

DOCKET NO. 174

NUMBER	TERM	YEAR
640	May	1961

Faye Kramer

VERSUS

Ivan R. Kramer

Clearfield County, ss:

The Commonwealth of Pennsylvania, to Carl A. Belin, Jr. Esq.

Greeting:

Know you, that in confidence of your prudence and fidelity we have appointed you, and by these presents do give unto you full power and authority, in pursuance of an order made in our County Court of Common Pleas, for the County of Clearfield, in a certain cause there depending, wherein

Faye Kramer Plaintiff ,
and

Ivan R. Kramer Defendant ,

to call before you at a certain day and place by you for that purpose to be appointed, all and every person who may be named to you on the part of the parties

as witnesses in the said cause, and then and there to examine each of the said witnesses upon their oath or solemn affirmation touching the premises and reduce their testimony to writing and report the same with form of Decree and when you shall have done so, you are to send the name before our Judge at Clearfield, at our said Court, together with the interrogatories and this writ, and under your hand and seal.

In Testimony Whereof, we have caused the seal of our said Court to be hereunto affixed.

WITNESS, the Hon. John J. Pentz, President of our said Court, at Clearfield, the 18th day of December, in the year of our Lord one thousand nine hundred and

Prothonotary

To the Honorable, the Judge, &c.:

The execution of this commission appears in a certain schedule hereunto annexed.

Carl A. Belin, Jr. COMMISSIONER.

No. 640 May Term. 19 61

Faye Kramer

VERSUS

Ivan R. Kramer

COMMISSION

& Swoope
Bell, Silberblatt
Attorney.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER : No. 640 May Term, 1961
:
vs :
: IN DIVORCE
IVAN R. KRAMER :
:

DOCKET ENTRIES

AUGUST 1, 1961, COMPLAINT IN DIVORCE filed: One copy certified to the Sheriff.

AUGUST 10, 1961, On praecipe filed, W. Albert Ramey, Attorney, enters his Appearance for the Defendant.

AUGUST 9, 1961, Defendant's Answer, filed by W. Albert Ramey, Attorney.

NOW, August 10, 1961, Service of the within Answer accepted. Bell, Silberblatt & Swoope, by F. Cortez Bell, Jr., Attorneys for Plaintiff.

AUGUST 9, 1961, Praecipe to issue Rule to file Bill of Particulars, filed by W. Albert Ramey, Attorney.

NOW, August 10, 1961, Service of within praecipe to issue Rule for Bill of Particulars accepted and issuance of rule waived. Bell, Silberblatt & Swoope, by F. Cortez Bell, Jr. Attorneys for plaintiff.

NOW, August 5, 1961 at 9:45 o'clock A.M. served the within Complaint In Divorce on Ivan R. Kramer at the Wallaceton Post Office, Wallaceton, Pa., by handing to him, personally, a true and attested copy of the original Complaint In Divorce and made known to him the contents thereof, So answers, Charles G. Ammerman, Sheriff.

AUGUST 19, 1961, Plaintiff's Bill of Particulars filed by Bell, Silberblatt & Swoope, Attorneys.

AUGUST 21, 1961, Service accepted, W. Albert Ramey, Atty. for Defendant.

AUGUST 19, 1961, Petition filed by Bell, Silberblatt & Swoope, Attorneys for defendant.

ORDER OF COURT: NOW, this 19th day of August, 1961, Rule is issued to show cause why counsel fees should not be paid. Returnable sec. leg. By the Court, John J. Pentz, President Judge.

November 16, 1961, Opinion and Order filed.

ORDER: NOW, November 16, 1961, rule for counsel fees refused. Exception noted. By the Court, John J. Pentz, President Judge.

September 12, 1961, Defendant's Answer to Petition, filed by W. Albert Ramey, Attorney.

NOW, November 24, 1961, Service accepted by copy. Bell, Silberblatt & Swoope, Attorneys

NOW, December 18, 1961, by motion on the watch-book, Carl A. Belin, Jr., Attorney, is appointed Master to take the testimony and report the same with form of Decree.

Certified from the record this 20th day of December, 1961

Wm T. Hagerty

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

-vs-

IVAN R. KRAMER

:
: No. 640 May Term, 1961
:
:
: IN DIVORCE
:

COMPLAINT

The Plaintiff above named complains of the Defendant above named in a cause of action the nature and character of which is as follows:

(1). The Plaintiff and Defendant were married June 28, 1946 by a United Brethren minister in Woodland, Pennsylvania.

(2). Three children resulted of the said marriage; namely, Darla Jean Kramer, born September 26, 1948; Laree Kramer, born September 23, 1950; Randall Lynn Kramer, born December 12, 1953.

(3). Both Plaintiff and Defendant were born in Clearfield County and have resided therein during their entire married life.

(4). Plaintiff and Defendant resided in a home in Wallacetown Borough, Clearfield County, Pennsylvania, title to which is in their names as tenants by the entireties, having bought the same from Harbison-Walker Refractories Company in or about 1947.

(5). No prior actions for divorce have ever been instituted by either party.

(6). This action is brought not as a result of any collusion or agreement between said parties.

(7). Beginning in 1947, the Defendant, Ivan R. Kramer, began running around with other women and refused to stay home and take care of his wife and children.

(8). The Plaintiff has left home on several occasions but returned, the last leaving occurring in June of 1958, and resulting from a course of conduct pursued by the Defendant as hereinafter complained of.

(9). The Plaintiff claims she is entitled to a divorce for the following reasons:

A. The Defendant has admittedly carried on affairs with other women, which were of such a nature that the Plaintiff could not remain in the home, causing the Plaintiff to leave, the last leaving being June of 1958, so that the Defendant is charged with constructive desertion.

B. The Defendant has by cruel and barbarous treatment endangered the life of the Plaintiff.

C. The Defendant has committed such indignities as to make the Plaintiff's condition intolerable and her life burdensome.

D. The Defendant has committed adultery with Bessie Hallman and the parties are residing together as husband and wife at the present time in the home owned by the Plaintiff and Defendant.

WHEREFORE, the Plaintiff requests that she be granted a divorce from the Defendant, completely separating them from the bonds of matrimony and that the Master make such recommendation to the Court as the evidence should justify as to the ownership of said real estate, the future care, custody and visitation rights with reference to said children, and such order for support and maintenance of said children as may be necessary. Also, that the Master recommend the division of the personal property between said parties allotting to each of them their own property and dividing the remainder, and requests that the Master make such findings and report same to your Honorable Court for a statement thereon.

BELL, SILBERBLATT & SWOOPE

By


Attorneys for Plaintiff

STATE OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared
FAYE KRAMER, who, being duly sworn according to law, deposes and
says that the facts set forth in the foregoing Complaint are true
and correct to the best of her knowledge, information and belief.

Faye Kramer

Sworn to and subscribed
before me this ^{1st} day
of August, 1961.

Wm. T. Hazlety

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1962

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENN-
SYLVANIA, No. 640
Term, 1961 - In Divorce

FAYE KRAMER

-VS-

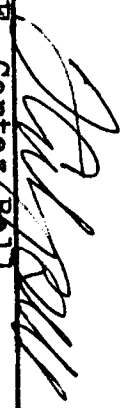
IVAN R. KRAMER

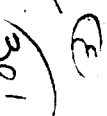
COMPLAINT

To the within Defendant:

You are hereby notified to
plead to the enclosed
Complaint within twenty (20)
days of the service hereof.

BELL, SILBERBLATT & SWOOPE
By


F. Cortez Bell,
Attorneys for Plaintiff

Accepted by  (3011)

BELL, SILBERBLATT & SWOOPE
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

450

In the Court of Common Pleas of Clearfield County, Pa.

Faye Kramer
vs
Ivan R. Kramer

No 640 May Term 1961
Complaint In Divorce

(Sheriffs Return)

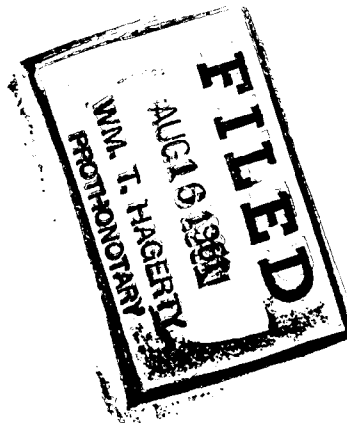
Now, August 5, 1961 at 9:45 O'Clock A.M. served the within Complaint in Divorce on Ivan R. Kramer at the Wallacetown Post Office, Wallace-town, Pa., by handing to him personally a true and attested copy of the original Complaint In Divorce and made known to him the contents thereof.

Costs Sheriff Ammerman \$12.00
(Paid by Stty Bell)

So Answered.
Charles G. Ammerman
Charles G. Ammerman
Sheriff

Sworn to before me this 8th
day of August 1961 A.D.

Wm. T. Hagerity
Prothonotary.



No. 640 Term May 19

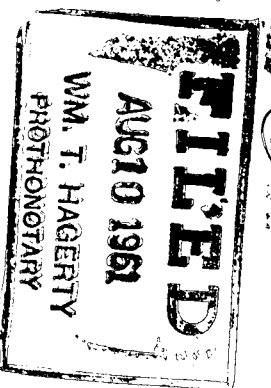
FAYE KRAMER

VS.

IVAN R. KRAMER

APPEARANCE

For Ivan R. Kramer



FAYE KRAMER

VERSUS

IVAN R. KRAMER

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PA.

No. 640 Term May 19 61

To William T. Hagerty

Prothonotary.

Sir: Enter my appearance for Ivan R. Kramer, Defendant

in above case.

Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

vs

IVAN R. KRAMER

:
:
: No. 640 May Term, 1961
:
: IN DIVORCE
:

ANSWER

The defendant in the above styled cause of action herewith makes Answer to Paragraphs 7, 8, and 9, of the Complaint:

¶7 is denied. On the contrary, the plaintiff found other men more interesting than her husband and refused to stay home with her children and stayed out at late hours of the night against the defendant's desires and requests for her to stay at home with her husband and children.

¶8 is admitted insofar as it avers that plaintiff left home on several occasions and without justifiable cause for so doing and has been away from her home and children for more than three years, and for the past six months and longer has been living in a state of adultery with one Lyle Stiner in a two-room shanty in Graham Township.

¶9 is denied as follows:

(a) Plaintiff left her home without justifiable cause, other than to satisfy her desires to reside illegally with another man or men and has in effect abandoned her husband and three minor children.

(b) The only cruelty exercised between the parties was that of the plaintiff to the defendant.

(c) The only indignities practiced in the household was that of the plaintiff to the defendant.

(d) Denied

Wm T. Hagerty
att. for def.

STATE OF PENNSYLVANIA:
: SS:
COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally
appeared IVAN R. KRAMER, who, being duly sworn according to
law, deposes and says that the facts set forth in the foregoing
Answer are true and correct to the best of his knowledge,
information and belief.

Sworn to and subscribed before :

me this 9th day of August, 1961 :

Ivan R. Kramer

Wm T. Hagerty :

PROTHONOTARY
My Commission Expires
Monday Jan. 1962

Now, August 10, 1961, Service of the within Answer Accepted
by: *[Signature]*
Bell, Silbaugh & Swartz
Attorneys for Plaintiff.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.	
No. 640 May Term, 1961	
FAYE KRAMER	
VS	
IVAN R. KRAMER	
ANSWER	
<div>FILED AUG-9 1961 WM. T. HAGERTY PROTHONOTARY</div> <div>W. ALBERT RAMEY ATTORNEY AT LAW CLEARFIELD, PENNA.</div>	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

:

No. 640 May Term, 1961

vs

:

IN DIVORCE

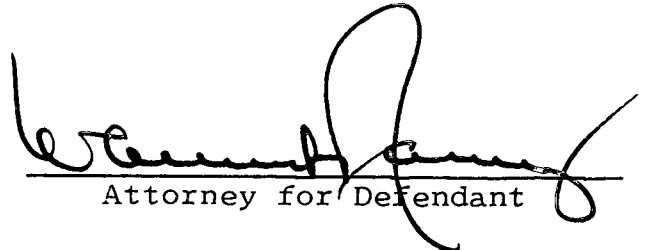
IVAN R. KRAMER

:

TO: William T. Hagerty, Prothonotary

Sir:

Issue rule on the plaintiff to file a Bill or
Particulars within twenty (20) days after service of the Rule,
or non. pros. sec. leg.


Attorney for Defendant

Now, August 10, 1961, Service of writter Praecipe to issue Rule
for Bill of particulars Accepted and issuance of rule waived.
by *Albert Ramey*
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.
No. 640 May Term, 1961
FAYE KRAMER vs IVAN R. KRAMER
PRAECIPE TO ISSUE RULE TO FILE BILL OF PARTICULARS
<div>FILED AUG-9 1961 WM. T. HAGERTY PROTHONOTARY</div> <div>W. ALBERT RAMEY ATTORNEY AT LAW CLEARFIELD, PENNA.</div>

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

vs

IVAN R. KRAMER

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:

No. 640 May Term, 1961

IN DIVORCE

BILL OF PARTICULARS

(1). In 1947, while they were living in Wallaceton Borough, Pennsylvania, the Defendant, Ivan R. Kramer, started keeping company with Mrs. Helen Shimmel, the wife of James Shimmel. He continued to see Mrs. Shimmel until 1951 when he decided to leave Wallaceton and look for work. In 1951, the Plaintiff and Defendant went to Detroit, Michigan, taking their two children. The said Ivan R. Kramer committed adultery with the said Helen Shimmel in a rooming house in Detroit in August of 1951 and has committed adultery at various other times, the dates of which are unknown, the Defendant having admitted having sexual relations with Mrs. Shimmel.

(2). In February of 1958, the Plaintiff left the common home in Wallaceton because of the course of conduct of her husband in running after other women, particularly Mrs. Bessie Hallman, of Houtzdale R. D., Pennsylvania, whose husband sought and obtained a divorce against his wife, Bessie Merritt Hallman, to No. 208 November Term, 1959, charging his wife with having committed adultery with the Plaintiff's husband, Ivan R. Kramer, notice of which was served on the Plaintiff's husband and which act of adultery the Plaintiff's husband never denied until the filing of an Answer in this divorce proceeding.

(3). The Defendant, Ivan R. Kramer, began going with Bessie Hallman in 1954 and continued meeting and having relations with her almost daily, remaining out until the early hours of the

morning and telling his wife that he was working on night shift when he wasn't working, the testimony in the Hallman divorce action showing that he was calling several times a week at the Hallman home and he and Mrs. Hallman would leave together and not return until the early morning hours.

(4). After the divorce was obtained by Mr. Hallman against his wife, the said Ivan R. Kramer brought Bessie Hallman to the home of the Plaintiff and Defendant in Wallaceton and the said Ivan R. Kramer and Bessie Hallman are residing in the Kramer home in Wallaceton Borough as of this date.

(5). In February of 1958, the Defendant ordered the Plaintiff out of the home and she left, intending to return and get the children, and came to Clearfield and stayed with a female friend.

(6). Several times after February of 1958, when the Plaintiff returned to the home in Wallaceton to see the children, she was physically abused by her husband by choking and striking and otherwise beating her around the face and body, leaving marks.

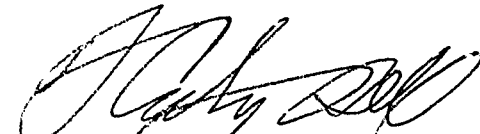
(7). Prior to the leaving in 1958, the Defendant had on many occasions struck the Plaintiff.

(8). In 1958, the Plaintiff consulted the District Attorney's office and was advised to see Squire Neal and bring charges against her husband for physical abuse.

(9). The Plaintiff has not returned to the home since June of 1958 and has not cohabited with the Defendant since that time.

(10). The Defendant, Ivan R. Kramer, is living in the home formerly occupied by he and his wife and three children in Wallaceton Borough at the present time with Mrs. Bessie Hallman.

BELL, SILBERBLATT & SWOOPE
By



F. Cortez Bell,
Attorneys for Plaintiff

STATE OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared, FAYE KRAMER, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Bill of Particulars are true and correct to the best of her knowledge, information and belief.

Faye Kramer
Faye Kramer

Sworn to and subscribed
before me this 17th day
of August, 1961.

Kim S. Nagerty

PROTHONOTARY
Not Commissioned
1st Dec 1961

Kramer

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENN-
SYLVANIA, No. 640 May Term,
1961 - In Divorce

FAYE KRAMER

-VS-

IVAN R. KRAMER

BILL OF PARTICULARS

*8/27/61 Service
accepted
W. T. Hagerly
Clerk for Div.*

FILED
AUG 19 1961
WM. T. HAGERLY
PROTHONOTARY

BELL, SILBERBLATT & SWOPE
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

COMMERCIAL PRINTING CO., CLEARFIELD, PA

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

vs

IVAN R. KRAMER

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:

No. 640 May Term, 1961

IN DIVORCE

PETITION

The Petition of Faye Kramer respectfully represents:

(1). That her husband, Ivan R. Kramer, and she together own a home as tenants by the entireties in Wallaceton Borough.


(2). That she instituted an action of divorce to No. 640 May Term, 1961, against her husband, charging him with cruel and barbarous treatment and adultery, as well as desertion and indignities.

(3). That her husband was charged with adultery in a divorce action brought by Clair Hallman, which the said Ivan R. Kramer did not contest and has admitted other acts of adultery to your Petitioner.

(4). That your Petitioner's husband has issued a rule for a Bill of Particulars and filed an Answer denying the averments in Petitioner's Complaint, causing extra expense to be placed on your Petitioner.

WHEREFORE, your Petitioner respectfully prays your Honorable Court that her husband be required to pay such sums as your Honorable Court deems just and wise towards the cost of this divorce, particularly in view of the fact that her husband and the woman he is charged with having committed adultery with are living together in the home in Wallaceton Borough which is in the names of your Petitioner and her husband.

BELL, SILBERBLATT & SWOOPE
By


F. Cortez Bell,
Attorneys for Petitioner

STATE OF PENNSYLVANIA :
 : SS.
COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared FAYE KRAMER, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Petition are true and correct to the best of her knowledge, information and belief.

Faye Kramer
Faye Kramer

Sworn to and subscribed
before me this 17th day
of August, 1961.

Chas. A. Haggerty

LIBRARY
My Card Number Expires
1st Monday Jan. 1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

vs

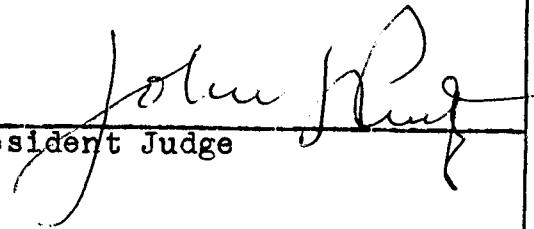
IVAN R. KRAMER

:
: No. 640 May Term, 1961
:
: IN DIVORCE
:

ORDER OF COURT

NOW, this 19 day of August, 1961, rule is issued to
show cause why counsel fees should not be paid, returnable sec.
leg.

BY THE COURT



President Judge

Kenny

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD, COUNTY, PENN-
SYLVANIA, No. 640 May Term,
1961 - In Divorce

FAYE KRAMER

VS

IVAN R. KRAMER

PETITION

*8/21/61 - Service
deplied
le Grand Jury
ans per 89*

FILED
AUG 19 1961
WM. T. HAGERITY
PROTHONOTARY

BELL, SILBERBLATT & SWOOPÉ
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

FAYE KRAMER	:	
	:	No. 640 May Term, 1961
vs	:	
	:	IN DIVORCE
IVAN R. KRAMER	:	

ANSWER TO PETITION

IVAN R. KRAMER herewith makes Answer to the Petition of Faye Kramer, dated August 17, 1961, wherein plaintiff Faye Kramer seeks an Order requiring her husband to pay for costs of her divorce:

1. ¶1 is admitted in that Ivan R. Kramer and Faye Kramer, husband and wife, are tenants by entireties of the residence property in Wallaceton Borough, Pennsylvania, where Ivan R. Kramer resides with his children, and from which property the said Faye Kramer moved out of to live with other men, particularly one Lyle Stiner with whom she is presently residing in Graham Township, Clearfield County, Pennsylvania.

2. ¶2 is admitted as to the charges averred, but which said charges are specifically denied in defendant's Answer.

3. Defendant has no knowledge of the charges made by Clair Hallman vs Bessie Hallman. The Court papers charged to the offices of Bell, Silberblatt & Swoope in the Prothonotary's office are not presently available and apparently cannot be found, although defendant's counsel has made request for their production. Furthermore, it is denied that a divorce was granted to Clair Hallman against Bessie Hallman on the grounds of adultery, and the averment pertaining to said alleged

charges without divorce having been granted on said charge is an unfair and indecent averment. The implication of said averment is, therefore, denied. Furthermore, it is denied that Ivan R. Kramer ever admitted having committed acts of adultery with Bessie Hallman and said implication is denied.

4. It is admitted that Ivan R. Kramer filed a praecipe causing a Rule to issue on plaintiff to file a Bill of Particulars, which plaintiff did file.

5. It is averred that in September of 1959, the plaintiff took up her residence with one Lyle Stiner in a small apartment in the Borough of Chester Hill, Pennsylvania, where they continued to live together as man and wife for several months. From said apartment they moved to a two-room shanty in Graham Township, Clearfield County, Pennsylvania, where they still continue to reside as man and wife. Although her husband and children continue to live in the Borough of Wallaceton, said Faye Kramer has not returned to the said home or to visit her children for more than a year.

6. It is, therefore, averred that the said Faye Kramer has forfeited, by her conduct, any rights she might otherwise have had to require her husband to pay costs of her divorce, or any of the other prayers for relief requested in her Complaint.

Ivan R. Kramer

STATE OF PENNSYLVANIA:

: SS:

COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared
IVAN R. KRAMER, who, being duly sworn according to law, deposes
and says that the facts set forth in the foregoing Answer to
Petition are true and correct to the best of his information,
knowledge, and belief.

Sworn to and subscribed before :

me this 11th day of September, : Ivan R. Kramer

1961 :

Wm. L. Hefner

PROTHONOTARY
My Commission Expires
Monday Jan. 1962

Corrected

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA

No 640 May Term, 1961

FAYE KRAMER

VS

IVAN R KRAMER

ANSWER TO PETITION

(C)
FILED

SEP 12 1961

WM. T. HAGERTY
PROTHONOTARY

W. ALBERT RAMEY
ATTORNEY AT LAW
CLEARFIELD, PENNA.

*This November 24, 1961 answer was filed by
Bill Altmeyer*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

FAYE KRAMER

-vs-

IVAN R. KRAMER

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:
:

No. 640 May Term, 1961.

O P I N I O N

This matter comes before the Court on petition and rule to show cause why the defendant in this divorce action should not pay counsel fees to his wife, the plaintiff, as provided by Section 46 of the Divorce Code of May 25, 1933, P. L. 1020, (23 PS 46).

This section provides that in an action of divorce, upon petition, in proper cases, the Court may allow a wife reasonable alimony pendente lite, counsel fees and expenses. In the instant case counsel fee only is requested.

The plaintiff filed Complaint in her divorce action, alleging four different causes for divorce. The husband defendant answered the complaint and denied the several allegations, and averred misconduct on the part of the plaintiff in that she left her home and children, and had committed adultery. Following the filing of this answer the defendant then filed motion for a bill of particulars. The plaintiff filed a bill of particulars and on the same date a petition for counsel fees, and obtained rule to show cause thereon, which is the matter now before the Court.

The defendant did not answer the bill of particulars, nor did he answer the petition for counsel fees. At the argument on the return day of the rule he filed a brief setting forth facts going to the merits of the divorce action, and in addition points out that the petition for counsel fees fails to aver any need or necessity therefor, and until proof is produced that the plaintiff is in need of funds to pay counsel fees and carry on her divorce no counsel fees should be awarded.

It is the general law of divorce that in any proceeding for alimony pendente lite and counsel fees, the merits of the divorce action are not to be considered. This has been well established in Pennsylvania. See GUNDER VS. GUNDER, 64 D. & C. 106, and MURRAY VS. MURRAY, 80 Pa. Superior Ct. 573.

The matter of allowance of alimony and counsel fees to the wife, rests upon the necessity or need of the wife in any divorce action, whether plaintiff or defendant, to have funds supplied her with which to carry on the divorce or her defense thereto. Very early in the history of Pennsylvania, in BREINIG VS. BREINIG, 26 Pa. 161, the Supreme Court of Pennsylvania stated that it had been the uniform practice to allow a wife, destitute of a separate estate, who is either suing or defending a case of divorce, such reasonable sum as will enable her to carry it on. It is further pointed out on page 165 of that

decision the reason for the rule is that a wife,

"cannot sue in forma pauperis, for she is not a pauper if she is the wife of a man who has property. To deny her means of paying for process and professional aid is to deny her justice. The amount is a question for the discretion of the Court."

This decision was rendered in 1856, long before the advent of the present era of economic independence and freedom enjoyed by women, whether married or single. The assertion of the argument that the wife plaintiff in this action is earning wages a day almost equal to that of the husband defendant, is an indication of the change in the economic status of married women, occurring since 1856.

Presently, on petition for alimony and counsel fee, as discussed in ROTHMAN VS. ROTHMAN, 180 Pa. Superior Ct. 421, 425, there must be a finding that the wife is in need of funds, to carry on her action for, or defense of, an action in divorce.

"In determining the amount to be allowed the wife for counsel fees, consideration must be given not only to the value of counsel's services and the wife's necessities but also to the husband's ability to pay and the character, situation and surroundings of the parties. BRONG V. BRONG, 129 Pa. Superior Ct. 224, 195 A. 439."

It is further pointed out in ROTHMAN VS. ROTHMAN, supra, that the time to determine the amount of counsel fee must frequently be held off until after final decree, it being difficult to determine the extent of legal services required until after the suit is well under way. In COX VS. COX, 187 Pa. 177, it is stated on page 188,

"In determining a wife's reasonable counsel fees, there are no fixed rules as to the amount which a husband should pay. 'How much shall be allowed . . . for counsel fees and expenses is a matter of judicial discretion and the validity of the order depends upon the proper exercise of that discretion.' . . . 'The statute contemplates . . . a reasonable counsel fee, limited by the necessities appearing from the evidence, such as will nearly as possible promote the administration of fair and impartial justice by placing the parties on a par in defending their rights.' In determining the fair and just amount of counsel fees, . . . the husband's ability to pay, the separate estate of the wife, the character, situation and surroundings of the parties are all to be considered." Cf. CAMPANA V. CAMPANA, 186 Pa. Superior Ct. 472, 142 A. 2d 189; ROTHMAN V. ROTHMAN, 180 Pa. Superior Ct. 421, 119 A. 2d 584."

A resume of the various decisions of the Appellate Courts allowing or refusing counsel fees, and the reasons thereof, is contained in MEINEL VS. MEINEL, 117 Pa. Superiot Ct. 263. The need and necessity of the wife plaintiff or defendant in a divorce action, for funds to carry on her defense, or prosecution of the action, is discussed at length, and the amounts awarded or the refusal of such allowance, with the reasons for such award or refusal.

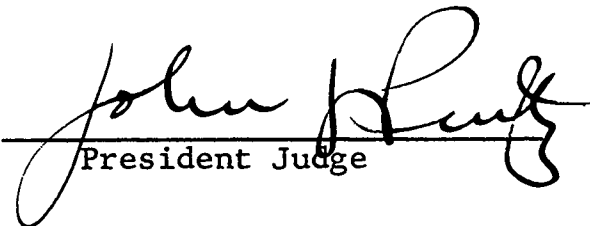
Thus the rule is well established, that counsel fees, as well as expenses and alimony pendente lite, is a matter of judicial discretion depending upon the need of the wife in any divorce action, for funds to carry on or defend her rights in a divorce action, and that this need is usually determined after the divorce action is under way, and is not affected or prejudiced by the merits of the proceeding.

Therefore, the rule is refused, without prejudice on the part of the plaintiff to petition for counsel fee and aver need therefor, with such facts as will support such averment, and if necessary, the defendant may traverse that petition and have the matter heard in limine.

O R D E R

NOW, November 16, 1961, rule for counsel fee refused.
Exception noted.

BY THE COURT,



President Judge

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 640 May Term, 1961

In Divorce

FAYE KRAMER

-VS-

IVAN R. KRAMER

OPINION AND ORDER

3
FILED

NOV 16 1961

WM. T. HAGERTY
PROTHONOTARY

JOHN J. PENTZ
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

-vs-

IVAN KRAMER

No. 640, May Term, 1961

IN DIVORCE

PETITION

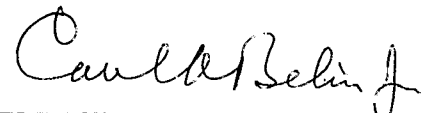
The Petition of Carl A. Belin, Jr. respectfully represents:

1. That your Petitioner was appointed Master by Commission dated the 18th day of December.

2. That the hearing before the Master will not be concluded within thirty (30) days after the time of my appointment for the reason that the attorney for the Libellant has requested a continuance due to the fact that he will be out of town for an extended rest.

3. That the rules of Court, Section 11 provide that the Master must get leave of Court to set a date of hearing which is more than thirty (30) days after his appointment.

WHEREFORE, your Petitioner requests permission of Your Honorable Court to set the hearing date for Wednesday, February 28, 1962.



Carl A. Belin, Jr., Petitioner

COMMONWEALTH OF PENNSYLVANIA:
:SS
COUNTY OF CLEARFIELD :

Before me, the undersigned, personally appearing
Carl A. Belin, Jr. being duly sworn according to law deposes
and says that the facts set forth in the foregoing Petition
are true and correct to the best of his knowledge and belief.

Carl A. Belin Jr.

SWORN and SUBSCRIBED before me
this 8th day of January, 1962.

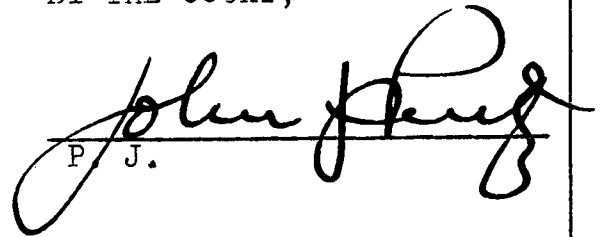
Carl E. Halber

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1966

O R D E R

The Petitioner, Carl A. Belin, Jr., is hereby granted leave pursuant to Section 11 of the rules of Court of Clearfield County to hold a hearing in the above matter on February 28.

BY THE COURT,


P. J.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 640, May Term, 1961
In Divorce

Re: Faye Kramer
vs.
Ivan Kramer

PETITION

FILED
JAN 8 - 1962
CARL E. WALKER
PROTHONOTARY

Belin & Belin
Attorneys at Law
Clearfield, Penna.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

-vs-

IVAN R. KRAMER

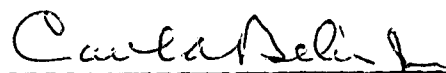
No. 640, May Term, 1961

IN DIVORCE

NOTICE OF MASTER'S HEARING


TO: Faye Kramer, Libellant
F. Cortez Bell,
Attorney for Libellant
Clearfield, Pennsylvania

You are hereby notified that I have been appointed Master in the divorce action of Faye Kramer vs. Ivan R. Kramer in the Court of Common Pleas of Clearfield, Pennsylvania, at No. 640 May Term, 1961, and that I will hold a meeting for the purpose of taking testimony in said case at my office at 115 East Locust Street, Clearfield, Pennsylvania, on Wednesday, February 28, 1962, at 10:00 A.M., E.S.T., when and where you may attend with witnesses if you so desire.

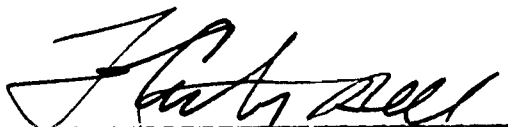


Carl A. Belin, Jr., Master

NOW, this 15th day of January, 1962, service of the above notice is hereby accepted.


Faye Kramer, Libellant

NOW, this 9 day of January, 1962, service of the above notice is hereby accepted.


F. Cortez Bell, Attorney
for Libellant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

-vs-

IVAN R. KRAMER

No. 640, May Term, 1961

In Divorce

NOTICE OF MASTER'S HEARING

TO: Ivan R. Kramer, Respondent
W. Albert Ramey,
Attorney for Respondent
Clearfield, Pennsylvania

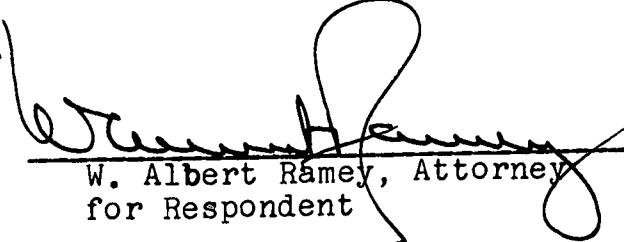
You are hereby notified that I have been appointed Master in the divorce action of Faye Kramer vs. Ivan R. Kramer in the Court of Common Pleas of Clearfield, Pennsylvania, at No. 640 May Term, 1961, and that I will hold a meeting for the purpose of taking testimony in said case at my office at 115 East Locust Street, Clearfield, Pennsylvania, on Wednesday, February 28, 1962, at 10:00 A.M., E.S.T., when and where you may attend with witnesses if you so desire.


Carl A. Belin, Jr., Master

NOW, this 9th day of January, 1962, service of the above notice is hereby accepted.


Ivan R. Kramer, Respondent

NOW, this 9th day of January, 1962, service of the above notice is hereby accepted.


W. Albert Ramey, Attorney
for Respondent

No 232302

RECEIPT FOR CERTIFIED MAIL—20¢

SENT TO Mr. Lyle Stiner		POSTMARK OR DATE JAN 9 1962 CLEARFIELD
STREET AND NO. R D		
CITY AND STATE Morrisdale, Pennsylvania		
<i>If you want a return receipt, check which</i> <input checked="" type="checkbox"/> 10¢ shows to whom and when delivered <input type="checkbox"/> 35¢ shows to whom, when, and address where delivered		<i>If you want restricted delivery, check here</i> <input type="checkbox"/> 50¢ fee
FEES ADDITIONAL TO 20¢ FEE		

POD Form 3800
Jul 1957

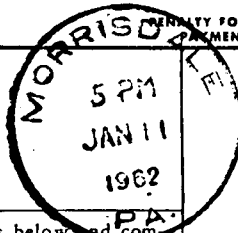
SEE OTHER SIDE

1. Stick postage stamps to your article to pay:
 - 20¢ certified mail fee
 - First-class or airmail postage
 - Either return receipt fee—10¢ or 35¢ (optional)
 - Restricted delivery fee—50¢ (optional)
 - Special-delivery fee (optional)
2. If you want this receipt postmarked, stick the gummed stub on the address side of the article, *leaving the receipt attached*, and present the article to a postal employee.
3. If you do not want this receipt postmarked, stick the gummed stub on the address side of the article, detach and retain the receipt, and mail the article.
4. If you want a return receipt, write the certified-mail number and your name and address on a return receipt card, POD Form 3811, and attach it to the back of the article. Endorse front of article RETURN RECEIPT REQUESTED.
5. If you want the article delivered only to the addressee, endorse it on the front DELIVER TO ADDRESSEE ONLY. Place the same endorsement in line 2 of the return receipt card.
6. Save this receipt and present it if you make inquiry.

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300

POSTMARK OF
DELIVERING OFFICE



INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

← RETURN
TO

REGISTERED NO.

NAME OF SENDER

W. Albert Ramey

CERTIFIED NO.

STREET AND NO. OR P. O. BOX

232302

12 North Second Street

INSURED NO.

CITY, ZONE AND STATE

Clearfield, Pa.

POD Form 3811 Jan. 1958

C55-16-71548-4

1-INSTRUCTIONS TO DELIVERING EMPLOYEE

☒ Deliver *ONLY* to addressee ☐ Show address where delivered

(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Lyle Stiner

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

2/2

DATE DELIVERED

JAN 17 1961

ADDRESS WHERE DELIVERED (only if requested in item #1)

W. ALBERT RAMEY
ATTORNEY AT LAW
CLEARFIELD, PENNA.

January 9, 1962

Mr. Lyle Stiner
R. D.
Morrisdale, Pennsylvania

Dear Mr. Stiner:

Please be advised that the date of the Master's hearing in the divorce case instituted by Faye Kramer vs Ivan R. Kramer, in which your name may come as a co-respondent growing out of an allegation of adultery, has been fixed. The date and hour of the hearing is February 28, 1962, at 10:00 o'clock a.m., Eastern Standard Time, at the office of Carl A. Belin, Jr., Esq., 115 East Locust Street, Clearfield, Pennsylvania.

Very truly yours,

W. Albert Ramey
Attorney

WAR:ve

C
O
P
Y

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

☐

Deliver *ONLY* to
addressee

☐

Show address where
delivered

(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Bessie Hallman

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Ivan Kanner

DATE DELIVERED

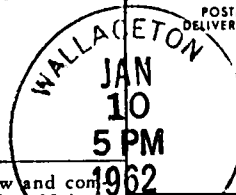
1/10/62

ADDRESS WHERE DELIVERED (only if requested in item #1)

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300

POSTMARK OF
DELIVERING OFFICE



INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

RETURN
TO

REGISTERED NO.	NAME OF SENDER
CERTIFIED NO.	STREET AND NO. OR P. O. BOX
INSURED NO.	CITY, ZONE AND STATE

POD Form 3811 Jan. 1958

C55-16-71548-4

LAW OFFICES

BELL, SILBERBLATT & SWOOPE

Clearfield, Pennsylvania

January 9, 1962

F. CORTEZ BELL
M. L. SILBERBLATT
WALTER M. SWOOPE
F. CORTEZ BELL, JR.
PAUL SILBERBLATT
RICHARD A. BELL

POPLAR 5-5537
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PA.

DICKENS 2-1550
230 NORTH FRONT STREET
PHILIPSBURG, PA.

Mrs. Bessie Hallman
c/o Ivan Kramer
Wallaceton, Penna.

RE:

Dear Mrs. Hallman:

This is to advise you that there will be a hearing before Carl Belin, Jr. in an action of divorce brought by Faye Kramer against Ivan Kramer to No. 640 May Term, 1961. This hearing will be held in Mr. Belin's office in Clearfield on February 28, Wednesday, at 10:00 A. M. In this proceeding, the Plaintiff alleges that you have committed various acts of adultery with Ivan R. Kramer, the Defendant, and the purpose of this letter is to notify you of your right to be heard at said hearing, as to said acts of adultery, should you so desire.

Very truly yours,
BELL, SILBERBLATT & SWOOPE

by:


F. Cortez Bell

FCB:hlm
Certified Mail
Return Receipt Requested

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

☐

Deliver *ONLY* to
addressee

☐

Show address where
delivered

(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Mrs. Helen Skimal

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Alan Cunningham

DATE DELIVERED

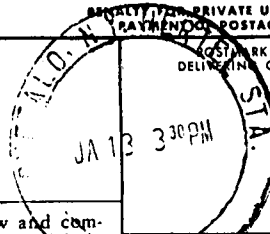
1/13/62

ADDRESS WHERE DELIVERED (only if requested in item #1)

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

EXACTLY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300

POST OFFICE
DELIVERING OFFICE



INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

1962 RETURN
TO

POD Form 3811 Jan. 1958

REGISTERED NO.	NAME OF SENDER <i>Bell, Silvestre & Son</i>
CERTIFIED NO. <i>333631</i>	STREET AND NO. OR P. O. BOX <i>P.O. Box 670</i>
INSURED NO.	CITY, ZONE AND STATE <i>Clearfield, Penna.</i>

C55-16-71548-4

LAW OFFICES

BELL, SILBERBLATT & SWOOPE

Clearfield, Pennsylvania

January 9, 1962

F. CORTEZ BELL
M. L. SILBERBLATT
WALTER M. SWOOPE
F. CORTEZ BELL, JR.
PAUL SILBERBLATT
RICHARD A. BELL

POPLAR 5-5537
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PA.

DICKENS 2-1550
230 NORTH FRONT STREET
PHILIPSBURG, PA.

RE:

Mrs. Helen Shimmel
21 Plymouth Avenue
Buffalo, New York.

Dear Mrs. Shimmel:

This is to advise you that hearing in the case of Faye Kramer vs. Ivan R. Kramer, No. 640 May Term, 1961 will be held before Carl A. Belin, Jr., as Master, on February 28, 1962, at 10:00 A. M. In this hearing, the Plaintiff expects to prove that her husband, Ivan R. Kramer committed various acts of adultery with you at various times and places, particularly, in 1951, and prior thereto in and around the vicinity of Wallaceton Borough and also in Detroit, Michigan. You are notified that you have the right to be present and be heard as to said acts of adultery, if you so desire.

Very truly yours,
BELL, SILBERBLATT & SWOOPE

by:


F. Cortez Bell

FCB:hlm

Certified mail
Return Receipt
Requested

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

-vs-

IVAN R. KRAMER

No. 640, May Term, 1961

IN DIVORCE

Petition for Additional Deposit

The Petition of Carl A. Belin, Jr. respectfully
represents:

(1). That he was appointed Master in the above proceedings by Commission dated December 18, 1961.

(2). That your Petitioner held hearings in the above captioned matter on the 28th day of February, 1962 and the 2nd day of March, 1962.

(3). That the testimony in the above captioned matter when typed up amounts to 134 pages.

(4). That your Petitioner has spent about two (2) days in studying the record in preparation for writing the Master's Report.

(5). That your Petitioner anticipates spending two (2) days in completing the Master's Report, bringing the total to about one (1) week.

(6). That there has been deposited with the Prothonotary a sum in the amount of Two Hundred (\$200.00) Dollars; therefore, your Petitioner requests One Hundred Fifty (\$150.00) Dollars more.

Carl A. Belin, Jr.
Carl A. Belin, Jr. Petitioner

Carla Belin Jr

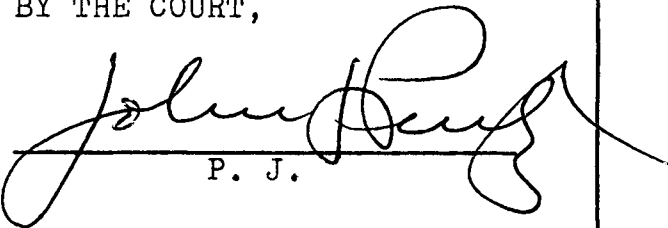
Carl E. Walker

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1966

O R D E R

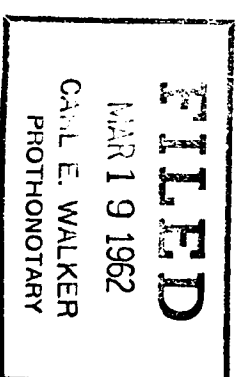
It is hereby Ordered that the plaintiff in the above captioned matter, Faye Kramer, deposit with the Prothonotary an additional One Hundred Fifty (\$150.00) Dollars.

BY THE COURT,


P. J.

Re: Paye Kramer vs.
Ivan R. Kramer
In Divorce
No. 640, May Term, 1961

PETITION FOR ADDITIONAL DEPOSIT



BELIN & BELIN
ATTORNEYS-AT-LAW
CLEARFIELD, PENNA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

vs.

IVAN KRAMER

:
:
:
:
:

No. 640 May Term, 1961

IN DIVORCE

PETITION

The Petition of Faye Kramer respectfully represents:

(1) That she began an action in divorce to the above number and term, against her husband, Ivan Kramer.

(2) That she filed a Petition asking for alimony pendente lite.

(3) A rule of a Bill of Particulars was filled. An Answer was filed for the Petition for Alimony, Counsel Fees, and costs, as a result of which, your Honorable Court by an Order dated November 16, 1961, refused the rule for Counsel Fees, but in the last paragraph, prior to the Order, the Court said, "Therefore, the rule is refused, without prejudice on the part of the plaintiff to petition for counsel fee and aver need therefor, with such facts as will support such averment, and if necessary, the defendant may traverse that petition and have the matter heard in limine."

(4) At the time of the argument, it was averred that the Petition for Alimony and Counsel Fees did not aver that the wife was in need, and paragraph one (1) of the Answer to the Petition avers that the Plaintiff, Faye Kramer, had moved out to live with one Lyle Stiner.

(5) Your Petitioner has been informed by the Master that an additional Order has been made by your Honorable Court, directing the payment of an additional sum of \$150.00.

(6) Testimony has been taken in the divorce case and the facts testified to show a different state of affairs than that presented to the Court.

(7) There is no evidence that Faye Kramer left her home in Wallaceton to live with Lyle Stiner, and the facts testified to before the Master, show that she did not know Lyle Stiner at that time.

(8) She did not go to Chester Hill and live in the same apartment with Lyle Stiner until nearly one year after the separation of she and her husband.

(9) That Ivan R. Kramer was calling on Mrs. Bessie Hallman before the separation of he and his wife.

(10) That Mrs. Hallman and her daughter are now living, and have been living for sometime in the house owned by Mr. and Mrs. Kramer jointly, but one of the Kramer children is staying with the paternal grandfather.

(11) That your Petitioner went to work with the General Cigar Company in Philipsburg, in 1957, and that said work has not been steady, and her average pay when employed has been \$35.00 a week and she has not been working for over a week prior to March 26, 1962.

(12) That in the divorce hearing, Ivan Kramer testified that he had been regularly employed by the Diamond T Stripping Company for five years previous to January 9, 1958, until he was laid off January 9, 1958 and was without work for a period of four months. He then went to work with Barnyak when they were building the Penfield Highway, until October of 1958. That in December 23, 1958, he went to work for the firm of Putman & Greene, and except for being laid off for a few weeks in August of 1960, he has been working continuously for the firm of Putman & Greene.

(13) That said Ivan Kramer testified on page 90 of the divorce hearing, that his take-home pay from Putman & Greene has been two hundred dollars (\$200.00) a week.

(14) That following the Order of your Honorable Court, in November of 1961, your Petitioner borrowed the money and had already paid a total of \$176.50 on the cost of this divorce.

That she still owes the sum she borrowed, and is without funds to pay an additional \$150.00 as recently ordered by your Honorable Court.

(15) That the Rule of Civil Procedure 1132 provides that alimony, counsel fees, and expenses shall be allowed at the discretion of the Court, and the case cited as to the divorce act, Section 46, and Rule of Civil Procedure 1132 does not require that the wife be destitute before she be permitted reasonable attorneys fees, nor do the decisions say that the various facts of the controversy shall be taken into consideration.

(16) Since Faye Kramer has been supporting herself since the separation of herself and her husband in February of 1958, and has received no help or support from him, and as the evidence discloses that he has been, and is now receiving a payment, after all deductions of \$200.00 a week, and she is without funds to comply with the order of your Honorable Court to pay an additional \$150.00, respectfully requests that said order be amended to require her husband, Ivan Kramer to pay said sum, without prejudice on the part of either said parties, and to file exceptions to such recommendations as shall be made by the Master.

BELL, SILBERBLATT & SWOOPE
By



Attorneys for Faye Kramer

STATE OF PENNSYLVANIA :

SS:

COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared FAYE KRAMER, who, being duly sworn according to law, deposes and states that the facts set forth in the foregoing Petition are true and correct to the best of her knowledge, information and belief.

Faye Kramer
Faye Kramer

Sworn and subscribed to

before me this 26th day of

March, 1962.

Carl E. Walker

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1966

ORDER OF COURT

Now, on this *3rd* day of April, 1962, Petition to show cause why this additional \$150.00 should not be paid by Ivan Kramer, returnable *April 9, 1962, at 10 A.M.*

BY THE COURT

John H. King
P.J.

Case No. 12. Ramsey

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 640 May Term, 1961

Faye Kramer
vs.
Ivan R. Kramer

PETITION

(S)

BELL, SILBERBLATT & SWOODE
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

April 5, 1962 - Seminar accepted

W. G. Bennett
City of Los Angeles

April 9, 1962 - service accepted

Carl (Bela)
Master

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER : No. 640 May Term, 1961
:
vs : IN DIVORCE
:
IVAN R. KRAMER :

DEFENDANT'S ANSWER TO PETITION
FILED APRIL 3, 1962

1. ¶1 is admitted. It is averred in connection with said admission that defendant denied in his Answer, ¶7 and ¶9 of said Complaint.

2. It is denied that plaintiff filed a Petition asking for alimony pendente lite.

3. ¶3 is denied insofar as it avers that an Answer was filed to any Petition seeking alimony.

4. It is admitted that ¶1 of defendant's Answer to plaintiff's Petition seeking costs avers that "Faye Kramer moved out....to live with other men, particularly one Lyle Stiner with whom she is presently residing in Graham Township, Clearfield County, Pennsylvania."

5. Defendant has no knowledge of the averment set forth in ¶5 of the Petition and, therefore, can neither deny nor affirm the same.

6. It is admitted that testimony has been taken. It is denied that "any state of affairs" was presented to the Court by the defendant.

7. ¶7 is denied. Testimony shows that on three different occasions Faye Kramer left her home and family in Wallaceton. She first left in February, 1958, and lived with one Bessie Duke at the Clearfielder Hotel. (T-3) She went back to her home in Wallaceton the first of May, 1958. (T-8) The last of May, 1958, she went off again to Croft. (T-10) She says she returned again to her home and family in Wallaceton the last of June, 1958, but remained there only four days (T-12) when the final separation took place. Ivan Kramer says her coming and going for the last time was in September, 1958, after school had started. She says she lived in Croft with Shireys for about a year. (T-14) She says she lived with Shireys for about a year and left Shireys at the same time that Stiner rented the apartment in Chester Hill, Pennsylvania, and that Stiner rented the apartment in Chester Hill in September, 1959. (T-21) She testified that she met Stiner in July, 1958. (T-19) While she was living at Shireys in Croft she was meeting with Stiner and going places with him, one of which she admitted was the Sons of Italy. After that she went to live with Stiner in a three-room apartment in Chester Hill, Pennsylvania, where they lived together until July of 1960 (T-22) when she and Stiner took up residence in a two-room shanty on Deer Creek Road in Graham Township. (T-22) Therefore, at the time of her last leaving (September, 1958) she was acquainted with and going out with Stiner.

8. ¶8 is denied as explained in answer to the preceding paragraph.

9. ¶9 is denied. A review of the testimony reveals the falsity of this averment.

10. It is admitted that the testimony shows that Mrs.

Hallman and her grown daughter reside in the Kramer home and look after the Kramer children and keep house for Mr. Kramer and his children in the absence of the mother of said children and the wife, Faye Kramer.

11. It is admitted that petitioner went to work at General Cigar Company, Inc. in Philipsburg in 1957, and has been regularly employed ever since. Defendant believes and expects to be able to prove that she has been employed regularly ever since, and that she is working and that she did work during the week of March 26, 1962, and that she continues to be employed by the same employer, as of the date of the preparation of this Answer. The defendant, by his attorney, W. Albert Ramey, made inquiry by telephone on April 5, 1962, of a Mr. Shaw who represented himself to be the Office Manager, who stated that Faye Kramer was still currently employed, and that upon written request her work record and earnings would be supplied. Upon receipt of same by counsel for the defendant, it will be submitted to the Court.

12. ¶12 is denied as stated. However, it is averred that testimony of Ivan Kramer shows that he has worked for Putman & Greene, Inc. since June of 1961. The record does not reveal, but it is now averred as a fact, that Kramer's employment is not regular; that Putman & Greene, Inc. is a contractor on the Pennsylvania Shortway in the area of Brookville, Jefferson County, and that he travels by automobile, at his own expense, 96 miles daily (round trip) and that his work is irregular and dependent upon weather conditions. Either the record was in error, or Kramer mis-stated the extent of his earnings, which sometimes amounts to \$200.00 for a two-week period. The

last two-week pay period he drew \$91.00. That was on Friday, March 30, 1962. Counsel for the defendant has requested his employer to supply him with Kramer's work record and earnings record. The same will be submitted to the Court promptly upon receipt thereof.

13. It is denied that Ivan Kramer's take-home pay is \$200.00 a week for the reasons stated in the preceding paragraph.

14. Defendant has no knowledge of the facts averred in ¶14, but denies the materiality thereof for the reason that plaintiff does admit in ¶11 of her Petition that her average pay at the General Cigar Company is \$35.00 a week, and, according to her testimony, she has the free use of Stiner's automobile for transportation to and from work, and that in addition thereto, she is engaged in "keeping house" for Stiner. (T-16).

15. ¶15 is not an averment of fact requiring a response thereto. It is a conclusion of law and argumentative.

16. ¶16 is not an averment of fact requiring a response thereto but for the reasons hereinbefore stated the inferences therein implied are denied.

17. In addition to the foregoing, testimony shows that the plaintiff, Faye Kramer, has deprived herself of the right to receive financial assistance from her husband, and at the expense of her children, to carry on these divorce proceedings by her living a life of sin which destroys the morals of the community in which she resides, as well as the reputation of her children, and by setting an immoral example for two sets of children, to wit, her own three minor children, ages 13, 11, and 8 years, and the minor children of Lyle Stiner.

(a) She testified to having been "beat up by her husband" and that her oldest and her middle daughters were at home at the time, (T-31) yet Darla, aged 13, denied that her father ever struck her mother or "beat her up;" (T-100) that immediately following the occasion of her mother being struck accidentally with the telephone, a car came up the road passed their house slowly "like it was going to stop" and when her father appeared it "went real fast;" that her father was nice to her mother; (T-100) that he did not curse and swear around the house (T-101) that her mother was not home in the night times and that the last year or so before she left "she started going away and I wouldn't see her over the weekends at all;" (T-101) that she would come in at 3:00 or 3:30 in the morning (T-102) sometimes it was after daylight, and she would be gone over weekends too,""and would come home on Monday mornings;" (T-102) that on one occasion she came home, was mad and threw glass jars of catsup, peanut butter and pickles which broke, and also broke some dishes and the glass in the cupboard and when she left she picked up stones and threw them through the windows; (T-103)(T-96) that only once did she come back to the home in Wallaceton to see her children, (T-103) and that was a year or two ago, and she had not seen her mother since; that Betty Hallman and her daughter have a bedroom of their own and that Betty Hallman looks after the house, washes and irons the clothes, cooks the meals, and is good to the Kramer children. (T-105)

(b) That when she left home she was employed at the cigar factory in Philipsburg, but instead of taking up her residence in Philipsburg where she was then earning \$45.00 a week, she came to Clearfield, 18 miles away from her place of employment and lived in a hotel. On her second leaving she lived at Croft, still farther away, but closer by where Lyle Stiner lived. Her excuse for living closer to Stiner and 30 miles away from her place of employment was that if she lived in Philipsburg, where she might have walked to work, it was about a mile to the factory. (T-37)

(c) She admitted that the last time she saw her children was at Christmastime, 1960, (T-38) yet in going to and from her place of employment and her residence now in Graham Township daily, she would go close by Wallaceton, where her children reside; that Ivan Kramer, the father of the children, did not interfere with their mother visiting them. (T-75) (T-104)

(d) That Lyle Stiner moved into the Graham Township property with Mrs. Kramer in 1960, and he has lived there ever since. (T-43)

(e) Mrs. Shirey, a witness for the plaintiff, testified that when Mrs. Kramer came to her place with her daughter, she had some marks on her and that was

when they came to her place from the Clearfielder Hotel. In response to the question, "Is that when she had marks on her?" she stated, "Yes, she had marks on her when she came there in the first week of May." "How long did Mrs. Kramer live at your place?" Answer, "A few days then she was gone a while then she came back." "Was it the first time when she had these bruises?" "Yes the first time she came to my place." (T-50)

(f) The marital difficulties began about September, 1957, about the time Mrs. Kramer started to work in the cigar factory (T-60) (T-61) and because Mrs. Kramer refused to come home from work. She then worked from 3:30 p.m. to midnight, but wouldn't come home until 4:00 or 4:30 in the morning and went away over the weekends. (T-64) The final separation occurred in the first week of September. (T-63) She would disappear from Thursday until Monday morning around 4:00 or 5:00 o'clock (T-65) That he never struck her except accidentally with the telephone when she tried to take it away from him; (T-65) that he never threatened her but did protest her staying out at night and that she left because she said she was her own boss. (T-66) That he found her in the Clearfielder Hotel and went there and asked her to come back; (T-67) After three months absence "I went and bot her and brought her home" (T-68) but when she did come "she wouldn't take care of the kids, do the dishes, or anything." (T-68) That until Mrs. Hallman came to help out he was both mother and father to his three children. (T-71)

(g) That at the time Mrs. Kramer went to live with Stiner in the Chester Hill apartment, September, 1959, Stiner was then a married man with three children. Thereafter, Mrs. Stiner instituted divorce proceedings in this Court. These proceedings resulted in a decree of divorce dated June 30, 1961; (T-112) that when Stiner and Mrs. Kramer lived together in Chester Hill, his son, Dennis Lee, now aged 12 years, visited with his father and Mrs. Kramer in that apartment over weekends; (T-113) that they also visited at the Graham Township residence several times; (T-114) that when the children first went there to visit there were only two rooms in the Graham Township shanty (T-115) and that there was still only two rooms there in July of 1961. (T-115)

(h) Dennis Lee Stiner, son of Lyle Stiner, aged 12 years and a sixth grade student, testified that he went to Chester Hill and stayed in the apartment there over weekends from Saturday evening till Monday morning, that it had three rooms, one bedroom; that he slept in the living room on a couch; (T-124) that Mrs. Kramer and Stiner "slept in the bedroom;" that he also visited them on the Deer Creek Road; (T-125) that he was there last summer when they started building an addition to the two-room shanty; (T-126) that until then there was just one room and that "Faye and Dad" slept in the bed in the room (T-127) (T-130) and he saw Mrs. Kramer go to bed with his father. (T-132)

WHEREFORE, defendant having shown that this is not a "proper case in which to award plaintiff costs of her divorce"

and to do so would not be in compliance with the Act of 1929,
P. L. 1237, 23 P. S. 46, and the defendant prays your Honorable
Court to dismiss the Petition of Faye Kramer requesting her
husband, Ivan Kra mer, to pay said costs.

And he will ever pray,

Ivan Kramer

STATE OF PENNSYLVANIA:
: SS:
COUNTY OF CLEARFIELD :

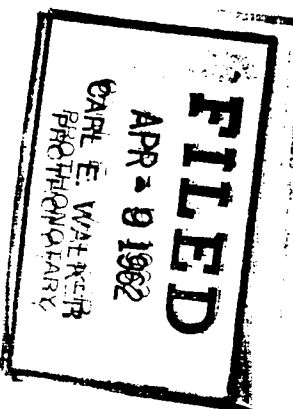
Before me, the undersigned officer, personally appeared
IVAN R. KRAMER, who, being duly sworn according to law, deposes
and says that the facts set forth in the foregoing Answer to
Petition are true and correct.

Sworn to and subscribed before :
me this 21th day of April, 1962.:

Ivan Kramer

Carl E. Walker :

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1966

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA. No 640 May Term, 1961	
FAVE KRAMER	
VS	
IVAN R. KRAMER	
DEFENDANT'S ANSWER TO PETITION FILED APRIL 3, 1962	
<div style="text-align: center;">  <p>W. ALBERT RAMEY ATTORNEY AT LAW CLEARFIELD, PENNA.</p> </div>	

April 9. 1962 service accepted by copy
 Bill Sullivan
 atty at law

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

FAYE KRAMER	:	
	:	
VS	:	No. 640 May Term 1961
	:	
IVAN R. KRAMER	:	

O P I N I O N

A dispute between the parties has arisen, concerning the petition of the plaintiff for counsel fee in this divorce action.

The defendant objects to paying counsel fee, averring that the plaintiff is the party who has violated the marriage vows, and is self-supporting, by her own labor and efforts, and is also being maintained and supported by a paramour.

It appears from the testimony taken, that the defendant's earning capacity averages about \$100.00 a week, gross pay. In addition to supporting himself, he is supporting the three children born to this marriage. The plaintiff, up until the middle of April 1962, earned on an average of about \$45.00 to \$50.00 per week. She testified, however, that she had not worked because of illness, since the middle of April, but has been living, without any expense or cost, in the home of a friend.

The divorce has been bitterly contested by the defendant, who objects strenuously to making any payments for the plaintiff's expenses in petitioning for divorce.

Three or four hearings have been held by the Master, who has asked for additional compensation.

As pointed out in HOFFMAN VS. HOFFMAN, 184 Superior Court 500, there must be a need on the part of the wife, in any divorce action, before an order will be made to supply her with counsel fee and other expenses. In this case, the wife plaintiff not having worked since the middle of April, and apparently having acquired sufficient funds to pay so far, or until the contest on behalf of the defendant husband, who has made it more expensive, and further considering the defendant husband is supporting and maintaining the children, the wife plaintiff not being in need of any support, there will be awarded counsel fee for the wife plaintiff, in the sum of \$100.00, to be paid by the defendant.

O R D E R

NOW, July 6, 1962, defendant, Ivan R. Kramer, shall pay to counsel for Faye Kramer, wife of the defendant, the sum of \$100.00 as counsel fees.

BY THE COURT


President Judge

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

No. 640 May Term 1961

FAYE KRAMER

SA

IVAN R. KRAMER

OPINION and ORDER

JOHN J. PENTZ
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

-vs-

IVAN R. KRAMER

No. 640, May Term, 1961

IN DIVORCE

MASTER'S REPORT

SCHEDULE: August 1, 1961, the Complaint in Divorce was filed, and the same was served on Ivan R. Kramer on August 5, 1961, by the Sheriff of Clearfield County, Charles G. Ammerman. Proof of service is hereto attached. On August 10, 1961, W. Albert Ramey, Esq. filed a praecipe entering his appearance for the defendant. August 9, 1961, W. Albert Ramey, Esq. filed Defendant's Answer to Complaint and service of the same was accepted by F. Cortez Bell on August 10, 1961. W. Albert Ramey, Attorney for Defendant, filed a praecipe to issue Rule on the plaintiff to file Bill of Particulars and service was accepted and issuance of Rule waived by F. Cortez Bell, Attorney for Plaintiff. Plaintiff's Bill of Particulars was filed By Bell, Silberblatt & Swoope, Attorneys for Plaintiff, on August 19, 1961, and service of the same was accepted by W. Albert Ramey, Attorney for Defendant, on August 21, 1961. August 19, 1961 Petition filed by Bell, Silberblatt & Swoope, Attorneys for Plaintiff, with an Order of Court that rule is issued to show cause why counsel fees should not be paid, returnable sec. leg. On September 12, 1961, W. Albert Ramey, Attorney for Defendant, filed Defendant's Answer to Petition. On November 16, 1961 an Opinion and Order was filed by John J. Pentz, President Judge, ordering rule for counsel fee refused, with exception noted.

The Master, Carl A. Belin, Jr., Esq., was appointed on the 18th day of December, 1961. On January 8, 1962, Petition was

presented to John J. Pentz, President Judge, by Carl A. Belin, Jr., Esq., Master, requesting permission to set the hearing date for Wednesday, February 28, 1962. Permission to hold the hearing at said time was granted by John J. Pentz, President Judge. The Master's Hearing was fixed for Wednesday, February 28, 1962 at 10:00 A.M., E.S.T. The Notice of Master's Hearing was accepted by F. Cortez Bell, Attorney for Plaintiff, Faye Kramer, and the plaintiff personally accepted Notice of the Master's Hearing. The Notice of Master's Hearing was accepted by W. Albert Ramey, Attorney for Defendant, and the Defendant personally accepted Notice of the Master's Hearing. Proof of services are attached hereto. Notice of Master's Hearing was also sent to the correspondents named in the Complaint and in the Bill of Particulars in accordance with Rule 1136 of the Pennsylvania Rules of Civil Procedure. Letters to Bessie Hallman, Helen Shimmel and Lyle Stiner are enclosed with the registered return receipts attached to the letters. The Master's Hearing convened on Wednesday, February 28, 1962 at 10:00 A.M., E.S.T., in accordance with the Notice of Master's Hearing. At that time due to the large number of witnesses, the Master's Hearing was recessed and reconvened at the Petit Jury Room in the Clearfield County Court House. The following persons appeared: Faye Kramer, Plaintiff; F. Cortez Bell, Plaintiff's Counsel; Mr. Hallman, Mrs. Mary Shirey, Mr. Blair Shirey, Willard Stiner, Raymond Folmar and Lyle Stiner, Plaintiff's Witnesses; Ivan R. Kramer, Defendant; W. Albert Ramey, Defendant's Counsel; Darla Jean Kramer, Mrs. Grace Lippert, Dennis Lee Stiner, and Bessie Hallman, Defendant's Witnesses. The hearing convened on February 28, 1962 at 10:00 and continued till 4:30 P.M., and was recessed till March 2, 1962, at which time the hearing reconvened and was concluded.

March 19, 1962, Petition for Additional Deposit was filed by Carl A. Belin, Jr., Esq., Master. April 3, 1962, Petition filed by F. Cortez Bell, Attorney for Plaintiff, to show cause why Ivan Kramer should not pay this additional fee. Service of the same was accepted by W. Albert Ramey, Attorney for Defendant, on April 5, 1962, and by Carl A. Belin, Jr., Esq., Master, on April 9, 1962. Defendant's Answer to Petition Filed April 3, 1962, was filed by W. Albert Ramey, Attorney for Defendant, on April 9, 1962 and service of the same was accepted by Bell, Silberblatt & Swoope, Attorneys for Plaintiff. July 6, 1962, Opinion and Order filed by John J. Pentz, President Judge, ordering Ivan R. Kramer, Defendant, to pay counsel fees in the amount of \$100.00 to plaintiff's counsel.

CAUSE FOR DIVORCE: Cruel and barbarous treatment, indignities and adultery, and constructive desertion.

FINDINGS OF FACT:

1. Marriage - The Plaintiff, Faye Kramer, and the Defendant, Ivan R. Kramer, were married on June 28, 1946 by a United Brethren Minister in Woodland, Pennsylvania.

2. Residence - After their marriage, the Plaintiff, Faye Kramer, and the Defendant, Ivan R. Kramer, lived in the County of Clearfield, Pennsylvania, and in 1947 they built a home in the Borough of Wallaceton, where they lived together as husband and wife until 1958. The Plaintiff's present address R. D., Morrisdale, Pennsylvania, and the Defendant's present address is Wallaceton, Pennsylvania.

3. Citizenship - The Plaintiff, Faye Kramer, is a citizen of the United States and Pennsylvania, and has been a resident of Clearfield County all her life. The Defendant, Ivan R. Kramer, is a citizen of the United States, and Pennsylvania, and has been a resident of Clearfield County his entire married life.

4. Age and Occupation - The Plaintiff, Faye Kramer, is thirty-three years of age, and is employed by the General Cigar Factory, Philipsburg, Pennsylvania. The Defendant, Ivan R. Kramer, is thirty-seven years of age, and is employed by Putman & Greene.

5. Children - There were three (3) children born to this marriage, namely; Darla Jean Kramer, born September 26, 1948; Laree Kramer, born September 23, 1950; and Randall Lynn Kramer, born December 12, 1953. The three-mentioned children reside with the Defendant, Ivan R. Kramer.

6. Military Service - The Master finds as a fact that the Defendant, Ivan R. Kramer, was a member of the Armed Forces during World War II and was honorably discharged in February, 1945.

7. Findings on the merits - Ivan and Faye Kramer were married June 28, 1946 in Woodland. They set up housekeeping thereafter in the Wallacetown Borough. In August 1951, Mr. and Mrs. Kramer went to Detroit, in the company of a Helen Shimmel, where they were attempting to find work. In the Complaint, Bill of Particulars, and testimony of Faye Kramer, it was asserted that Helen Shimmel and Ivan Kramer committed adultery in a rooming house where the three parties were sharing an apartment. Mrs. Kramer further testified on cross-examination that she continued to stay with Mr. Kramer and Helen Shimmel, and then the three parties traveled together to Niagara Falls, where they shared an apartment for about six (6) months. The Master has as his guide for credibility the conduct of ordinary people. The fact that Mrs. Kramer testified that she continued to stay with her husband in the company of Helen Shimmel not only for the Detroit trip, but also for six months in Niagara Falls, makes her testimony unusual and the Master feels incredible. Therefore, the Master finds as a fact that Mrs. Kramer did not sufficiently

prove adultery with Helen Shimmel in Detroit and finds as a fact that Ivan Kramer did not commit adultery with Helen Shimmel in Detroit.

It was also alleged in the Complaint, Bill of Particulars and testimony of Mrs. Kramer, that Ivan Kramer was running around with Helen Shimmel about this time. This testimony was also uncorroborated by plaintiff's witnesses and further it was denied by the defendant. For the above reasons that Mrs. Kramer traveled with Mr. Kramer and Helen Shimmel not only to Detroit, but also to Niagra Falls, doubt is cast on this also and the Master feels that this testimony was also incredible. The Master finds that Mrs. Kramer did not sufficiently establish as a fact that Ivan Kramer was keeping company with Helen Shimmel in and about this period. Therefore, the Master finds that Ivan Kramer was not keeping company with Helen Shimmel during the period alleged. In any event, Mrs. Kramer continued to cohabit with Mr. Kramer as husband and wife, and the parties lived together thereafter.

The parties' marital life then continued along without apparent disruption until approximately the year of 1957. In September 1957, Mrs. Kramer began to work steadily at the United General Cigar Factory at Philipsburg, Pennsylvania. She worked there apparently during the early months of 1957 and then was laid off and then began to work in September 1957. During her first months she worked on the night shift from the hours 3:30 P.M. to 12:00 P.M. During this time Mr. Kramer testified she stayed out late and did not return to the home after she had finished work until the early hours of the morning. Mr. Kramer further testified that she was traveling around in a car for far greater distances than was necessary to go to and from work. The daughter of Faye Kramer, Darla Jean, further testified and corroborated the husband's testimony that the mother did stay out late and did not come home until the early hours of the morning. It is significant

to note that Mrs. Kramer did not deny this testimony. Apparently this continued until about February, 1958.

About that time Mrs. Kramer stated that she found out that Mr. Kramer was seeing Mrs. Hallman. Although Mrs. Kramer testified that she found out in September, 1957, about her husband running around with Mrs. Hallman, her testimony was conflicting and confusing on this matter as she first stated this occurred around February of 1958. Furthermore, she testified as to having found letters from Mrs. Hallman, but she did not produce them at the hearing. The testimony of her corroborating witness, Mr. Hallman, was indefinite as to dates except to say that Mr. Kramer began seeing his wife, Mrs. Hallman, in 1958. Mr. Kramer testified that he did begin seeing Mrs. Hallman sometime in the summer of 1958.

The wife testified that she left in February, 1958, because of the Hallman trouble, but the husband asserted that she left during this period because of the husband's attempt to find out where she had been going on her nightly jaunts, and she left because she did not feel she need account to the husband.

During the period that Mrs. Kramer left her husband, she went in the company of another married woman and lived in Clearfield at the Clearfielder Hotel. She then rejoined her husband sometime during the month of May of 1958. There did not appear to be any date to pinpoint the exact time Mrs. Kramer did rejoin her husband; however, Mrs. Kramer did testify rather often during the hearing that the reunion occurred sometime the last part of May until the last part of June. During this reunion, it was testified to by Mrs. Kramer that Mr. Kramer was going out a couple nights a week to keep company with Mrs. Hallman. During this same period of time, Mr. Kramer and his daughter, Darla Jean, testified that Mrs. Kramer was staying out late at night and spending entire

weekends away from the home--she would go to work on Friday and not return home until sometime Monday morning. Mrs. Kramer again did not deny this testimony. Nevertheless, the parties had intercourse as man and wife during this period of time. There was testimony regarding a truck incident which was denied by the husband. The wife was vague as to when it happened and what had happened. The Master does not accept Mrs. Kramer's version and finds no such incident occurred.

At the end of this second period there was testimony regarding a scuffle for the phone and an alleged beating. By the testimony of Mrs. Kramer, it was testified that Mr. Kramer beat her with the phone, blackened both her eyes, and put bruise marks on her face and neck. By the testimony of Mr. Kramer and his daughter, Darla Jean, there was a race for the phone and any injuries to Mrs. Kramer were the result of the phone slipping from Mr. Kramer's hand and striking the wife in the face. The Master asked the daughter if the mother was knocked off balance or knocked down, and the daughter testified that she had not been. It appears there was a scuffle for the phone. Mrs. Kramer had Mr. and Mrs. Shirey, the mother and father of the married woman with whom she was traveling, testify to the marks on her eyes, face and neck. Mr. and Mrs. Shirey testified to seeing Mrs. Kramer in a bruised condition. However, they testified that this was when she came to live at their home in Croft sometime in May 1958. Mrs. Shirey pinpointed that time as being the first part of May, 1958, and Mr. Shirey was only able to say it was sometime during the month of May. This is in direct conflict with the testimony of Mrs. Kramer inasmuch as she testified the beating occurred at the end of the second reunion, which occurred, according to her testimony, at the end of June. Since Mrs. Kramer's

own testimony shakes that of her corroborating witnesses, the Master finds that there was no beating as alleged by Mrs. Kramer, and that if there was any injury, it occurred from a scuffle over the phone. Therefore, the Master finds as a fact that Mrs. Kramer did not suffer a beating from Mr. Kramer during this second reunion and finds as a fact that the bruises which resulted from the phone scuffle were accidental.

Sometime after this second reunion, Mrs. Kramer returned to get some pictures from the Kramer household. It was testified to by Mr. Kramer and his daughter, Darla Jean, that Mrs. Kramer became very angry when Mr. Kramer would not allow her to take the pictures of him in the service. She became angry and began breaking jars from the table which was set for the Kramers' dinner. There was also testimony that Mrs. Kramer broke some windows during this time.

After the parties separated sometime during the end of June 1958--after the second reunion--it was testified by Mrs. Kramer that she returned sometime later during the end of June for four days. Mr. Kramer testified that this last reunion occurred sometime during the first week in September. It was very difficult to determine from the testimony when this last reunion took place. However, Mrs. Kramer in the testimony on cross-examination when ask by counsel whether she wanted the period she stayed in Croft (which was the place she would go after the second separation) from September until September, she answered "yes". It is important to note that this date does have some bearing as to the wife's conduct. The Master finds in this regard that there was nothing to prove the actual time of this last reunion because Mrs. Kramer and her witnesses were in conflict and finds as a fact therefore that the reunion did occur sometime during the first part of September, 1958. During this reunion the parties asserted that the conduct was as before--that Mr. Kramer

was seeing Mrs. Hallman and that Mrs. Kramer was keeping late hours and staying away from home.

According to Mrs. Kramer's testimony she made the acquaintance of a married man, Lyle Stiner, about July, 1958, and began to go out with him thereafter in the company of Bessie Duke, the aforementioned married woman who had lived with Mrs. Kramer in Clearfield during her first separation. It was testified to by both Mrs. Kramer and Lyle Stiner that they didn't have sexual intercourse. However, approximately a year after meeting Mr. Stiner, Mrs. Kramer moved into an apartment with him in about September, 1959. Mrs. Kramer and Lyle Stiner both testified that they did not have sexual relations in the apartment in Philipsburg. An initial doubt was thrown on this testimony in that the apartment was only a three (3) room apartment and contained only one (1) bedroom. The son of Lyle Stiner testified that he visited the apartment, and that he slept in one room and Mrs. Kramer and Lyle Stiner slept in the other room. The Master, from observing the boy, finds that he is a credible witness, and the Master finds Faye Kramer and Lyle Stiner did sleep together in Chester Hill. The parties left the apartment in Chester Hill and moved to a house in Graham Township sometime during 1960. Said house contained a kitchen and a bedroom. Lyle Stiner testified that he stayed with his brother, Willard Stiner, until an addition was made to the house sometime in October 1960. Willard Stiner, brother of Lyle Stiner, testified that Lyle Stiner slept at nights at his home, and that the addition was built on sometime in October 1960. The Master was very much unimpressed by Willard Stiner, and his testimony appeared to the Master to be more than confused. Furthermore, his testimony was contradicted by Mrs. Lippert, who was the former wife of Lyle Stiner, who testified she visited at the house and no addition

was finished until sometime during 1961. Furthermore, the son of Lyle Stiner testified that the addition was not placed on the house until sometime during the summer of 1961. In any event, he testified that Lyle Stiner and Faye Kramer slept together in a bed all night at one time while he visited there. Mrs. Kramer and Lyle Stiner denied this testimony--that they had sexual intercourse at Deer Creek Road, and that Lyle Stiner moved in before the addition was made. The Master found in this regard the libellant's case was very weak, and that the Master resolved credibility in this case against the plaintiff as to all these matters.

The Master finds that the relationship between Faye Kramer and Lyle Stiner was hardly innocent from any point of its inception. Lyle Stiner and Faye Kramer differed in many details, but it was admitted by Faye Kramer that she had known Lyle Stiner from at least July, 1958. During the period between February 1958, which has been set as the time when Mr. Kramer began seeing Mrs. Hallman, and July of 1958, Mrs. Kramer was keeping late hours and in fact, was not even staying at home. The Master repeats these facts to co-relate them with this Lyle Stiner affair.

Mrs. Kramer in her Complaint, Bill of Particulars, and testimony, alleged that Mr. Kramer committed adultery with Mrs. Hallman, but the parties proved no more than that these people had taken a trip to Connecticut to see Mrs. Hallman's daughter. There was no further proof of the elements of adultery; and therefore, the Master finds as a fact that no adultery was proved on this trip, or furthermore, that any adultery was proved between Mr. Kramer and Mrs. Hallman. There was testimony as to the house out in Wallaceton where Mrs. Hallman is now keeping house for Mr. Kramer and his children, but it appears that there are other people staying in the house with Mr. Kramer and Mrs. Hallman, and there was no one brought forth to prove sufficient facts upon

which to base adultery; and therefore, the Master finds that the plaintiff has not proved as a fact an adulterous relationship between Mr. Kramer and Mrs. Hallman. It was testified to by Mrs. Kramer that Mr. Kramer encouraged the children to harbor ill will toward their mother and to call her "tramp" and other names. She also testified that Mr. Kramer refused her an opportunity to see the children although she made several attempts to see them. Mrs. Kramer also testified that presents she bestowed on the children were returned by Mr. Kramer. Mr. Kramer denied the testimony in regard to having the children call her names and was corroborated by his daughter. There was confusion regarding the other two matters, as to whether he would let her see the children and returning the presents, that the Master was not able definitely to state what in fact did occur. However, it did appear that Mr. Kramer had refused his wife the opportunity to see his children on occasion, and that he had returned presents to her during this period. It is significant to point out that at this time Mrs. Kramer was living with Lyle Stiner.

The situation today is simply this, that Mrs. Kramer is living with Lyle Stiner and keeping house for him at the Deer Creek Road while Mr. Kramer remains at the Kramer household with his children and has Mrs. Hallman keeping house for him.

8. Discussion - At first blush the Master had a very difficult job of determining the facts in this case. The parties were inconsistent as to factual issues, and there was diametric positions taken in much of the testimony. The Master observed the parties, and paid particular attention to Mrs. Kramer. The Master simply did not believe Mrs. Kramer's testimony as to the Detroit trip. Further, he attempted to watch her in her answering questions and it seemed that her testimony changed from time to time. As the hearing went on, Mr. Kramer took the stand

and there was an apparent confusion on his part as to dates. The Master at that time felt that the confusion was merely due to the involved fact situation and to the extended cross-examination given him by counsel, and not due to any evasiveness.

X As the testimony of the children came out, it was directly corroborating the husband on many of his charges and especially of the meretricious relationship between Mrs. Kramer and Lyle Stiner, the Master observed that Mrs. Kramer took on a rather defiant attitude. The Master felt after he saw the entire picture unfold that Mrs. Kramer was not a very credible witness. The Master realizes that there are sufficient grounds if the credibility of the wife is accepted as against the husband, for granting a divorce, but he does not feel that the wife had the credible witnesses in this case. Where the wife's witnesses were credible, namely, Mr. and Mrs. Shirey, their testimony conflicted with that of the wife, and Lyle Stiner, the alleged paramour of Mrs. Kramer, differed with Mrs. Kramer's testimony in many details.

The Master realizes the danger in accepting the testimony of children for granting a divorce, but he felt that generally speaking these children were credible in their testimony. The children were given cross-examination by experienced counsel, and this cross-examination did not shake their testimony. Hence, the Master accepted their testimony as credible.

In any event, there is but a very doubtful balance--if there is a balance at all--of evidence for Mrs. Kramer, and the Master does not feel that this is a case where there are clear and convincing grounds to grant a divorce. Furthermore, the inferences to be drawn from Mrs. Kramer's conduct clearly show she acted in utter disregard of the parties' marriage.

9. Discussion of law applicable to the facts -

Detroit trip

The credibility of witnesses is a matter for the Master to determine. Mrs. Kramer's assertions as to the Detroit trip are resolved on the issue of credibility in that the Master did not accept her testimony and chose to believe the husband. The Master felt that her conduct after allegedly seeing her husband and Helen Shimmel in bed together, so unusual as to shake her testimony. In such a case, the Courts have stated that the plaintiff had not satisfied his burden: PORE V. PORE, 189 Pa. Super 615, 151 A.2d 650, 652. Doubt was also thrown on this testimony because the wife was asserting grounds for divorce occurring fifteen years ago. In such instances, the good faith of such testimony is questionable: cf. GARROWAY V. GARROWAY, 361 Pa. 464, 65 A.2d 414.

As to the alleged adultery there would also be the defense of condonation. Therefore, in addition to credibility, there are other factors to discount the grounds asserted in the Detroit trip.

The Alleged Beating

The alleged beating is dismissed as a matter of credibility. Furthermore, the Master also felt the conflict between Mrs. Kramer and her "corroborating" witnesses, Mr. and Mrs. Shirey, shook her testimony. Since she was not corroborated as to the alleged beating, i.e. the event itself, she falls under the rule that where a plaintiff's testimony is uncorroborated and denied by defendant (here corroborated by his daughter), and the testimony of plaintiff is shaken, a case is not made out: PORE V. PORE, Supra. The Master felt the inconsistency of plaintiff's witness threw doubt on the plaintiff's testimony.

Alleged Adultery of Mrs. Hallman and Mr. Kramer

It is true that adultery can rarely be proved by direct evidence. However, this does not mean that mere association is a basis for founding adultery. Rather inclination and opportunity must be proven. However, there were no clear facts upon which to base adultery. The rule in this regard is that the evidence must be established by clear and prepondering testimony and must lead the careful discretion of a just man to the conclusion adultery was committed: FULTON V. FULTON, 142 Pa. Super 512, 17 A.2d 22. In this case, there is no such clear evidence.

In any event, if the Master had found Mr. Kramer and Mrs. Hallman guilty of adultery, there would be the defense of recrimination available to Mr. Kramer on the facts.

Association of Mr. Kramer with Mrs. Hallman

Here, Mrs. Kramer did prove that Mr. Kramer and Mrs. Hallman were guilty of an open association. This may constitute sufficient evidence to assert a charge of indignities: WICH V. WICH, 352 Pa. 25, 42 A.2d 76. See also 2 Freedman, Law of Marriage and Divorce in Pennsylvania § 317. However, a charge of indignities must be analyzed to see whether, in fact, the acts constitute an affront to a person's dignity and make that person's position intolerable and life burdensome. As stated by the Court:

"Indignities justifying the granting of a divorce cannot be defined generally, but must depend on the particular circumstances of each individual case, and the position in life, character, and disposition of the parties, and is recognized as a course of conduct which is humiliating and degrading the innocent spouse." SIMONS V. SIMONS, 196 Pa. Super 650, 176 A.2d 105, 107. See also Freedman, Supra at § 343; and BOBST V. BOBST, 160 Super 340, 348.

In analyzing the facts, it becomes apparent that Mrs. Kramer had reunited with Mr. Kramer after her discovery of the Kramer-Hallman association. In fact, she admitted her husband

to marital intercourses some three months after her discovery of the association. Although condonation is no defense to indignities, reconciliation is a factor to be considered in the severity of the indignities. CF. KLIMKOSKY V. KLIMKOSKY, 167 Pa. Super 116, 74 A.2d 497. Furthermore, Mrs. Kramer had been keeping late hours and during the reunion she was actually staying away for weekends. It should also be noted that just one month later she met a man with whom she began a meretricious relationship thereafter.

There was testimony that Mrs. Kramer and Lyle Stiner did enter into a meretricious relationship. Adultery may be inferred on evidence of the occupancy of a bedroom by a man and woman not married: HENRY VS. HENRY, 32 Deleware County 350. See also COMMONWEALTH VS. MOSIER, 135 Pa. 221. While it is true that adultery is no defense to indignities which have already occurred, it is also true that said adultery can be considered to shed light on Mrs. Kramer's conduct prior to her separation: BOYER VS. BOYER, 183 Pa. Super 260, 130 A.2d 265, 269.

The Master feels that such factors lead to the conclusion that there is a very doubtful case of indignities here. The inferences to be drawn from the testimony clearly show a woman running around during which time her husband is running around.

Innocent and Injured Spouse

"It is incumbent on the plaintiff to show clearly and undoubtedly that he is the innocent and injured spouse." BAXTER VS. BAXTER, 192 Pa. Super, 62 159 A.2d 533, 535.

Mrs. Kramer was staying out late from September 1957 and spending entire weekends away from home during her reunion in May-June 1958. Sometime thereafter she returned home and displayed a violent temper in disregard of the Kramer household. In July 1958, she met Lyle Stiner and began relationship highly innocuous to her marriage. The legitimate inference from all this testimony

is that she did little to preserve the marital relationship. These facts and the inferences drawn therefrom are no basis upon which to qualify her as an innocent and injured spouse.

In analyzing the relation of the libellant's misconduct to the respondent's misconduct, it is stated:

"In all but exceptional circumstances, the injury must be disregarded as self-effectuated." 2 Freedman Law of Marriage and Divorce in Pennsylvania § 342. Hence, there need be no further discussion of the fact of provocation of the acts of Mr. Kramer by Mrs. Kramer.

It should be pointed out that to disqualify one as an innocent and injured spouse, her conduct need not rise to the grounds for divorce when the case is one of indignities. As stated by the Court in BAXTER V. BAXTER, 192 Super 62, 159 A.2d 533, 535:

"However, the Reck case was explained and distinguished in Beregin v. Beregin, 186 Pa. Super 340, 142 A.2d 741, 743 wherein we reaffirmed: 'the established principle that conduct on the part of a plaintiff falling short of grounds for divorce may be asserted as a defense by one charged with indignities to the person, but such rule is not applied in adultery cases'."

Constructive Desertion

"The 'reasonable cause' which is justification for wife or husband in quitting and abandoning the other, is that and only that which would entitle the separating party to a divorce." JONES V. JONES, 189 Pa. Super 461, 151 A.2d 643.

Inasmuch as the Master finds Mrs. Kramer is not an innocent and injured spouse, this ground falls as does the grounds she asserted as her basis for leaving.

Refusal to see children and gifts

Inasmuch as these occurred in point of time when Mrs. Kramer was either associated or living with Lyle Stiner, they are not grounds for divorce inasmuch as Mrs. Kramer is not an innocent and injured spouse.

Conclusion

This plaintiff has not sustained her burden of proof because, at best, the evidence produced creates a doubtful balance as to her demand for a divorce a vinculo matrimonii.

"...in weighing the evidence relating to libellant's right to a divorce, the Court should not enter a decree based on merely a slight preponderance of the evidence, but should refuse the divorce unless the libellant establishes by clear and satisfactory proof (1) ...such a course of conduct of indignities to the person as rendered his condition intolerable and life burdensome; and (2) that the libellant was the injured and innocent spouse... where both parties are nearly equally at fault, so that neither can be clearly said to be the 'innocent and injured spouse', the law will grant a divorce to neither" OLIVER V. OLIVER, 172 Pa. Super 600, 124 A.2d 124, 127-128.

It is well established that, in proceeding for a divorce on the ground of indignities, evidence of what occurred after the separation is relevant for purpose of showing the condition existing when the parties lived together.

The late hours kept by Mrs. Kramer--and the weekends during the later period--certainly show, in light of subsequent conduct, that Mrs. Kramer could hardly be considered an innocent and injured spouse in this situation.

CONCLUSIONS OF LAW:

(a). That the Court had jurisdiction over the defendant by personal service by Charles G. Ammerman, Sheriff, Clearfield, Pennsylvania.

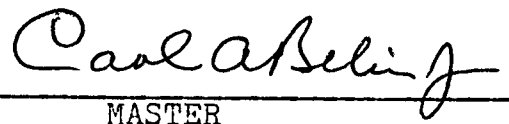
(b). That the Court had jurisdiction over the subject matter of the parties as the plaintiff and defendant were residents of Clearfield County continuously for over two (2) years prior to the filing of the Complaint.

(c). That the Master had jurisdiction over the parties by having service accepted by the attorney for the plaintiff and

by the plaintiff, herself, and by having service accepted by the attorney for the defendant and by the defendant, himself, and by having notice of the master's hearing sent to the parties alleged as possible co-respondents in the Complaint and Answer by certified mail, copies of which are attached to the letters contained in the schedule.

(d). The Master finds the defendant is not guilty of constructive desertion; that the defendant has not by cruel and barbarous treatment endangered the life of the plaintiff; that the defendant has not committed adultery with Bessie Hallman; that the defendant has committed such indignities as to make the plaintiff's condition intolerable and life burdensome inasmuch as he refused to let her see the children and refused to allow her to bestow gifts to the children, and in his association with Mrs. Hallman. The Master finds that the libellant, Faye Kramer, is not an innocent and injured spouse.

RECOMMENDATION - The Master recommends that a Decree of Divorce "a vinculo matrimonii" be denied to Faye Kramer, the plaintiff.


MASTER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

-vs-

IVAN R. KRAMER

No. 640, May Term, 1961

IN DIVORCE

STIPULATION TO THE RECORD

NOW, this 7 day of August, 1962, it is hereby agreed by counsel for the plaintiff and defendant, and stipulated to be made a part of this record that the age of Ivan Kramer is thirty-seven (37).

Bill Schubblatt - Long

Attorney for Plaintiff

Thomas J. [unclear]

Attorney for Defendant

The above stipulation to be added to the record is hereby allowed.

BY THE COURT,

John [unclear]

President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FAYE KRAMER

-vs-

IVAN R. KRAMER

No. 640, May Term, 1961

AND NOW, to wit, this day of , 1962,
upon consideration of the report of Carl A. Belin, Jr., Esquire,
Master in the above captioned matter, the said report is approved
and the findings of fact and conclusions of law of the Master
are adopted as the findings and conclusions of the Court.

It is hereby decreed that the prayer of the plaintiff,
Faye Kramer, for divorce from Ivan R. Kramer, defendant, is re-
fused and it is hereby ordered that the Complaint filed in
this case be and it is hereby dismissed.

P. J.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
NO. 640, May Term, 1961 IN DIVORCE

C O N T E S T E D

FAVE KRAMER

-VS-

IVAN R. KRAMER

MASTER'S REPORT

Carl A. Belin, Jr.
Master Fee \$250.00

Carl A. Belin Jr.
Carl A. Belin, Jr., Master

Belin & Belin AUG 7 - 1962
Attorneys at Law
Clearfield, Pennsylvania

FILED

Now August 7, 1962 same accepted by
Bill Belinblatt - Secy
of Cnty Rec
Wm. J. Ramsey
Atty for Defendant