

DOCKET NO. 174

| NUMBER | TERM | YEAR |
|------------|------------|-------------|
| <u>754</u> | <u>May</u> | <u>1961</u> |

Harry W. Bailey

VERSUS

Sylvia Jean Bailey

Clearfield County, ss:

The Commonwealth of Pennsylvania, to

RICHARD A. BELL, 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

HARRY W. BAILEY

Plaintiff ,

and

SYLVIA JEAN BAILEY

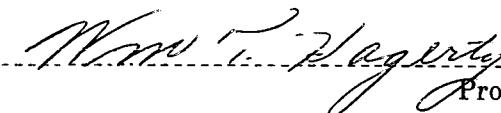
Defendant ,

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 26th day of October, in the year of our Lord one thousand nine hundred and sixty-one.


Wm T. Hagerty
Prothonotary

To the Honorable, the Judge, &c.:

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


Richard A. Bell
SEAL
COMMISSIONER.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HARRY W. BAILEY

VS.

SYLVIA JEAN BAILEY

NO. 754 May TERM, 1961

IN DIVORCE

C O M P L A I N T

(1). The name of the Plaintiff is Harry W. Bailey, who resides at R. D. #3, Clearfield, County of Clearfield, and State of Pennsylvania.

(2). The name of the Defendant is Sylvia Jean Bailey, who is presently residing on Hill Street, in the Borough of Clearfield, Clearfield County, State of Pennsylvania.

(3). The Defendant is a citizen of the United States and has been a resident of Pennsylvania all her life.

(4). The Plaintiff has resided in the Commonwealth of Pennsylvania all his life and has been a bonified resident of Clearfield County for the last thirty (30) days last past.

(5). The Plaintiff and Defendant were married on June 8, 1956 at Clearfield R. D. #2, Kerr Addition, inthe County of Clearfield, State of Pennsylvania.

(6). The Defendant has:

(a). Offered such indignities to the person of the Plaintiff, who is the injured and innocent spouse, such as to render his condition intolerable and his life burdensome.

(b). Has committed adultery.

(7). The Defendant is not now a member of the Armed Forces of the United States.

(8). The Plaintiff and the Defendant have entered into no collusive agreement regarding this action.

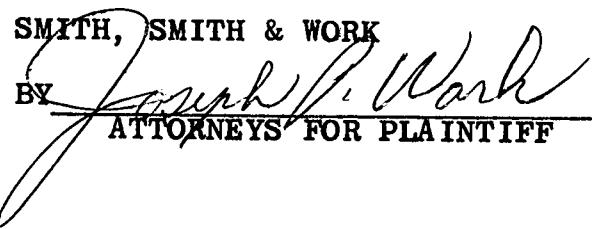
(9). That neither of the parties, Plaintiff or Defendant, has ever applied in this or any other Court for a divorce from the other party to the action or for an annulment of the marriage.

-2-

WHEREFORE, Plaintiff respectfully prays that a decree of your Honorable Court may be made for the divorcing and separating of the said Sylvia Jean Bailey, Defendant, from the Plaintiff's society, fellowship and company for all time to come, and the said Plaintiff from the marriage bond aforesaid as if they had never been married or as if the said Defendant were naturally dead.

SMITH, SMITH & WORK

BY


ATTORNEYS FOR PLAINTIFF

STATE OF PENNSYLVANIA:
SS:
COUNTY OF CLEARFIELD :

Personally appeared before me, a Notary Public, in and for said County, Harry W. Bailey, the named Plaintiff, who being duly sworn according to law deposes and says that the facts set forth in the Complaint are true and correct to the best of his knowledge, information and belief and that said Complaint is not made out of levity nor for the mere purpose of being freed and separated from each other, but in sincerity and truth for the causes mentioned in said Complaint.

Harry W. Bailey
(Harry W. Bailey)

Sworn to and subscribed
before me this 15th day
of August, 1961.

John T. Dugerty

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1962

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. ~~154~~ ^{Mc} TERM, 1961
IN DIVORCE

HARRY W. BAILEY

VS.

SYLVIA JEAN BAILEY

C O M P L A I N T

TO THE WITHIN DEFENDANT:

You are hereby notified
to file defensive pleadings
to the within Complaint
within twenty (20) days from
service hereof.

SMITH, SMITH & WORK

BY *John P. Smith*
ATTORNEYS FOR PLAINTIFF

355
FILED
AUG 16 1961

WM. T. HAGERTY
PROTHONOTARY
SMITH, SMITH & WORK
ATTORNEYS AT LAW
CLEARFIELD, PA.

4/5/61

Affidavit of Service

Harry W. Bailey _____ }
vs. _____ }
Sylvia Jean Bailey _____ }

No. 754 May _____ Term, 19 61
Complaint In Divorce
Returnable within _____ days
from date of service hereof.

NOW August 19, 19 61 at 7:45 o'clock P.M.

served the within Complaint In Divorce
on Sylvia Jean Bailey
at place of residence, 115 Hill Street, Clearfield, Pennsylvania

by handing to her personally

a true and attested copy of the original Complaint In Divorce and made
known to her the contents thereof. Costs, Sheriff Ammerman \$7.00
(Paid by Attys S, S & W)

Sworn to before me this 21st
day of August A. D. 19 61

Wm T. Dugerty
Prothonotary

So answers,

Charles G. Ammerman
CHARLES G. AMMERMAN
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HARRY W. BAILEY :
VS. : No. 754 May Term, 1961
SYLVIA JEAN BAILEY : IN DIVORCE

D O C K E T E N T R I E S

August 16, 1961, COMPLAINT IN DIVORCE, filed: One copy certified to the Sheriff.

August 22, 1961, Sheriff's Return, filed:

NOW, August 19, 1961, at 7:45 o'clock P.M. served the within Complaint In Divorce on Sylvia Jean Bailey at place of residence, 115 Hill Street, Clearfield, Pennsylvania, by handing to her personally, a true and attested copy of the original Complaint In Divorce and made known to her the contents thereof. So answers, Charles G. Ammerman, Sheriff.

October 26, 1961, by Motion on the watch-book, Richard A. Bell, Esq., is appointed Master to take the testimony and report the same with form of Decree. John J. Pentz, President Judge.

Certified from the record 26th day of October, A. D., 1961.

W.W.V. Hagerly
Prothonotary

FREE
300

GBWalt

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HARRY W. BAILEY : : No. 754 May Term, 1961
-vs- : : IN DIVORCE
SYLVIA JEAN BAILEY : :
308 *front st.*

NOTICE OF MASTER'S HEARING

To: Harry W. Bailey
R. D. #3
Clearfield, Pennsylvania

Sylvia Jean Bailey
Hill Street
Clearfield, Pennsylvania

You are hereby notified that the undersigned has been appointed Master to take testimony in the above case and report the same to the Court. In furtherance of that purpose, the undersigned will hold a Master's Hearing on Friday, November 24, 1961, at 1:30 p.m. e.s.t. at the offices of Bell, Silberblatt & Swoope, Fifth Floor, Clearfield Trust Company Building, Clearfield, Pennsylvania, at which time you may attend together with your witnesses and give testimony, if you desire.

Richard A. Bell
Richard A. Bell, Master

Served the within Notice of Master's Hearing on Sylvia Jean Bailey at 1:30 o'clock on the 28th day of October, 1961, at 111 Main Street, Clearfield, Pennsylvania, by handing to her personally a true and correct copy of said Notice and making known to her the contents thereof.

Sworn to and subscribed
before me this 28th day
of October, 1961.

Wm T. Hagan

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HARRY W. BAILEY :
-vs- : No. 754 May Term, 1961
SYLVIA JEAN BAILEY : IN DIVORCE

NOTICE OF MASTER'S HEARING

To: Harry W. Bailey
R. D. #3
Clearfield, Pennsylvania

Sylvia Jean Bailey
Hill Street
Clearfield, Pennsylvania

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Richard A. Bell
Richard A. Bell, Master

Service of the within Notice accepted this 30th day of October, 1961.

Harry W. Bailey
Harry W. Bailey, Plaintiff
SMITH, SMITH & WORK

By Joseph P. Clark
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HARRY W. BAILEY :
VS. : No. 754 May Term, 1961
SYLVIA JEAN BAILEY : IN DIVORCE

MASTER'S REPORT

TO THE HONORABLE JOHN J. PENTZ, PRESIDENT JUDGE OF SAID COURT:

The undersigned Master, appointed by your Honorable Court to take testimony and report the same with form of decree, respectfully reports as follows:

I. DOCKET ENTRIES AND SCHEDULE

1961

August 16 - Complaint in Divorce filed in the Court of Common Pleas of Clearfield County, Pennsylvania to No. 754 May Term, 1961. One copy certified to the Sheriff.

August 22 - Charles G. Ammerman, Sheriff of Clearfield County, Pennsylvania, makes return that on August 19, 1961, he served the Complaint on Sylvia Jean Bailey, the Defendant, personally, at 115 Hill Street, Clearfield, Pennsylvania.

October 26 - Richard A. Bell, Esq. is appointed Master.

October 28 - J. B. Walker, Constable, makes return that he served the Notice of Master's Hearing on Sylvia Jean Bailey, Defendant, personally, at 308½ Locust Street, Clearfield, Pennsylvania.

October 30 - Service of the Notice of Master's Hearing accepted by the Plaintiff and his counsel.

November 24 - Master's Hearing held at the Offices of Bell, Silberblatt & Swoope, in accordance with the Notice of Master's Hearing.

II. SERVICE OF PROCESS

A copy of the original Complaint in Divorce and a copy of the Notice of Master's Hearing were personally served on the Defendant, as set forth in Docket Entries and Schedule.

III. CAUSE OF DIVORCE

Indignities.

IV. FINDINGS OF FACT

1. Marriage:

The Plaintiff and the Defendant were married on June 8, 1956 by a Baptist Minister in Kerr Addition, Clearfield County, Pennsylvania.

2. Residence:

At the time of the marriage, the Plaintiff and Defendant were living in or adjacent to the Borough of Clearfield and continued to live there during the course of the marriage. The Plaintiff has spent a period of time in the Armed Forces, and at the present time, the Defendant is living on High Street in Clearfield Borough, and the Plaintiff is residing in State College, Centre County, Pennsylvania, but maintains a permanent residence at R. D. #2, Clearfield County, Pennsylvania.

3. Citizenship:

Both the Plaintiff and Defendant are citizens of the United States and of the Commonwealth of Pennsylvania.

4. Age and Occupation:

The Plaintiff is 23 years of age and is a laborer. The Defendant is 22 years of age and is a housewife.

5. Children:

There were four children born during the course of this marriage, as follows: John Allen, age 5; Lucinda Alfretha, age 4; Daniel, age $2\frac{1}{2}$; and the fourth child, whose name is unknown and exact age is unknown.

6. Armed Forces:

Neither Plaintiff nor Defendant are in the military service of the United States or any foreign country.

7. Findings on the Merits:

The evidence shows that following the marriage, the Plaintiff had

a tour of active duty in the armed services in Alaska. When he came home, his wife had had a child, which she admitted was not his child. The wife so admitted that she had been going out with other men, and in addition, this was reported to the Plaintiff by his friends. The Plaintiff has also seen his wife out with other men. At the present time, she is living with another man, and since she has been living with him, she has had another child. The Plaintiff and Defendant have not lived together for approximately $2\frac{1}{2}$ years. Recently, the Plaintiff appeared at a Support Hearing, and apparently proved to the court's satisfaction that the first two children were not his. He is presently supporting Daniel, the third child, under a Support Order entered against him. The husband provided for the wife and family to the best of his abilities, and there is no evidence that he provoked the wife in any way to the conduct which she has admitted. There is no evidence of any collusion, and there has been no prior action for divorce between these parties.

8. Discussion:

Plaintiff's case rested solely on his own testimony, but a Decree may be supported by the testimony of the Plaintiff alone. ARNOLD VS. ARNOLD, 167 Pa. Superior 211, (1950).

An indignity is said to be an affront to the personality of another, a lack of reverence for the personality of one's spouse. TRIMBLE VS. TRIMBLE, 171 Pa. Superior 541, (1952).

The acts of the Defendant must consist of a course of conduct which by its continuity renders the condition of the Plaintiff intolerable and life burdensome, and there must be evidence from which an inference of settled hate and estrangement may be drawn. EDELMAN VS. EDELMAN, 165 Pa. Superior 185, (1949).

Indignities may consist of vulgarity, unmerited reproach, habitual contumely, studied neglect, intentional incivility, manifest disdain, abusive language, malignant ridicule, and every other plain manifestation of settled hate and estrangement. ARNOLD VS. ARNOLD, 128 Pa. Superior 423, (1937).

Evidence of adulterous conduct on the part of the Defendant is

admissible on a charge of indignities. MILLER VS. MILLER, 170 Pa. Superior 263, (1952).

Conduct of the Defendant indicates that she was guilty of an adulterous association of one type or another over a period of years. The testimony strongly indicates that one of the first two children born was the result of an act of adultery, and the last child, whose name is unknown, appears also to have been the same. In addition to the adulterous conduct, which the wife admitted, she was seen by other persons and by the Plaintiff in the presence of other men, which she also admitted, and the Plaintiff testified that she displayed very little affection for him. The conduct of the Defendant indicates that her marriage vows meant nothing to her anymore and is a course of conduct well within the definition of indignities. It is understandable that her conduct affected the Plaintiff both mentally and physically, as he testified. There is nothing to indicate that the Plaintiff was not the injured and innocent spouse. There has been no previous action for divorce between these parties and there is no evidence of any collusion, and, therefore, the charge of indignities has been established.

V. CONCLUSIONS OF LAW

1. The proceedings are in accordance with the requirements of the Divorce Code and Rules of Court applicable thereto.
2. The Court has jurisdiction of the parties and subject matter of this action.
3. The legal domicile of both Plaintiff and Defendant is Clearfield County, Pennsylvania.
4. The facts establish a cause of action for divorce on the ground of indignities.

VI. RECOMMENDATION

The Master, therefore, recommends that a decree of absolute divorce from Sylvia Jean Bailey be granted to Harry W. Bailey on the ground of

indignities, and the suggested form of decree is hereto attached.

Respectfully submitted,

Richard A. Bell
Master

In the Court of Common Pleas of Clearfield County, Pennsylvania

XXXXXX

HARRY W. BAILEY } Of May Term, 19 61
VERSUS } No. 754
SYLVIA JEAN BAILEY }
DIVORCE

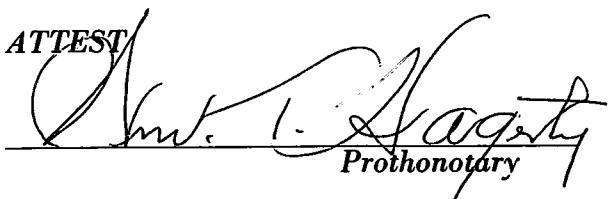
And Now, the 5th day of May 1961, the
report of the Master is acknowledged. We approve his findings and recommendations; except
as to _____

We, therefore, DECREE that HARRY W. BAILEY be
divorced and forever separated from the nuptial ties and bonds of matrimony heretofore con-
tracted between himself and SYLVIA JEAN BAILEY.
Thereupon all the rights, duties or claims accruing to either of said parties in pursuance of
said marriage, shall cease and determine, and each of them shall be at liberty to marry again as
though they had never been heretofore married, except that _____

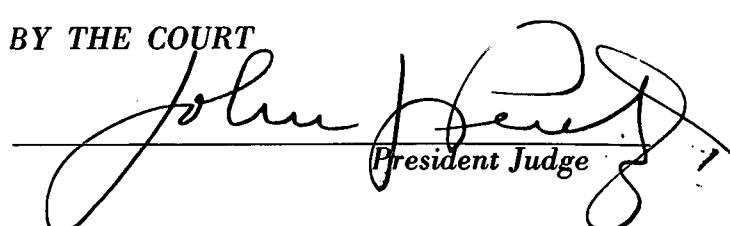
The Prothonotary is directed to pay the Court costs, including Master's fees, as noted herein, out of the deposits received and then remit the balance to the libellant. No Decree to issue until the costs be fully paid. We do further award to the said HARRY W. BAILEY

his ~~her~~ costs expended in this action.

ATTEST


W. J. Nagy
Prothonotary

BY THE COURT


John H. Reed
President Judge

In The Court of Common Pleas
Of Clearfield County, Penna.

No. 754 May _____ Term 19 61

HARRY W. BAILEY _____
Libellant _____

VERSUS

SYLVIA JEAN BAILEY _____
Respondent _____

DECREE

Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HARRY W. BAILEY

:

VS.

:

No. 754 May Term, 1961

SYLVIA JEAN BAILEY

:

IN DIVORCE

MASTER'S HEARING

Master's Hearing held before the undersigned Master on November 24, 1961 at 1:30 p.m. e.s.t. in the Offices of Bell, Silberblatt & Swoope, Fifth Floor, Clearfield Trust Company Building, in accordance with the Notice of Master's Hearing. The Plaintiff was present together with his counsel, Joseph P. Work, of Smith, Smith & Work. There were no other witnesses present for the Plaintiff. The Defendant did not appear, either in person or by counsel, and there were no witnesses present for the Defendant. The Plaintiff, being duly sworn according to law, the testimony proceedeth as follows:

By Mr. Work:

If the Master pleases, by way of preliminary statement for the record, the Plaintiff has made the decision to withdraw the grounds for divorce as set forth in the Complaint in Paragraph 6b and will proceed to prove only a cause for divorce based on indignities.

Q. Harry, would you state your full name.
A. Harry William Bailey.

Q. Where do you live, Harry?
A. My permanent residence is R. D. #3. I am residing in State College where I work.

Q. Is that R. D. #3, Clearfield?
A. Yes.

Q. You stated that you are presently working in State College, and you are staying there.
A. That is correct.

Q. How old are you, Harry?
A. I am 23 years old.

Q. What is your wife's full name?
A. Sylvia Jean Smith.

Q. Now, Bailey?
A. That is right.

Q. Where does your wife presently reside, Mr. Bailey?
A. On High Street.

Q. And that is in Clearfield?
A. Yes.

Q. How old is your wife?
A. She is 22 years of age.

Q. When were you married?
A. June 8, 1956.

Q. Where were you married?
A. In Kerr Addition, Pennsylvania.

Q. By whom were you married?
A. By a minister of the Baptist Church.

Q. Were any children born to this marriage?
A. Three.

Q. And what were their names?
A. John Allen, Lucinda Alfretta and Daniel.

Q. Are you presently supporting these children?
A. At a Support Hearing, I had proved that the first two were not mine. I am supporting the last one, Danny, by a Support Order.

Q. And the Court entered a Support Order against you for the support of the youngest child?
A. Yes, they have.

Q. Harry, after you were married, how long have you and your wife lived together?
A. Two years even.

Q. How did you get along when you were first married?
A. At first we got along okay, otherwise we didn't.

Q. When did your trouble first begin?
A. Right after I came out of the service.

Q. Would you state for the Master what the cause of this trouble was.
A. The reason was when I came home, she had had a child to someone else while I was in active duty in Alaska.

Q. How did you know that it wasn't your child?
A. She admitted it.

Q. She told you?
A. Yes.

Q. Harry, did you subsequently learn that your wife had been going with other men?
A. Yes, I did. My friends started telling me she was, and she came right out and admitted it.

Q. Did you ever personally see her with other men?
A. Yes, I have.

Q. Where your wife is presently residing, is she living with another man at this time?
A. Yes, and since she has been living with him, she has had a baby.

Q. How long ago was that?
A. I don't know.

Q. Harry, how long has it been since you and your wife have lived together?
A. About 2½ years.

Q. Now, during the subsequent time that you lived with your wife, did she ever display any affection toward you?
A. Very little.

Q. What effect did your wife's conduct have on you personally, the fact that you testified to?
A. Physically, I wasn't eating well, lost weight, and I couldn't work when I had work, not properly.

Q. What effect did the fact that your friends would come to you and tell you about these things have on you?
A. A great deal of effect. It bothered me quite a bit.

Q. Now, Harry, did any conduct on your part lead to this conduct on your wife's part that you have been testifying to?
A. No, not really.

Q. Did you, at all times, try to be a dutiful husband?
A. Yes, I did.

Q. Did you provide for your wife's necessities when you were living together?
A. To the best of my ability. Being a laborer, when I could.

Q. Did your wife ever want for food or clothing?
A. No.

Q. Is your wife presently a member of the Armed Forces of the United States?
A. No, she is not.

Q. Is there any agreement between your wife and yourself toward your bringing this divorce action?
A. No, this is on my own.

Q. Have either you or your wife, to the best of your knowledge, ever applied for a divorce in this or any other Court?
A. No, we haven't.

Q. Harry, how long have you resided in Pennsylvania?
A. Other than my service years, twenty-three.

Q. In other words, you were born here?
A. Yes.

Q. How long has your wife resided in Pennsylvania?
A. She was born and raised here.

Q. Now, Harry, you testified to three children being born to the marriage, would you give us the ages of those children?
A. John Allen should be 5, Lucinda should be 4 and Danny, $2\frac{1}{2}$.

Q. And Danny is the one you are now supporting?
A. Yes.

Q. Do you know the name of the child your wife has had since living with this other man?
A. No, I don't know the name, the age or anything.

The Plaintiff hereby requests leave to amend his Complaint to add an additional paragraph listing the names of the children, those which have heretofore been given in this proceeding, and to state their ages.

By Mr. Bell:

Q. Mr. Bailey, where are your children staying?
A. With their mother on High Street.

Q. Did you testify as to your occupation?
A. Yes, laborer.

Q. Your wife is a housewife?
A. Yes.

END OF TESTIMONY

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me at the hearing on the above case, and that this is a correct transcript of the same.

Theresa J. Gray
Stenographer

November 25, 1961

Leave over margin

Attn: Mr. Justice
John J. Murphy

Formerly living in good
and we intent to bring for trial

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 754 May Term, 1961
IN DIVORCE

HARRY W. BAILEY

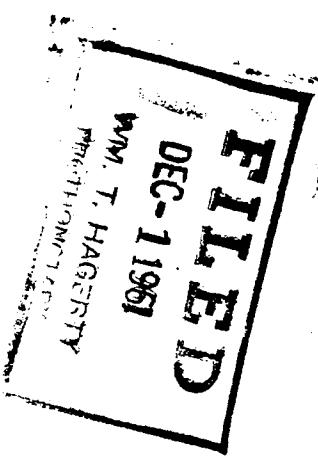
VS.

SYLVIA JEAN BAILEY

UNCONTENDED

MASTER'S REPORT

| | |
|----------------------------------|---------|
| Master's fee | \$85.00 |
| J. B. Walker, Constable, fees | 3.00 |
| | \$88.00 |



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