a year.

Q Before you came here, you were in Hanover?

A Yes, sir, because my husband -- we was trying to find a house.

Q And you are where you are now for seven months?

A In Oak Grove Terrace.

Q Where is that that you live?

A Oak Grove Terrace.

Q Oak Grove Terrace?

A Oak Grove Terrace.

Q Where is Oak Grove Terrace?

A In Spotsylvania.

Q Where in Spotsylvania?

A Up the road.

Q Up what road? How far from here?

A About seven miles.

Q In which direction?

A Going down the road.

COPY

COPY

Q Towards Fredericksburg?

A Yes, sir.

Q What hours do you keep your babysitting service open?

A In the morning, till say 5:00.

Q From five o'clock in the morning?

A It depends on the mother, how long she works.

Q And you don't know where -- you don't know where Mrs. Durrette now lives, or do you?

A I have a roundabout idea where she might, but, no, I have never been there.

Q You don't know how far it is from her house to your house.

A I understand it is maybe about ten miles, or so.

Q Now, don't you recall when Mrs. Durrette brought the children to you before that she caused you not to permit the children to take a nap?

A No, I don't remember.

Q You don't remember?

A No.

Q She could have caused you, could she?

A No, I don't think she did.

Q Are you sure?

A Most small children of that age do take naps.

Q Did they?

A Oh, yes, sir, they did.

Q And you don't recall telling the two ladies who came to see you that were coming to their church, that Mrs. Durrette told you not to give them naps? You don't remember telling that to two ladies?

A No, not to my knowledge.

Q And it was during December and January, that they came to your house.

A Say that again, please.

Q Was it during December and January of last year that they were --

A (interjecting) I think it was starting in January, somewhere around there. I don't remember.

COPY

cross - W. Midgette

Q What kind of heat do you have in your house?

A Central.

Q Central heat?

A Yes, sir.

MR. RAWLINGS: I believe that is all I want to ask her, Judge.

THE COURT: Redirect, Mr. Burnside.

MR. BURNSIDE: No, sir, Your Honor.

THE COURT: Can Mrs. Midgette be excused?

MR. BURNSIDE: Yes, she can, Your Honor.

THE COURT: Any objection to this witness being excused?

MR. RAWLINGS: None whatsoever.

THE COURT: You are excused. You can go home, Mrs. Midgette. Don't talk to anybody in the hall about this case.

---

WITNESS STOOD ASIDE

COPY

TESTIMONY OF SANDRA OGLE

A I guess it was around May of last year. We have been there about a year.

Q Now, during the years of friendship between you and Karen, have you visited each other?

A Yes, sir. A lot of times we fix lunch for the kids together, and we laid out in the sun together, we went shopping together, just different things.

Q You are referring to a time after your children, then, and her children were born, is that correct?

A Yes, sir.

Q How old are your children?

A I have one three, and one five.

Q How often would you say that your children and Karen's children played together when Karen and Gordon were living together?

A Just about every day, I guess, or close to it.

Q How did they enjoy each other?

A They liked playing together. They got along well.

COPY

direct - S. Ogle

Q Now, on occasions, during this period of time that we are talking about, have you ever had to go anywhere without your children?

A Yes, sir, I have. Karen has kept them before while I have been to town, and the grocery store, and I kept hers. We did that.

Q And during this entire time, did you ever see any evidence of neglect or abuse by her of the children?

A No, sir.

Q How would you describe the relationship between Karen and these boys?

A Karen was always a good mother. She took good care of the kids. She paid them a lot of attention.

Q How did the children react to her?

A They loved her. They were always glad to see her when she came back after I had kept them.

Q Now, on occasions of, say, one of the children, her children, would fall, scuff a knee, you know, those types of incidents, did you ever see her ignore the child at all?

COPY

at work, during the daytime. But I had been before when Gordon was home, yes.

Q What did he normally do when you had been over to visit with Karen?

A What do you mean? I mean, he sat there with everybody else and talked, or whatever we were doing.

Q Have you ever been able to see him with the children at all?

A Yeah, I have seen him, you know. We were all, like, sitting outside watching the kids play and stuff like that.

Q Since the time of their separation, during the day, has Mrs. Mentor, the babysitter, ever brought the children down to play with your children?

A No, sir.

Q Has Gordon ever brought them down to play with them?

A I don't think so. No.

Q And apart from your child that is age three -- well, using the age bracket of two to three,

COPY

A Gee, I'm not really sure. I'm not really sure when she started work.

Q Do you know she did?

A Oh, yeah, I know she worked a couple days a week.

Q She only worked a couple days a week?

A Yes, sir.

Q So, if she only worked a couple days a week, then she only needed a babysitter a couple days a week, is that the idea? But so, after she started to work, there were days in the week, then, you didn't get a chance to get together.

A Yes, sir. We didn't get together as much when she started working, no.

Q And you didn't have a whole lot of time from May, 1979, until the latter part of the year, until the end of '79, for her to do this. She was working during the fall of '79, wasn't she?

A Yeah, I guess it was. I'm not real sure when she started working, the exact date or anything.

COPY

cross - S. Ogle

Q Did she have a car?

A Yes, sir, she did.

Q She rode around, didn't she?

A Not -- just to the grocery store and the normal things. Not a lot.

Q She was out two or three times a day, wasn't she?

A Not as I know of, no.

Q She could have been. You wouldn't have seen everything she did.

A Well, no, I didn't see everything that goes on, no.

Q And it is entirely possible that Mr. Durrette had the children down in your neighborhood, or near your house and your children played with his children when you weren't aware of it.

A Maybe when I wasn't home they might have.

Q Or when you were in the back of the house it could have happened too, couldn't it?

A I guess it could have.

COPY

cross - S. Ogle

Q Could it have happened when your husband was out front and you were in the back cooking, or --

A Yes, sir. I'm not always aware of everything that goes on every minute.

Q Well, since February of this year, have you ever taken your children down to Mr. Durrette's house to play with his children?

A No, I haven't.

Q Did you ever do that before Mrs. Durrette left?

A Oh, before Karen left home? Yeah, we used to go down there a lot.

Q That was because you and she were particularly good friends.

A Right. And our kids played together, and we were friends, and it worked out well.

Q Why did you stop them from playing together when she left?

MR. BURNSIDE: Objection to using the word stopped.

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MR. RAWLINGS: Well, something happened.

MR. BURNSIDE: Ask her why, but --

THE COURT: Yes, sir, you can ask why. I think it is argumentative whether the word stopped is proper or not.

BY MR. RAWLINGS: (continuing)

Q Why didn't you take them down in the last few months to play?

A Well, I just didn't take them down.

Q Just didn't do it.

A No.

Q Just didn't think of it. Do you work?

A I work a couple nights a week.

Q Two nights a week?

A Yes, sir.

Q You don't do work during the day?

A No, sir, not often.

COPY

cross - S. Ogle

Q And your children are old enough, are they, or are they, to go to school?

A One of them went to kindergarten this past year. She goes to first grade this year.

Q And the other one isn't old enough?

A No, sir, he is not.

Q And the times you saw Mr. Durrette with his children, there was nothing to cause any question in your mind about him getting along with the children, was there?

A No, sir.

MR. RAWLINGS: That is all I have.

THE COURT: I have a problem, now, Mrs. Ogle, mainly because the lawyers don't ask you questions straight, and that is why I don't understand the answers. Is there any -- have you ever noticed any problem with Mrs. Mentor in her taking care of the children during the daytime?

THE WITNESS: I haven't been down there, so I can't say.

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THE COURT: Any other questions of Mrs. Ogle?

MR. RAWLINGS: No.

THE COURT: Mr. Burnside.

MR. BURNSIDE: No, sir.

THE COURT: May Mrs. Ogle be excused to go home?

MR. BURNSIDE: Yes, sir.

THE COURT: Mrs. Ogle, I don't know how this is going to come out, and you are in the neighborhood there, and the important thing is for the boys to be raised up the best they can.

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WITNESS STOOD ASIDE

MR. BURNSIDE: Theresa Thomas.

TESTIMONY OF THERESA THOMAS

COPY

A There is a third girl, Terry.

Q She is the young lady that is here?

A Yes.

Q During that one year of carpooling, did the children go with you in the morning, and in the evening, that is Karen's children?

A Yes, on occasions they did.

Q And could you describe what would have happened when Karen would drop off the children at the babysitter?

A Well, she would -- when I was riding with her, she would drop them off at her mother-in-law's house, and occasionally, I would be with her in the evening when she would pick them up.

Q What took place as to the children? I mean how did they act to her in the morning when she dropped them off?

A Well, sometimes they would cry when she would leave them.

Q Would she do anything in response to their crying?

A She kneeled down and kissed them, and told them she will be gone for a while, but she will be back later.

Q All right, now, how about in the evenings when she would pick up the children. What did the children do when they -- when they saw their mother?

A They would run to her, you know. They were glad to see her, and she would get them and put their shoes on, and occasionally I would go into her mother-in-law's house to help put the clothes on.

Q You mean they were not properly dressed?

A They were dressed, but they just had their shoes off. They were playing.

Q Other than this type of arrangement, I mean of dropping the children off, picking them up, have you ever been around Karen when she has had the children?

A No.

Q From this carpooling arrangement, and observing Karen and the children, how do you generally describe their relationship?

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A I would describe it as being normal for mother and children relationship, you know. It is just a normal realtionship. I don't see anything else any different than most, you know, parent, a mother would act toward a child.

Q Have you ever seen any evidence of any neglect or abuse by her of her children?

A Oh, no.

Q Do you know, personally, of anything which you think should prevent her from having custody of her children?

A No, I don't.

MR. BURNSIDE: That is all I have of this witness, Your Honor.

THE COURT: Mrs. Thomas, do you have any children?

THE WITNESS: Yes, I have three children.

THE COURT: What are their ages?

THE WITNESS: I have a daughter thirteen years old, a son nine, and one son six.

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COPY

THE COURT: Answer Mr. Rawlings' questions.

CROSS EXAMINATION

BY MR. RAWLINGS:

Q You gave us your address. Where is that?

A 5505 Edenton Street, Fredericksburg, Virginia. I live in the County of Spotsylvania.

Q Edenton Street, is that in the Chancellor area?

A No, it is Oak Grove subdivision. Right down, say, about, you know where -- I think that market is Millgarden Market.

Q I see. Well, now, do you konw where Mrs. Durrette lives?

A Yes, sir.

Q How far are you from her?

A In mileage? Well, her house is before you get to my house. It is, I think -- I don't know

1 the street, I don't know her address, but I know the house
2 when I see it. But, I live on past there, right off 208.
3 Q Does she live away from you towards
4 out of town, or towards town?
5 A She lives closer to town.
6 Q Who drives the carpool?
7 A We take turns. We ride two days
8 maybe I will drive, and maybe two days Karen will drive,
9 and two days Terry will drive.
10 Q When Karen drives, does she have
11 to come back in town to give you --
12 A (interjecting) No, I don't live
13 that far. Mrs. Durrette lives, I guess Millgarden Market,
14 I guess, is the best description, and we generally meet.
15 We don't meet at my house, we generally meet one specific
16 place.
17 Q I see. You all converge on one
18 place.
19 A Yes, sir.
20 Q What time do you meet?
21 A Whatever time our work schedule
permits us to.

COPY

cross - T. Thomas

Q Do you all work the same schedule?

A Occasionally we do. Sometimes we get different schedules, but when we get the same schedule, we meet forty-five minutes before we are due to arrive at work.

Q What is the normal early time you go to work?

A If we have a schedule at nine o'clock, we probably leave at the meeting place either Nichols or Woolco, wherever we meet, we probably leave around quarter after 8:00, or something like that.

Q Well, now, your experience with Mrs. Durrette and her children is when you went with her while she dropped them off at the babysitter?

A Right.

Q And your experience with that was last -- in January of this past year?

A Probably, right. It's been quite some time.

Q It was only for about five or six weeks?

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A Right.

Q And didn't she have to work late some nights?

A Who Karen?

Q Mrs. Durrette. Until nine o'clock?

A She had to work, I think our latest schedule is seven o'clock, 7:30, when the commissary closed at 7:00.

Q So, it was what time when you got back to the babysitter in Fredericksburg?

A It may have been eight o'clock.

Q So, there were, at least, two nights a week she had to pick the children up at the babysitters at eight o'clock.

A Sometimes, yes. Sometimes we had an early schedule, you know. That depends on whenever the schedule is made up. Occasionally we might get two nights a week.

Q Were any other children dropped off at the babysitter, or just her two?

A Just her two. It was only when she was driving.

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Q What?

A It was only when it was her turn to drive when I would see the children.

Q When it was not her turn to drive, do you know what happened?

A No.

Q Did she ride with you when it was your turn to drive?

A Yes.

Q And you don't know how the children got to the babysitters that day.

A No, I don't. You know, we just met at a specific place, and that is all.

Q It was only the days that she drove that you know anything about the children going to the baby-sitter.

A Yes, sir.

Q But she rode with you on the days that she didn't drive, didn't she?

A Right. If her schedule permitted, then yes, she did.

COPY

Q And you don't know how the children got to the babysitter.

A No.

Q And you said that once or twice, or at least on occasion, you picked the children up and they didn't have their shoes on?

A They were just playing, I imagine.

Q What?

A They were just playing.

Q Playing in the house?

A Yes.

Q Of course, this was in January?

A Yes.

MR. BURNSIDE: This was at the mother-in-law's house.

THE WITNESS: This was at Mrs. Durrette's house. I don't know, it was just, you know, I just went in. This is my reason for going in, to help her get the children, because there was two of them.

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TESTIMONY OF VIRGINIA OWEN

COPY

Q On each occasion that you took care of the children, who brought the children to you?

A Karen.

Q And who picked the children up?

A Karen.

Q And how would you describe the relationship between the children and Karen?

A Well, they acted like they were crazy about their mother. She would bring them in, they would cry when she would leave. So, she would assure them that she would be back after them. And they would cry about an hour after she would leave, and I told them to not cry, because she would be back.

Q And how would they react when she would return?

A Was glad to see her.

Q How would they express that?

A They would run to her.

Q Did you ever see any evidence of any neglect or abuse of the children?

A No, indeed.

cross - V. Owen

Q What hours did she leave the children with you?

A Different hours. She had different hours to go to work.

Q Did she work some days during the week until eight o'clock at night?

A I don't think so.

Q You are not sure?

A No, I'm not sure.

Q How did you happen to stop babysitting for her?

A Well, she said her mother-in-law wanted to keep them, and that is why that she took them from me.

Q So, she took them to her mother-in-law to babysit?

A I don't know. She just said that she wanted to babysit, to keep peace in the family.

Q Do you live near Mrs. Midgette?

A Who is Mrs. Midgette?

Q Do you know Mrs. Midgette?

TESTIMONY OF SUSAN BENNETT

Q How often would you say you saw her when she was living on Beechnut Drive?

A Oh, on Beechnut? I'd say about three or four times.

Q Now, during those occasions, did she have the children with her?

A Yes, sir.

Q And how would you describe their relationship?

A Good.

Q Did you see anything abnormal?

A No, sir.

Q Are you married?

A Yes, sir.

Q Do you have children?

A No, sir.

Q How would you describe the relationship, I mean, in the sense of how they related to each other?

A Just fine. Like a normal parent/child relationship.

Q Did Karen ever ignore them?

COPY

A No, sir.

Q Was she affectionate?

A Very.

Q How about the children in response?

A Okay, I guess. I never really noticed, you know.

Q Do you understand my question?

A Not really.

Q How would the children express their love to her?

MR. RAWLINGS: Judge, I really don't like to object all the time, but I would think that he could ask a question without being so leading. Ask what the children did.

MR. BURNSIDE: I haven't asked her -- I haven't suggested that they ran up to her and hugged her, or kissed her, or anything.

THE COURT: Ms. Bennett testified she appeared to be a good mother. What else do you want?

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TESTIMONY OF NANCY DAWSON

direct - N. Dawson

Q All right, now, when you see the children around the church, who are they with, Karen or somebody else?

A Generally that is when I see them with Karen.

Q How do they appear when you have seen them?

A Fine, normal little boys.

Q Have you ever noticed anything adverse in the relationship between the children and Karen, from your observation?

A No, sir.

MR. BURNSIDE: That is all I would have, Your Honor.

THE COURT: All right. Mr. Rawlings.

TESTIMONY OF CAROL HAIRFIELD

direct - C. Hairfield

Q Why on Saturdays?

A Because Karen had to go to work at the commissary, and she needed somebody to watch them.

Q And was Gordon Durrette working?

A No.

Q Have you ever been in the presence of Mr. Durrette when he's been requested to take care of the children on a Saturday when, in fact, you took care of them?

A Yes, sir.

Q What was his response?

A He couldn't do it because he had too many other things to do.

Q How many times do you think you heard him say that?

A I guess maybe, at least, a half a dozen times that I was there.

Q Now, when the children were with you on Saturday, who delivered them to you, and who picked them up?

A Karen.

Q Would this be on each occasion?

A I think one time Gordon did come to get them, and Karen had come about five minutes later to pick them up, and Gordon had already come to get them.

Q How many Saturdays, give your best estimate, do you think you babysat for these children when Karen and Gordon were living together.

A Since she went to work. I would say, golly, on the average of three Saturdays, probably, three Saturdays a month.

Q And on these Saturdays, Mr. Durrette was not working.

A Right.

Q Now, have you ever been in the presence of Gordon Durrette when the children were present?

A Yes.

Q Have you ever seen him act adversely to the children?

A Yes.

Q Would you please relate to the Court each instance and what transpired.

COPY

A He was, you know, sitting down or anything, you know, they would be trying to get up on his lap, and everything, and he had told them, he said, "Boy," he said, "I told you if you don't get down I'm going to knock your god damn head out there in that road." And a lot of times, if they had been standing up in front of the TV, "You better move your F ass," you know, just things like that.

Q How many times do you think you saw something of that nature?

A I'm sure it was every day that, you know, that they would always be, you know, wanting, you know, to crawl all over him, and everything like that, and he just didn't want them to. He wanted to sit down, you know, and smoke a cigarette, drink a beer, read the paper.

Q How about with regard to your sister? How have the children reacted to her?

A They love Karen. I mean, I'm not saying they don't love Gordon, but they always, "Mommie, mommie, mommie."

Q Did you ever see her act in the manner like you described Gordon acting?

A No. She tried to discipline, you know, she would speak to them, tell them, you know, don't do that. If they did it, they might have gotten a little smack on the bottom with the hand, you know.

Q Was there affection between Karen and the children?

A Oh, yes.

Q How about when she would return to pick them up when you were babysitting on Saturday?

A They would run to the window, "Mommie is here, mommie is here." They wanted to go, you know, with mommie.

Q Have you, since December, have you been with Karen and the children at all?

A Yes.

Q How often, usually?

A Well, maybe not every Sunday, but just about every Sunday.

Q Where do you see them?

A She would either, you know, take them to church, when she took them to church. Then after church, she would come over to the house, and sometimes she would come over to my mother-in-law's house with the boys.

Q When you say your mother-in-law --

A Mrs. Hairfield. My mother-in-law.

Q How have the children responded to her on these Sundays that you have seen them?

A Just fine. They seem just fine. They were happy to be with her.

Q Have you ever seen them cry like they want to get away?

A No.

Q Have you ever been at your mother's house when -- and seen bags left by Mr. Durrette?

A No. I have never been there when he came by.

Q Do you have a sister-in-law?

A Yes, I do.

Q What is her name?

A Deborah Robinson.

Q Does she have children?

A Yes, she does. She has one little girl.

Q To your knowledge, has that little girl been left with Karen?

A Yes.

Q How often?

A I think that Karen started watching her when she was around six weeks old, until she was around, I think, five or six months old. Karen watched her for that -- I think she watched her for around about five months.

Q Were you ever present in the house when Karen was taking care of that infant?

A A couple times.

Q On those couple of occasions, how did she attend to this child?

A Really, you know, just like what a mother would do. Take care of it, feed it.

Q Was the child fed?

A Oh, yes.

room, bathroom, the kitchen, and the dining room, her bedroom.

Q What kind of facilities are in the boys' bedroom?

A They have twin beds. They have a dresser, you know, the dresser, and then they have their pictures over their beds, curtains, and bedspreads on the bed.

Q With regard to your child, has Karen ever taken care of it?

A Yes, she has.

Q How often?

A She watched her when Sarah was two months old, I think, until July, till Sarah was, I guess, about eight months old, nine months old. Then, you know, she's watched her a lot of times when my husband and I have gone out.

Q So, she essentially watched her fairly regularly for six months?

A Yes, she did.

Q When you picked up your child, how was your child?

COPY

A Fine. She loves Karen. She loves Karen.

Q Clean?

A Yes, sir.

Q Diapers properly changed?

A Yes, sir. Karen would even have her fed, and sometimes she would even have her a bath taken by the time I would pick her up, because she knew I was in such a state by the time I got home.

MR. BURNSIDE: That's all I have.

THE COURT: Mr. Rawlings, do you want to cross examine?

CROSS EXAMINATION

BY MR. RAWLINGS:

Q Is your name Fairfield?

A Hairfield.

Q You say that Mrs. Durrette took care of a friend's child?

A My sister-in-law's child.

Q Your sister-in-law's child?

A Yes.

Q When was that?

A When Jessica was around six months old, until, I think, she was five or six months old.

Q When? A year ago, two years ago, three years ago?

A She was born in 1978, so it was 1978.

Q And she took care of that child in the Durrette home?

A Yes, sir, when they lived on Pegram Lane.

Q And what age were her children?

A Karen's?

Q Yes.

A I guess they were two. They were born in '76. So, they must have been two.

Q Two years old?

A I guess. I think that is what they were. They were born in '76.

COPY

cross - C. Hairfield

Q And when was it that she took care of your child?

A Beginning the end of '78, and half of the year of '79.

Q That was when she and Mr. Durrette were living together?

A Uh huh.

Q And she was taking care of these children, these extra children at her home?

A She wasn't watching Jessica and Sarah at the same time.

Q She wasn't what?

A She wasn't watching them at the same time.

Q Well, the two extra children, she wasn't watching, but she was watching her own children.

A Yeah, her own.

Q At the time she would have yours, and then at the time she would have the other one.

A Wait minute, she had her two children, and then from January to, I think it was May, May or June,

COPY

she, of '78, she watched Jessica. And then in the year '78, and starting in December, she watched Sarah, my daughter.

Q That is your child?

A My daughter. And then, I think, until June of '79, she watched Sarah.

Q She wasn't working at that time?

A No.

Q What was the occasion for watching this other child and your child?

A What was the occasion?

Q Yes. Did you have some reason? Were you working?

A Yes, working.

Q You were working?

A Uh huh.

Q And she took care of the child during the day while you were working?

A My child, right.

Q The same reason that she did it for your sister-in-law?

COPY

A Right.

Q Did you pay her?

A Yes, sir.

Q So, she was doing this work for pay?

A I wouldn't let her do it for free.

Q Did your sister-in-law pay her too?

A Yes, she did.

Q Now, you said that you went to the Durrette home every Saturday?

A For when? Before Karen went to work?

Q Tell me when you'd go. What Saturdays? When did you go to the Durrette home on Saturday?

A Before Karen started to work, I used to be over there every Saturday.

Q When she started to work, what did you do? You didn't go down there?

A No, because she didn't -- had to go to work, and she would bring the boys for me to watch them.

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Q Then did you stay a short while on Saturday, or did you stay all day Saturday?

A Sometimes I would stay all day, you know, especially in the summertime if we wanted to lay out in the sun, or something.

Q Did you take your child with you?

A Yes. Sarah was always with me.

Q You say when you wanted to stay out in the sun. That is why you went over there, so you all could sunbathe together?

A Sometimes we did it over at her house, sometimes over at mine.

Q And you are saying that she wanted to go shopping, or something, and that is why she wanted Gordon to take care of the children?

A Well, see, sometimes we would want to run to the shopping center and it was about time for their naps, or something like that. Besides, that would be a good time to go. And well, so we ended up we would have to take them with us, or else just not go and stay there with them.

COPY

cross - C. Hairfield

Q Well, now, did you go just on Saturdays, or did you go other days shopping and around?

A. No, usually on Saturday. Well, we would go to the grocery store on Friday nights.

Q Tell me about the trailer where your sister lives. You say you have been in the trailer?

A Yes, sir.

Q And how far is that from the City of Fredericksburg?

A I guess somewhere around about eighteen or twenty miles.

Q And it is not -- how far is it from your mother's house?

A I don't know. I haven't, you know, gone out and checked the mileage. I don't know.

Q It's a good ways, isn't it?

A It's not as far as it is from my house.

Q How far is it from your house?

A I said about eighteen or twenty miles. From my house to -- I live over in Spotswood, Spotsylvania.

COPY

Q And it is not closely situated to other homes, is it?

A What? Hers? There is another house out there by it.

Q One house?

A Uh huh.

Q But the other houses are some ways away, aren't they?

A There are some out in front of it, but there are like bushes and stuff in front of it.

Q Even those houses are a good ways away, aren't they?

A Yes, I guess.

Q You don't know the exact size of this trailer?

A I'm not sure if it is two or three bedroom trailer. I know it's got two bedrooms, but I'm not sure if it has three.

Q Does it have a fence around it?

A No. You don't really need a fence when you are that far from the road.

COPY

Q How far from the road?

A I don't know how many feet it is. I don't know. You know, it is a good ways, you know, that a child just can't take and run out in the road and get hit by a car.

Q Isn't there a road that goes down by that trailer down to the house?

A A driveway.

MR. BURNSIDE: Your Honor, Mr. Rawlings is creating an inference that the country is a bad place to live. I will have to state an objection since I was raised in the country.

MR. RAWLINGS: I live in the country.

Q Do you recall telling Mrs. Garnett Durrette that your sister didn't have any business driving a car?

A I did not put it in that sense.

Q What kind of sense did you put it in?

COPY

A I don't think anybody ought to be driving a car when they are drunk either.

Q What sense did you put it in?

A I knew that Karen was upset that Sunday, and I know that Karen is not going to go out and do anything irrational.

Q But you told Mrs. Durrette you didn't think she should drive when she was in that shape.

A No, I did not.

Q You didn't think she should --

A (interjecting) I just hoped that she would be more careful, but Karen is a good driver.

MR. RAWLINGS: All right, that is all.

THE COURT: Do you want to redirect on that point?

COPY

REDIRECT EXAMINATION

BY MR. BURNSIDE:

Q When did this incident occur?

A It happened the Sunday that Karen had gone over to Gordon's house early that morning because she wanted -- this is what Karen told me -- that she wanted to try to see --

MR. RAWLINGS: I object to what Karen told her, Judge.

THE COURT: Yes, sir.

Q You made a reference to intoxication. Was your sister intoxicated?

A No. She doesn't drink, as far as I know.

Q But this incident that transpired was the same day that she had gone over to Gordon's house?

A Uh huh.

Q When you say upset, she was emotionally, is that emotionally upset that particular day?

A Yes, she was.

TESTIMONY OF TERRY KINCHLOE

A At the commissary.

Q Are you -- just to speed this along, were you a member of the carpool in which Karen and Theresa were also members?

A Yes, sir.

THE COURT: You were Terry Toney?

THE WITNESS: Yes, sir.

THE COURT: That is what the other lady called you.

Q And during this year of carpooling, let's say prior to the time that Karen separated from her husband, were the children also in the car with you?

A Occasionally.

Q And how were -- when the children were being dropped off, what were their actions at that point?

A When she was taking them to the babysitters you mean?

Q Yes.

A They would be upset. They didn't want, you know, Karen to leave them.

direct - T. Kinchloe

Q And how would she react to their condition?

A She just tell them that, you know, she would be back to get them, that she had to go to work and they would be all right.

Q Was there any physical contact between them?

A She'd kneel down and kiss them good-bye.

Q How about when she would return to pick them up?

A I never went in the house with her, but she'd go in and get them and I'd sit out in the car and wait.

Q How did they appear when they were with their mother, getting into the car?

A Happy. They'd be crawling all over the car.

Q Now, specifically, were you with Karen at some time in January, and accompany her to her mother-in-law's house, residence, where the children were?

COPY

A I went in with Karen.

Q Into the house?

A Uh huh.

Q Did Karen leave with either of the children?

MR. RAWLINGS: Now, Judge, I object. Let him ask her what did Karen do, and I have tried not to object because I'm not wanting to hold up the show.

Q Did Karen ever leave?

MR. RAWLINGS: He's leading her every step of the way.

Q Did Karen leave?

A Leave the house?

Q The house.

A Yes. Both of us did, together.

Q Was there anybody else with you when you went out the front door?

A Well, Karen took one of the children out of the house with her, but she took it back to the door.

Q And why?

A Because the child was upset, and crying because he didn't know what was going on at the time. And Karen knocked on the door, and asked Mrs. Durrette to let her back in to give her back the child, and Mrs. Durrette did not open the door. So, we sat there until Greg came, and he took the child from Karen and Karen and I left.

Q Until who came?

A Greg.

Q His brother?

A Uh huh.

Q You actually sat out there until someone came that would take the child?

A Yes, because Mrs. Durrette wouldn't let us in the house, or wouldn't let Karen in the house.

Q And was -- did she tell Mrs. Durrette why she wanted her to open the door again?

A I was sitting in the car. Karen was telling her to open the door, you know, she wanted to give Chris or Michael, I don't know which one it was, back.

COPY

Q Have you been with Karen at all during the times that she's had visitation with the children?

A Uh huh.

Q Were you with them recently?

A Yes, sir.

Q Approximately when was the last time?

A Monday. Not last Monday, but Monday before last. We went to King's Dominion.

Q And how were the children that day?

A Happy, had a good time.

Q Have you ever seen anything which you would consider on the part of Karen to be negligent, or abuse, or ignoring of her children?

A No, sir.

Q Do you think she is a fit and proper person to have these children?

A Yes, sir.

Q And when you went to King's Dominion, just briefly, you don't want to go into any detail, what did the children do at King's Dominion?

A Rode the rides with -- my sister-in-law went, and they took their children, and they played with the other children and rode the rides.

Q Did Karen go on any of the rides with the children?

A Uh huh.

Q Most of the time?

A The ones that we could get on.

MR. BURNSIDE: That is all I would have of this witness, Your Honor.

THE COURT: Mr. Rawlings, would you like to cross examine?

CROSS EXAMINATION

BY MR. RAWLINGS:

Q Are you all still in the carpool?

A Yes, sir.

Q Does Mrs. Durrette drive every day, or just two days?

COPY

A Then.

Q And it was during, prior to that time, actually, when you went to the Durrette house.

A Uh huh.

Q It was before the Judge had entered any temporary order, or do you know?

A It was before then.

Q Before that. And you went there with Karen Durrette, and you all went there with the purpose of getting the two children by force.

A No. Well, I didn't know that.

Q Well, that is what it turned out to be, didn't it?

A Yes.

Q You wouldn't have gone if you knew that was going to happen, would you?

A Probably not.

Q And actually, Karen went in and got one of the children and took him out in the yard, isn't that right?

A Took him to the car.

COPY

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Q He didn't have any shoes on.

A I --

Q It was snow on the ground, wasn't it?

A Yes.

Q And Mrs. Durrette said, "If you bring the other child back, you can come in, but you can't have the second child." Isn't that what she told you?

A I don't know.

Q It was right much of a comotion, wasn't it?

A Kind of.

Q Did you go in with Karen to get the children?

A Yes.

Q They were asleep, weren't they?

A Yes.

Q You had to wake them up, right?

A Yes.

Q And they were crying?

A Well, they weren't crying until after Karen went out with the first child.

cross - T. Kinchloe

Q Did they have anything on but their nightclothes?

A They had on clothes. They weren't nightclothes.

Q And Mrs. Durrette was not anxious to open the door until her son came back, came in, Greg, isn't that right?

A Uh huh.

Q Now, when you were at King's Dominion, did the children get upset and cry at one point?

A Not that I know of.

Q Was Mrs. Durrette's brother, Keith, with you all at the time?

A Uh huh.

Q How old is he?

A Thirteen, twelve, thirteen.

Q How long were you at King's Dominion?

A From ten o'clock in the morning, till about 5:00.

Q This was on a --

A Monday.

COPY

Q Sunday?

A Monday.

Q And it was you and Mrs. Durrette and the two children, and Keith? Anybody else?

A My sister-in-law and her child, and my sister and her child.

Q And you all went in just one car?

A No, we went in two cars.

Q Do you know Mr. Durrette?

A Gordon?

Q Gordon.

A A little bit.

Q Not very well.

A (witness shook her head)

MR. RAWLINGS: I believe that is all I want to ask her.

THE COURT: Redirect, Mr. Burnside?

MR. BURNSIDE: I'm going to have one question.

MR. RAWLINGS: Could I interrupt and ask one more question?

COPY

THE COURT: Yes, you may ask one more question before he cross examines.

BY MR. RAWLINGS: (continuing)

Q How often have you been to Karen's trailer?

A Twice.

Q What were the occasions? How come? How did you happen to go?

A Once I went out there to help her, took somebody with me to change a flat tire on her car. And another time, I just went out there to visit her.

Q Was anybody else there besides her?

A No.

MR. RAWLINGS: That is all.

THE COURT: Cross examine.

COPY

COPY

REDIRECT EXAMINATION

BY MR. BURNSIDE:

Q This occasion that we have been talking about when Karen was trying to obtain her two children. Did she strike the elder Mrs. Durrette?

A No.

Q Did she push her down on the floor at all?

A No.

Q When she entered the house, where did she go?

A She went downstairs to where the children's room is.

Q Was there any physical act on the part of Karen Durrette taken against her mother-in-law?

A No. They had words, but, you know.

Q When she had gotten the one child with her, and you were out in the car, did anybody come running out and demand the return of that one child?

A No.

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MR. RAWLINGS: Judge, now, that is certainly a leading question. "Did somebody come running out?" "What happened when she got out and got in the car." I think he is asking exactly what he wants her to say.

THE COURT: Go ahead. It probably is improper, Mr. Rawlings. I am going to let him ask it that way, so we can go ahead and get an answer.

BY MR. BURNSIDE: (continuing)

Q Did anybody come out of the house?

A No.

Q Did anybody come to Karen and talk with her?

A No. Well, I went out.

Q Did she return to the front door voluntarily?

A Yes. I went out to the car and she got back out.

Q When Greg arrived, did she go to his car voluntarily?

TESTIMONY OF REBA JONES

Q Pardon me?

A Seventeen and ten.

Q How long have you known the Durrettes?

A I guess around a year.

Q Since you have known them, have you ever been on vacation?

A Yes, I have.

Q How many days, continous days?

A Four.

Q And who took care of your children during those four days?

A Gordon and Karen.

Q And when did this take place?

A September.

Q Of '79?

A Yes.

Q Who did you ask to take care of the children?

A Gordon and Karen.

Q When I say asked, I mean who did you go to, which individual?

COPY

direct - R. Jones

A Karen.

Q You asked Karen to take care of these children?

A Yes.

Q Did you find that your children had been adequately provided for upon your return?

A Yes.

MR. BURNSIDE: That is all I have, Your Honor.

THE COURT: Mr. Rawlings.

CROSS EXAMINATION

BY MR. RAWLINGS:

Q Why did you say Gordon and Karen?

A Well, they both lived in the same house.

Q You had no problem leaving the children with Gordon, did you?

A No.

COPY

TESTIMONY OF KAREN LACKS DURRETTE

A Saturday it's usually 8:30 till 3:00.

Q And how much are you paid?

A Four thirty an hour.

Q What does that work out to be, gross?

A I don't know what the gross is because I have insurance coming out. I clear about a hundred dollars a week.

Q Now, when did you first start working, during your marriage that is, excuse me.

A April of '79. I worked for Safeway for three weeks, and then I started back to work July 31st, '79, at the commissary.

Q Now, why did you originally go to work?

A Because there were things that I wanted, and things that I wanted Chris and Michael to have, and I know, I mean, I could have bought them with Gordon's money, but I didn't want to hear the hassle about, "You spent this, and you spent that," so that is why I went to work.

COPY

Q Could you give an -- after you started working, was there anything in particular that you purchased for the children that you could not have otherwise done?

A When I worked at Safeway, I bought them a swing set. I mean, I only got two checks, and with one check, I bought the swing set.

Q Any other purchases you made for the children?

A For their birthday, I bought them their big wheels.

Q When was their birthday?

A October 2nd.

Q This was this past October?

A '79.

Q You purchased this with the money you were making?

A Yes, sir.

Q Now, I think you left December 26th, or 27th?

A 27th.

Q 27th. Did you take the children with you at that time?

COPY

A Yes, sir.

Q Now, thereafter, were you ever, did Mr. Durrette ask to see the children?

A Yes, he did.

Q What did you do in response to his request?

A I called my first lawyer up and asked him, you know, what to do, and he said, at this point, that he has just as much right to see them as I do. So, I took them over there Saturday before I had to go to work, and returned. He was going to keep them for the weekend, and I returned on Sunday to get them Sunday at six o'clock, and he wouldn't let me have them.

Q Thereafter, did you ever call Mr. Durrette?

A I called him every day.

Q You called every day for what purpose? First of all, who were you calling?

A Gordon.

Q And for what purpose?

A To ask if I could see Chris and Michael.

COPY

Q And what was the response?

A He said no. He said he couldn't trust me, that I would take them like he took them, and not return them.

Q Did you have any conversations with your attorney about that current situation?

A Yes.

Q As a result of one or several conversations with your attorney, did you take any action?

A Gordon took action.

Q I don't mean Court action. I mean --

A (interjecting) Oh, yeah. I went over there to get them one Wednesday after work. Terry went with me.

Q Please relate to the Judge what happened that day.

A We got off from work, it was snowing, it was a bad day. We went over there, and I knocked on the door, and she let me in and I asked her where was Chris and Michael, and she said they were in bed asleep. I went down there and I grabbed Chris, and Terry was supposed to

COPY

1 have gotten Michael, but she didn't. So, I got Chris, grabbed
2 him, took him and put him in the car. He was half asleep.
3 He was upset, he didn't know what was happening. He wanted
4 his brother. And so, I got out of the car, since Terry
5 didn't get Michael, tried to stick my key in the door to
6 put Chris back in the house, to give him to Mrs. Durrette,
7 and my key wouldn't fit the door. He had changed the locks
8 on the door. So, I knocked and rung the bell to ask her
9 to please open the door, and take Chris, because it was
10 snowing out. She wouldn't open the door. So, next thing
11 I know, Greg drives up, and I told Greg to please take Chris
12 back in the house, you know, it is no sense in me taking
13 one and not having the other one, because they are so close.
14 It is just like cutting an arm off of one.
15 Q All right, now, after that, you
16 obtained a Court order of granting custody of the children,
17 right?
18 A Right.
19 Q During the time that you had the
20 children, did you have any conversations with Mr. Durrette
21 at all?

COPY

COPY

A Yes.

Q Did you ever request any money?

A Yes.

Q Did he ever give you any money?

A No, sir.

Q How many times do you think you asked him?

A Every day.

Q Now, did he ever provide anything?

A He brought them some food.

Q On how many occasions?

A Three.

Q On those three occasions -- and how long had you had custody of the children?

A For two months.

Q Now, on those three occasions, would you describe what kind of food this was?

A Pop, potato chips, corn cheezes, cookies. He'd bring them some frozen chicken, some hamburger, candy. They had a bunch of suckers left over from Halloween, and he brought those. Bubblegum.

Q Was there a sufficient amount of groceries, each time he left them, to provide for the children's breakfast, lunch, and dinner?

A No.

Q Did he ever give you enough, in one buying, to provide for breakfast, lunch, and dinner for, say, two or three days?

A No.

Q Why couldn't that be worked out?

A He never asked what they needed, you know. I didn't need any food. My mamma had plenty of food.

Q Did he ever buy any clothes?

A He bought them a new winter coat.

Q Now, with regard to the winter coat, how was that, those coats for the children used?

A They were to wear them, they would wear their old coats when he would come and pick them up. When he would return them, he had the new coat on, but when he come back to get them the next weekend, they had to have the new coats. I was not allowed to keep the new coats.

COPY

He had the other good coat. All they had was their old coats, which were about two years old.

Q Now, other than that, did he ever leave any clothes for the children?

A No.

Q Did he ever buy any new clothes that he left with you?

A No.

Q Now, when you left in December, where did you go to live at that point in time?

A At my mother's.

Q And you lived there until when?

A April.

Q Why did you have to live there? Why did you choose that particular location?

A Because she offered to take me in. I didn't have anywhere else to go. I wasn't making enough money to support myself and Chris and Michael.

Q Now, during the course of your marriage, essentially, how long did you remain at home as a, say, one-hundred percent housewife?

COPY

direct - K. L. Durrette

A Up until July, last year.

Q Now, during that time, who cared for the children on a daily basis?

A I did.

Q In the mornings, what time would Mr. Durrette leave for work?

A When I was home, he would leave 6:30.

Q Were the children up at that time?

A Sometimes.

Q On the vast majority of cases, what time did they normally get up?

A Then or now?

Q Pardon me?

A Then or now?

Q Then.

A About 7:00, 7:30.

Q Who provided breakfast for them, dressed them, and so forth?

A I did.

Q Now, during the course of your

COPY

direct - K. L. Durrette

1 marriage -- let's instead deal with, did you have to work
2 on Saturdays during 1979?
3 A Yes, sir.
4 Q Pardon me?
5 A Yes, sir.
6 Q Was it each Saturday? Each month
7 from July through December?
8 A Yes, sir.
9 Q On those Saturdays, who cared for
10 the children?
11 A My sister.
12 Q Why wouldn't Mr. Durrette take care
13 of them?
14 A He had better things to do, he said.
15 Q What were these better things that
16 he referred to?
17 A Cut the grass, work on his truck.
18 Q Did he, on any of the Saturdays,
19 ever take care of the children?
20 A Once.
21 Q Just once?

COPY

A (witness nodded her head)

Q Now, generally speaking, throughout your marriage, how did he react to the children? Obviously, he rarely saw them in the morning. So, in the evenings, what would happen when he would return home?

A He would come on in, into the house, come on up, get a beer out of the refrigerator. Chris and Michael want to hug and pull on him, wanted him to pick him up, and he said, "Get away from me. I don't even know why I come home sometimes."

Q Was this a regular thing, these type of reactions?

A Yes.

Q Did he ever take the children out anywhere by himself?

A Never. Now, he might take them if I was off on a Saturday, you know, I would have them the rest of the day, he would take them to the dump. That is it.

Q Normally, how would he spend his evenings? I mean --

A

COPY

direct - K. L. Durrette

A He would get home late.

Q Generally, what time did he get home?

A He would get home like 7:00, or eight o'clock.

Q What time do the children go to bed?

A 9:00, 9:30.

Q And what would he do from the time he came home, until they went to bed?

A Sit down and drink about three beers, read the paper. Now, he wouldn't read the paper. Eat, read the paper, take a bath, go to bed.

Q Did he ever do anything with the children?

A No.

Q Now, when you were living there, did the children have any friends that they played with?

A Yes, sir.

Q Who were those children?

A Sandra's children. Jason and Lisa Ogle.

direct - K. L. Durrette

Q How did they get along together?

A Fine. They go up there practically every day, or we were down at Sandra's house every day.

Q Other than that, are there any other children in that neighborhood that are of your sons' age?

COPY

not take care of them, why, in fact, did you go ahead and take care of them?

A Because I had already told Mrs. Jones I would, and I wasn't going back on my word.

Q Now, during the time that you have been a mother, have you cared for other people's children?

A Yes, I have.

Q Whose?

A Deborah Robinson's, my sister's, Sandy's.

Q That is Sandy Ogle?

A Yes.

Q Any other children?

A Mrs. Jones'.

Q Now, Mrs. Mentor -- during your marriage, what was your contact with Mrs. Mentor?

A I might, you know, we might see her on special occasions, Thanksgiving, Christmas, when the family got together. That is all.

Q Now, from the testimony, apparently your mother-in-law takes care of these children from 3:30

until Mr. Durrette returns home. Do you have any objection to that?

A Yes.

Q Why?

A I don't think she is fit enough to take care of them.

Q Why?

A I feel she is turning them against me. That is the way I feel. She's too old detective. She won't let them do what little boys do.

Q Is there any other reason why you are concerned about their welfare with them, your mother-in-law?

A She's had two mental breakdowns.

Q Was she institutionalized?

A Yes, sir.

Q On how many occasions?

A Twice.

Q And how long was she in the institution on each occasion?

A The first time, I don't know about.

COPY

The second time was she went into the hospital a couple days after Chris and Michael were born.

Q And how long was she in?

A About six weeks.

MR. RAWLINGS: I didn't hear her.

THE WITNESS: Six weeks.

Q Now, Karen when you have visitation with your sons, would you relate to the Court, in a general way, what you do with your sons.

A Mornings. I pick them up at 9:30, we go to Sunday School. We might not go to Spotswood, but I have been going to another church. We go on picnics, we went out to a farm.

Q When you take them to Sunday School, what do you do, personally?

A I go to my Sunday School class, and I leave them in the nursery.

Q Do you attend worship service?

A No, sir.

Q Now, what do you do after?

COPY

A We go home and eat. Either we go to my sister's, or we go over to Mrs. Hairfield's. She has us over to eat, or I will take them home. We go to the grocery store, and buy food, and I take them home and feed them.

Q Now, when you say Mrs. Hairfield, just so the Court will know, who is Mrs. Hairfield?

A My sister's mother-in-law.

Q Now, what do you do personally with the children?

A I play with them and stuff.

Q That's right.

A We get our paper and our magic markers, and they have got coloring books. We go over to Charlie and Tanya's, and they ride the swings on the patio. They come in and they help me cook, help me clean up.

Q Now, have you ever done anything special with them?

A We went on a picnic at a farm, went to King's Dominion.

Q How, have the children reacted to you during these periods?

COPY

direct - K. L. Durrette

A Fine. They say, "Mommie I love you." I say, "I love you, too."

Q Have you exercised visitation on every occasion when you were entitled to see your sons?

A Yes, sir.

Q Now, during -- also during these times of visitation, had you ever left them in the care of somebody else?

A No.

Q Have you ever left them in the care of your mother?

A No.

Q Have you ever left them at night-time?

A Once.

Q When was that?

A When I went out to the trailer to clean it up.

Q And they were then with your mother?

A Right.

Q Now, asking you about a few specific

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1 occasions that were eluded to during Mr. Durrette's testi-
2 mony, and his witnesses, there was references made to locking
3 the children in the bedroom. Did that ever happen?
4 A Yes.
5 Q How many times did it happen?
6 A Not very often. Mainly, I just
7 shut the door.
8 Q Did Mr. Durrette object to this?
9 A To locking the door?
10 Q Right.
11 A No.
12 Q Did he ever put the children in
13 and lock the door?
14 A Yes.
15 Q Now, when you have returned the
16 children, I believe you returned them on a Tuesday morning?
17 A Right.
18 Q Had they been fed prior to you return-
19 ing them?
20 A Yes.
21 Q On each occasion?

A Yes.

Q Mr. Durrette referred to an occasion that occurred on April 20th, and I believe his mother has made some reference to it, about you appearing at his door. Describe yourself on that occasion.

A You mean when I brought Chris and Michael back?

Q This is April 20th. He said when you came to his house --

A Oh, yeah. I was upset about not having Chris and Michael. I did show up about five o'clock in the morning. I couldn't sleep. I wanted Chris and Michael.

Q Did you tell him you wanted Chris and Michael?

A Yes, I did.

Q Was that what was percipitating you being upset that time?

A Yes, it was.

Q Did you, in fact, stay there for a while?

A About ten minutes.

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Q Were you upset during the rest of the day?

A I calmed down after I got Chris and Michael.

Q You saw them later that day?

A I got them at 9:30 that morning.

Q There was an occasion referred to on May 4th, by Mr. Durrette, in reference to three phone calls made that morning. What percipitated the phone calls?

A I didn't want to go.

Q Pardon me?

A I didn't want to talk to him.

Q No, no. You called him on three occasions in the morning of May 4th.

A I don't remember.

Q He testified that you called on three occasions that morning. First time you eluded to a terrific headache.

A Oh, yeah. It was on a Sunday. I had had a sinus headache. I get like this every year. I took a couple pills, and went back to bed, and I called

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him that I would end up taking them to church, that he didn't have to.

Q Did you ultimately get the children that day?

A Yes. 9:30.

Q Do you take medication for this asthma?

A Yes, sinus.

Q Or sinus, excuse me. And after taking it, did you feel better?

A I did.

Q Now, your father-in-law referred to an incident at Christmas about seventy-three hundred dollars. Do you recall that incident?

A No.

Q Do you recall any conversation pertaining to the money that was owed to him?

A Something was said. Gordon had said something about we should pay dad some more money because we hadn't paid him for several months.

Q Well, who did Gordon feel was responsible to pay his father this money?

A Me. I paid all the bills.

Q Had you, in fact, paid your father-in-law on various occasions?

A I paid him every time.

Q So, there was some discussion that occurred?

A Yes.

Q Did you ever make a statement that you would, you know, if he'd forget the debt, they could have the children, type thing?

A No.

Q Do you drink at all?

A No, I don't.

Q The husband made a reference to the four letter word he claimed you used on May 11th. Do you, let's say, as a course of your conduct, use profanity on any basis whatsoever?

A Once in a while something will slip out, but no, not regularly. No.

Q Has your husband ever used profanity?

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A Yes.

Q Has he used profanity in front of the children?

A Yes.

Q Now, Karen, would you continue in your present job?

A Yes, sir.

Q Is there any danger of you being laid off from this job?

A No, sir.

Q And you have been in this position how long?

A Almost a year.

Q Will you remain at the location where you are now?

A Yes.

Q That is with the trailer and so forth.

A Right.

Q And will Wanda Midgette care for the children during the time that you are working?

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A Yes.

Q As a matter of routine, do you visit members of your family on a fairly regular basis?

A Yes.

Q And will the children be exposed to their grandparents, uncles, so forth?

A Yes.

Q Would they be exposed to children of their own age?

A Yes.

Q By what means?

A Their babysitter.

Q And how about you, personally?

A Yes. I would take them.

Q Would you take up your friendship again with Sandra Ogle?

A Yes.

MR. BURNSIDE: Your Honor, I believe that is all I have, but as you stated before, lawyers sometimes --

THE COURT: Check your list.

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MR. BURNSIDE: Just one other item, Your Honor.

BY MR. BURNSIDE: (continuing)

Q There has been some reference made to the children about playing with each other. Has this ever occurred when they are with you during visitation?

A No.

MR. BURNSIDE: That is all I have, Your Honor.

THE COURT: All right. Mr. Rawlings.

CROSS EXAMINATION

BY MR. RAWLINGS:

Q Mrs. Durrette, you testified about you were upset and wanted the children, that was why you went to your husband's home.

A Yes.

Q And it is a fact, isn't it, that when you were married, before you went to work, that Mr. Durrette turned his paycheck over to you every week.

A True.

Q And that was about three hundred and sixty dollars, wasn't it, net?

A True.

Q And you spent that all but twenty dollars, which was what you gave him, is that correct?

A You want to know what I spent it on?

Q What?

A Do you want to know what I spent it on?

Q Maybe, but you spent all but twenty dollars of it, which you gave to him.

A Wrong.

Q For spending money.

A Wrong.

Q Wrong? Well, then, what did happen?

A It went in the checking account for bills.

Q Well, you did all the bill paying, didn't you?

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A I did.

Q And you are telling the Court that the three hundred and sixty dollars was not enough money, so you had to go to work?

A Yeah. It should have been plenty enough money, but Gordon wouldn't let me go out and buy things that, especially that I wanted, that Chris and Michael wanted.

Q You had free access to the checking account, didn't you?

A Yeah, but I didn't want to hear the hassle and the fuss because I spent ten dollars on this, or ten dollars on that.

Q You bought this swing set. Did you buy that with the money from the checking account?

A No. I bought it with my money that I made at Safeway.

Q You what?

A I bought it with my check that I got from Safeway.

Q Now, really and truly, the reason

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you went to work was you just didn't want to stay around home, you were tired of looking after the children.

A Wrong.

Q That is true, isn't it?

A No, it is not true.

Q Did you tell Mrs. Durrette that?

A No, I did not.

Q Didn't you leave your children with Mrs. Garnett Durrette many times for her to take care of?

A Yes, because Gordon wanted me to leave them with her when I worked.

Q But you did leave them with her.

A So what? I'm just saying --

Q So what? You were the one that was just making a big to-do about her having been in an institution.

THE COURT: Don't argue with the witness, Mr. Rawlings. Argue with me later. Ask her questions she can answer yes or no.

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BY MR. RAWLINGS: (continuing)

Q You say she was institutionalized. When was that?

A I know when Gordon was small she was, and then about a couple days after Chris and Michael were born, she went in the last time.

Q When Gordon was small. You know that only from hearsay, don't you?

A That's right.

Q And a couple days, you say, after your children were born?

A Right.

Q She went to Mary Washington Hospital?

A But she was unstable before she went in, about three months before.

Q Did you -- you didn't find this so much a problem to prevent you from having her to take care of them, did you?

A I just said I didn't want to hear the hassle, the fuss about I left them with somebody else if I did not leave them with his mother.

COPY

cross - K. L. Durrette

Q How many times did you leave them with his mother?

A I don't know.

Q A lot of times, didn't you?

A Let's see. Wait a minute.

Q Wasn't it right many times?

A Four months.

MR. BURNSIDE: She heard the question, let her get ready to answer.

MR. RAWLINGS: I can't hear her answer.

A Four months.

Q For four months. When was this?

A From July until I left in December.

Q That was last year?

A Right.

Q After you had gone to work?

A Right.

Q The trailer where you are living, do you own it, or are you renting it?

COPY

A Renting it.

Q Who are you renting it from?

A I pay Charlie Cannon. He pays the man that owns it. A Mr. Blankenship, or something.

Q And you testified, in response to a question by your attorney, that the night that your mother had the children over there, she was taking care of the children while you were cleaning the trailer?

A Yes, sir.

Q Well, why did you have to be cleaning the trailer the very night that the children were there, when they were only there two nights a week?

A Because I wanted to move in.

Q You couldn't have cleaned it some other night when they were not there?

A It took me three days to clean the trailer. It was so dirty.

Q How far is it from where your trailer is to where Mrs. Midgette lives?

A About ten miles.

Q Ten miles?

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A Twelve miles, something like that.

Q And you would have to take the children there in the morning and pick them up at night.

A Right. My sister would watch them on Tuesday and Thursday night when she gets off at 5:00.

Q Will she watch them at her house?

A Uh huh.

Q If you are not working, or at night if you want to go out, who would look after the children?

A I have no plans of going out, so I don't know.

Q You don't have any plans to go out at all? You only have a babysitter lined up for when you are working?

A I don't have time, you know -- I would be there with Chris and Michael when I get home from work. I don't feel like going out.

Q How about on your days off?

A Stay at home.

Q You had complained because Mr. Durrette didn't give you any money during the five weeks that you

COPY

had the children after you went before Judge Cox on a temporary order. You didn't ask the Judge to direct him to give you any money, did you?

A At that time, I didn't think about it.

Q It never came up?

A You know, Gordon is the father. If he wanted to see them have things, he could have gave me the money. I didn't really have to ask. I shouldn't have to ask.

Q When you were before the Judge, and he gave you temporary custody pending the final hearing, you didn't ask for money.

A Yes, I did.

Q And you, as a matter of fact, told your husband that you didn't want the groceries.

A I didn't want the junk food.

Q And you had taken all the children's clothes when you left, didn't you?

A That's true.

Q And as a matter of fact, when time

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1 came to turn them back over under the Court's order to your
2 husband, you didn't give him back the clothes, did you?
3 A I did.
4 Q It took some time, several weeks
5 or more before he could get them.
6 A No, it didn't.
7 Q Isn't that true?
8 A No, it is not.
9 Q What children are there going to
10 be in the neighborhood of your trailer for the children
11 to play with?
12 A I have only been there several months.
13 I haven't met any of the neighbors besides Charlie and Tanya.
14 Q As a matter of fact, there are no
15 small children very close to your trailer.
16 A I wouldn't know. They are going
17 to be -- there will be at the babysitters playing with her
18 kids.
19 Q And you did discontinue going to
20 Sunday School at the Spotswood Church, didn't you?
21 A I started going to First Christian.

Q And for the last four or five weeks, you have been going to the Christian Church?

A I went last Sunday to Spotswood.

Q But the four weeks before that, you were going to the Christian Church.

A Right.

Q So, if Mrs. Dawson couldn't have seen you at church.

A It was only for three weeks, it wasn't four or five weeks. It was three weeks.

Q And you were not anxious to help get the children into Bible School, were you?

A Yes, I was.

Q Didn't they call on you to get them there in time, and you wouldn't cooperate?

A I did.

Q Wasn't Monday the first day of the Bible School, and that is when you went to King's Dominion?

A Yeah. We had plans to go to King's Dominion. I wanted to do something with them.

Q Do you recall having told one of

COPY

1 your babysitters that you prefer her not giving the children
2 naps?
3 A No, sir.
4 Q And you said that you had fed the
5 children before you took them back to their father. What
6 did you feed them? What kind of food? What does breakfast
7 consist of?
8 A Bacon, ham, they don't like eggs,
9 Pop Tarts, cereal, oatmeal.
10 Q Did you ever just give them Pop
11 Tarts?
12 A Once in a while. They haven't had
13 them since I have been out at the trailer.
14 Q And didn't you tell Mr. Durrette
15 that before you got your telephone, you had gone out to
16 the nearby house and left the children in the trailer by
17 themselves while you went to use the telephone?
18 A I don't remember.
19 Q You don't deny that?
20 A I don't deny it. I'm not going
21 to tell you I did.

COPY

Q And when you were saying you made all the payments to Mr. Lewis Durrette, you were making the payments with Gordon's money, weren't you?

A That's right. It was Gordon's money.

Q At Christmas time last year, did you take the children to any Christmas parties, or to see Santa Clause, or anything like that?

A Not as I can remember.

Q Didn't Mr. and Mrs. Durrette, Sr., have to take them to see Santa Clause and to a Christmas party?

A I don't remember.

Q That was before you left home, wasn't it?

A Yeah. But I don't remember.

Q You don't remember. But you don't remember taking them. Don't you recall talking to your husband on June the 23rd, and telling him that you didn't go around with Terry Kinchloe anymore because she was common?

A No, I don't.

Q Did you talk about her to him?

COPY

cross - K. L. Durrette

A No.

Q You didn't say a word to him?

A I defended her.

MR. RAWLINGS: Just one second, Your Honor. I believe that is all, Judge.

THE COURT: Any redirect, Mr. Burnside?

MR. BURNSIDE: Your Honor, I realize it was not inquired to, it was purely an oversight on my part, but a list of her expenses.

THE COURT: That is something new. Mr. Rawlings will have a chance to cross examine.

REDIRECT EXAMINATION

BY MR. BURNSIDE:

Q Karen, at my request, did you originally prepare a statement of your income and expenses, and provide that to me?

A Yes.

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Q And does that reflect, does that document reflect your income and expenses?

A Yes.

MR. RAWLINGS: Judge, we are here on a question of custody for the children, and I think the only issue is it either cost Mr. Durrette or Mrs. Durrette to take care of the children. There is no issue before the Court with respect to any support for Mrs. Durrette. That has never been -- was not considered in the hearing in the Juvenile Court, and it was only a question of the custody of the children.

MR. BURNSIDE: That is making no claim for support. She is only claiming for the support of the children.

THE COURT: We have been talking about it all day long.

MR. RAWLINGS: I understand that. Well, I will ask her a question about that, then.

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RECROSS EXAMINATION

BY MR. RAWLINGS:

Q Mrs. Durrette, are these figures that you have put down here, figures for caring for the children?

A Yes, sir.

Q Have you included any figures in here that would include -- that would cover your expenses?

A No.

Q How much rent do you pay?

A Hundred and sixty.

Q Well, you have a hundred and sixty dollars down here. That is for your rent and their rent, and rent for the whole trailer, is that correct?

A Divide it by three.

Q I can't hear you.

A Divide it by three. Three into a hundred and sixty dollars. Take two parts of it.

Q Well, the way I read this --

MR. BURNSIDE: I don't think she

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understands. All your expenses here are for groceries and everything concern also feeding you, that type thing. That is what he wants to know.

THE COURT: I think that is clear on the face of it, Mr. Rawlings.

MR. RAWLINGS: I just wanted to know if she was listing what it cost for the children, or for all three of them.

MR. BURNSIDE: I stipulate that that includes her expenses for the children as well as for herself. To this day, I don't know how anybody can break down expenses just for children.

MR. RAWLINGS: Just give me a second to look at this, Judge.

BY MR. RAWLINGS: (continuing)

Q The babysitting figure, how much do you pay for babysitting?

A Thirty-five, forty dollars a week.

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Q Thirty-five or forty dollars a week. How do you determine which it is?

A By how many hours I work.

Q It is a different time each week?

A Sometimes. On Wednesday or Friday, I only have 11:00 to 3:00. Maybe the next Wednesday or Friday I have 9:00 to 5:00.

Q And this insurance, I gather, is insurance on the car.

A Life insurance for Chris and Michael.

Q Life insurance? Do you pay that, or does Mr. Durrette pay that?

MR. BURNSIDE: Let me give her a copy so she knows what you are referring to. I think that is only fair for the witness.

A It is just their life insurance runs about forty some dollars. You know, if I had custody of them, I would be paying it.

Q But you are not paying it now.

A No.

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MR. RAWLINGS: I believe that is all I want to ask her.

THE COURT: Any redirect?

MR. BURNSIDE: No, sir, Your Honor.

THE COURT: All right. Thank you, Mrs. Durrette.

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WITNESS STOOD ASIDE

MR. BURNSIDE: Your Honor, frankly, I have other witnesses, but it is all going to be coroboration, and I feel like we have made every point, so we will rest our case at this point.

THE COURT: All right. Rebuttal?

MR. RAWLINGS: I do have some brief rebuttal, Judge. I hate to take up your time.

THE COURT: No, sir, we are going to get it over with. Everybody, including the parties, want to get it over with.