“Quickie Divorce” — The Experience of the Alabama Bar*

Beginning in the late 1940’s and continuing into the 1960’s, the state of Alabama gained a rather infamous reputation as a “quickie divorce mecca,” and many famous and not-so-famous persons from around the country took advantage of the Alabama courts to secure uncontested divorces often unattainable in their home jurisdictions or elsewhere.

That Alabama became one of the most important “quickie divorce” jurisdictions seems to have resulted from an apparently innocent 1945 amendment to a state statute governing divorce jurisdiction and residency requirements. Traditionally, there had been nothing unusual about basic Alabama divorce law; the grounds for divorce were the usual grounds, such as desertion, adultery, cruelty, non-support, and the like. And, until the 1945 amendment, there was no reason that a divorce should be any quicker or easier in Alabama than in the average state.¹

With that amendment, the Alabama Legislature changed Sections 27 and 29 of Title 34 of the Code of Alabama of 1940 by adding a twenty-seven word proviso to each of them. The new provision authorized divorces when the court had jurisdiction over both parties to the cause of action.²

These changes seemed innocent enough when made. Their effect on Alabama divorces and the state’s national reputation, however, would prove to be anything but innocent, for they would serve to “permit itinerants to snatch a divorce from our courts as they speed through just as the railway mail car snatches up a pouch of mail.”³

Under the new law, if the complaining party swore in writing that he or she was a bona fide resident of the state of Alabama at

---

¹Note: This comment is intended to be an informal narrative tracing the Alabama State Bar Association’s efforts in dealing with a serious problem of professional ethics. Information used in its writing came in large measure from conversations with the various attorneys and former Bar Association officials who played an active part in those efforts.

the time of the filing of the complaint, and the court had jurisdiction over both parties to the action, there was little standing in the way of a quick divorce for the couple, where appropriate grounds for the divorce were alleged. The problem, of course, was easily predictable—it was very difficult under the Alabama procedures for the judge to know whether the complainant was being truthful in the written statement of residence, since in most cases the testimony was given before the register of the court and was signed and sworn by the party so deposing, and the judge relied solely on the written evidence in issuing a decree of divorce. It would appear that unless facts existed to controvert the sworn testimony, the judge would usually be obliged to grant the divorce.4

As a clarification of the law, important cases subsequent to the 1945 amendment held, among other things, that (1) the court does not have the power under the amended statutes to issue a decree of divorce where both parties are before the court, but actually reside in another state; although the one-year residence requirement was removed by the amendment, domicile in the state was still a jurisdictional essential,5 and (2) if one of the parties to the divorce is a bona fide resident of the state of Alabama but the other party is a non-resident, and if the court has jurisdiction over both parties, then by virtue of the proviso it is immaterial whether the twelve months residency requirement has been met, and the court is empowered to grant a divorce.6

Since several states had very restrictive grounds for divorce, such as New York, where there was a durational residency requirement and where it was necessary at this time to prove adultery in order to be granted a divorce, residents of these states were looking for a forum state where a divorce would be quicker and easier. Nevada, famous for its "Reno" divorces, was often the solution, but even there a six-week actual residence requirement existed. Of course, those forum seekers who were divorced in Nevada usually committed something of a fraud, since very rarely was there a real intent to establish domicile. Alabama, with its newly amended law, presented even more attractive possibilities than did Nevada. Alabama required no minimum time for physical presence; all that was

4. Rosenau, supra note 1, at 38.
5. Jennings v. Jennings, 251 Ala. 73, 36 So. 2d 236 (1948). See also Inge, supra note 2, at 26.
required in Alabama was to have both parties under the court’s jurisdiction and satisfy the court that one or both parties was a “bona fide resident”—which usually could be accomplished by a deposition before the register of the court.

Alert lawyers in the more restrictive states also saw the possibilities the new Alabama laws held for their clients. By setting up “partnerships” with Alabama lawyers, the out-of-state lawyers could send their clients to these Alabama lawyers who would process the divorce through the Alabama courts, sometimes after all preliminary work had already been done out-of-state. That is, the Complaint and Answer and Waiver forms would have been drawn up out-of-state, the actual settlement agreed to out-of-state, and then these and other necessary forms and documents forwarded to the Alabama lawyer for final touch-ups and process through the court channels. In fact, these “partners” often conspired to create “package deals” for their mutual clients, which would include, for example, round-trip air travel and hotel accommodations, all for one healthy lump sum.

Of course, many Alabama lawyers refused to handle these out-of-state divorces on the theory that if the lawyer had knowledge that neither party to the divorce was a bona fide resident of Alabama, as an officer of the court it was his duty to disclose this fact to the court. It was suggested by many lawyers that Rule 25 of the then applicable *Rules Governing the Conduct of Attorneys in Alabama* was clearly in point, since it read:

> No person heretofore or hereafter admitted to practice law in Alabama shall knowingly or willfully make any false representation of fact to any judge, court, or jury to induce a favorable action or ruling by either . . . .

Other lawyers, some of them highly esteemed and reputable practitioners, maintained that it was not their duty to investigate the truth of the affidavit of residence, that they were advocates of a cause, and hence could not rightfully presume their client to be lying. “Shutting their eyes” to what everyone else in the legal community knew was happening, these lawyers continued their “quickie divorce practice” for several years, obviously ignoring the possible application of Rule 25 to their situation.

To clarify the situation and in a move to correct the ethical improprieties it believed existed, the Alabama State Bar Association, an integrated bar, in 1961 amended Rule 25 by adding sections (b) and (c) to it which read as follows:
[No person heretofore or hereafter admitted to practice law in Alabama shall]
(b) File or prosecute or aid in the filing or prosecution of any suit, cross bill, or proceeding seeking a divorce in a court in Alabama as attorney or solicitor for a complainant or cross complainant therein or serve as referring or forwarding attorney for such complainant or cross complainant with knowledge or reasonable cause to believe that neither party to such suit, cross bill, or proceeding is at the time of the filing of the bill of complaint therein, a bona fide resident of the State of Alabama;
(c) While acting as attorney for either party in any suit for divorce in any court in Alabama represent to the Court or conspire with any party, attorney, or person to represent to the Court that either party to such suit is a bona fide resident of Alabama, knowing such representation to be false.

These amendments dealt specifically with the divorce situation and were approved by the Alabama Supreme Court. At the time of these amendments to Rule 25, many Alabama lawyers were doing a very lucrative business from the out-of-state divorce cases. Even some very large and reputable firms were handling much of this type work. It would be no exaggeration, according to persons familiar with such practice during these times, to say that some lawyers handled as many as an average of ten such divorces weekly, usually for fees of two hundred fifty dollars or more per case. Some lawyers may well have handled as many as a thousand of these cases before their nerve ran out or official action was taken against them.

Despite the financial rewards of the "quickie divorce" business, most lawyers stopped engaging in such practice upon the passage of the amendments to Rule 25 which dealt specifically with the divorce situation. Logically, this step by the Bar Association should have completely ended "quickie divorce" in Alabama. Unfortunately, it did not.

After the majority of those lawyers who had been doing the "quickie divorce" work stopped, it apparently occurred to the few remaining ones that it would be possible to build a "monopoly" in this type divorce practice if they would risk continuing to do it. Besides the lucrative financial rewards, this type practice had further advantages. For example, there was the advantage of having the case "over with" when the party or parties returned to their home state, thus likely avoiding forever the possibility of being asked in the future to interpret or modify the decree of divorce, which often happens with standard divorces. The "fleeting contact"
with the client was something to be joyful about. In addition, these divorces could be done very quickly, probably "cranked out" in as little as an hour or two of combined lawyer-secretary time, due to the procedure usually followed in these uncontested cases.

The inside joke that "so-and-so lawyer always spent more time at the airport than in court" arose from the fact that often the Alabama lawyer, frequently as one benefit in a "package deal," met the out-of-state client at the airport and got him or her the divorce on the same or following day. As has been indicated, the out-of-state lawyer would often have prepared the Complaint, Answer and Waiver form, and separation agreement, with all details worked out in that lawyer's office. These documents were usually brought to the Alabama lawyer by the client when he arrived in the state. Usually only one party came to Alabama. The Complaint was signed in the office of the Alabama lawyer, filed in court with the Answer and Waiver form previously signed by the other party, testimony was given before the register of the court, and usually the decree of divorce issued by the court. In most cases, there was no need for the out-of-stater to actually appear in court.

In certain locales in Alabama, the "quickie" racket was effectively wiped out after about 1961. In Montgomery, for example, the Circuit Court pronounced a local rule that effectively ended the out-of-state divorces. That rule required the complainant to prove state residence for at least one year or else appear before the court to be interrogated as to his or her bona fide residence at that time. Another rule which was enacted in several locales, including Birmingham, required that a specific street address for the complainant be included on the original petition for divorce, the idea being that since the grievance committee of the local bar association would be able to easily check the validity of such addresses, lawyers would be stopped from engaging in the "quickie" business for fear of being discovered. Various other local rules were enacted7 and in most instances where rules were enacted and enforced, the "quickie divorces" ceased to exist. Unfortunately, where judges were indifferent to the dangers and failed to prescribe local rules, or carefully screen all divorce cases, or as in some cases, if the judges were themselves involved in the shady dealings, the lucrative illicit divorce mills could still operate.

Shortly after the amendments to Rule 25 were enacted, it came

7. See Rosenau, supra note 1, at 39.
to the attention of the Alabama State Bar Association that a particularly large number of divorces were being processed in a certain small number of courts in the state, and that many of these divorces were uncontested ones, accomplished using affidavits of residence. Courts in the counties of Winston, Marion and Geneva were among those mentioned in the reports to the Bar Association. In July of 1962, the president of the Association requested that its Proctor investigate the Inferior Court of Geneva County. The resulting preliminary investigation revealed that certain improprieties seemed to exist, so in the following months, several members of the State Bar’s Grievance Committee visited Geneva to conduct further investigations. These investigations confirmed the improprieties, uncovering among other things, the following information: All divorce cases for which there was a public record were identified by numbers preceded by the letter “A”; there were no available records of divorce cases with numbers preceded by letters other than “A.” However, the investigating Grievance Committee members found a cash receipt book containing receipts for costs paid in a large number of divorce cases, none of which were shown in the various record books in the office, and all of which bore letter prefixes of “B,” “C,” or “D” in the receipt book. The court clerk initially would produce no files for these cases, but after insistence, he announced his willingness to cooperate and brought to light the existence of the secret dockets, the files for which had been stored in a separate area.

It appeared to the Committee members that several lawyers in Geneva had conspired with court officials to engage in “quickie divorce” activity in violation of Rule 25. These lawyers’ cases were docketed separately and were not reported to the Bureau of Vital Statistics despite the requirement of Section 93, Title 22, Code of Alabama of 1940. All of these “B,” “C,” and “D” cases were Answer and Waiver type cases, and a majority of them had been forwarded to these lawyers by other attorneys, both in-state and out-of-state, who would enclose a Complaint, affidavit of residence, Answer and Waiver form, and testimony—all essential papers for obtaining an uncontested divorce.8

The investigators also turned up the names of several of the forwarding attorneys who participated in the scheme. These attorneys, along with those persons directly involved in the Geneva

“Quickie Divorce”

"quickies," were disciplined by the Alabama State Bar Association. Disciplinary actions of a similar nature, including some disbarments, were taken against offending lawyers in Winston, Marion, and other counties. Knowledgeable persons have suggested that perhaps fifty lawyers were in some way disciplined for activities such as these.

Of course, the primary objective of the Bar Association was to put a halt to the "quickie divorce" scandal in Alabama. Clearly the disbarment of lawyers was but a means to this end. Consequently, in November of 1964, the Bar Association passed a resolution allowing any lawyer charged with a violation of Rule 25 to have the charges against him dismissed if he would voluntarily surrender his license to practice for a period of one year. In the middle 1960's, many lawyers charged with "quickie divorce" practice availed themselves of this opportunity to receive only a light punishment. However, some accused lawyers chose to litigate the question, and in their defense, raised a number of constitutional challenges to the disciplinary proceedings of the Bar Association, such as mal-apportionment of the Board of Bar Commissioners; but in the end, the Bar was successful for the most part in disbarring the accused lawyers. This litigation, which dragged through the latter 1960's, was healthy for the Alabama Bar Association, for it forced that organization to carefully re-examine its procedures to be certain they were in fact in line with constitutional requirements.

With the response to the 1964 resolution and the disbarment of most of those lawyers who chose to litigate the accusation of violation of Rule 25, one would suppose that the Bar Association had at last successfully brought to a close the era of the Alabama "quickie divorce." However, such was not the case, for in 1968 another facet of the problem came to light.

The Birmingham area courts were among those with local rules requiring the divorce complainant to indicate a specific residence address on the original petition. The office of the General Counsel for the Alabama State Bar Association received information that resulted in its investigation into certain divorce proceedings in the Birmingham area. This investigation disclosed that some lawyers


were still engaging in "quickie divorce" practice. Here, specifically, where street addresses were required, the lawyers and clients had concocted fictitious addresses by, for example, claiming an address number larger or smaller than the actual numbers of that particular street. The Bar Association again took disbarment action against the offending lawyers, and the cases were even easier to prove than the earlier ones, since here the attorneys had engaged in fraud and deceit, reprehensible conduct even if the client had been an Alabama resident. Again, the Bar Association was confident that finally the "quickie divorces" had ended. Again, the Association was wrong. Perhaps the most interesting chapter in the story was yet to be written.

The Alabama Bar Association, through its General Counsel, and in connection with the State Bureau of Vital Statistics, began to receive a number of inquiries from various parts of the country concerning certain divorces supposedly granted in Alabama. For example, lawyers in New York or New Jersey, in connection with some legal proceeding in that state, would sometimes need information about and verification of an Alabama divorce, and would write the Bureau of Vital Statistics for such information. When the Bureau received several such requests for which it had no records to consult, its officials contacted the Bar Association General Counsel, and they were requested to forward to his office copies of all correspondence in such cases. Further, the General Counsel contacted the out-of-state lawyers to get copies of any documents, such as "certified" copies of divorce decrees supplied to them by any Alabama lawyers in connection with these questionable cases. Soon the Bar Association had a file of many of these supposedly "certified" copies of divorce decrees issued from courts of St. Clair and Winston counties in Alabama, of which the Bureau of Vital Statistics had no records.

Soon thereafter, the General Counsel sent an investigator to these counties, who discovered that there were no court records of the divorces in question. The logical conclusion was that the court had kept the records secret or that the lawyers involved were forging the signatures of the judges onto the decrees of divorce.

Naturally, failure to have the divorces of record created tremendous problems. People were marrying out-of-state on the basis of these fraudulent decrees, creating land title problems, bigamous relationships, illegitimacy, and the like. The Bar Association considered it a crucial necessity to correct the situation, which was a far worse one than the Grievance Committee had ever encountered
in its earlier investigations. In the "Geneva-type" situation, there were at least actual records of the divorces on which to rely, but in this new dilemma, the divorces were not even of record, yet they were being relied on as if they were lawful.

The Bar Association officials considered calling in federal and state law enforcement officials immediately, but instead decided, since the "decrees" were being mailed "certified and of record" to out-of-state addresses, to confer with the United States Postal Inspector of the capital city of Montgomery.

The Postal Inspector agreed to cooperate, and a surveillance on the incoming mail of the suspected offenders was conducted. No court order was needed since the mail was never opened—only the return addresses were noted. The Postal Inspectors then conducted interviews with those persons corresponding with the suspected individuals to determine the nature and contents of the correspondence.

The Bar Association suspected only two lawyers as primary offenders, and the General Counsel was able to work up approximately thirty different offenses on each of them. It appeared that there was no direct connection between the two lawyers, but that they were engaged in similar conduct. It was most interesting to the Bar Association to discover that the two offenders were actually not lawyers at all—they were among those persons disbarred following the earlier investigation by the Grievance Committee for practicing "quickie divorce" law.

Since it appeared that some Birmingham area lawyers were involved in these and similar activities, such as the "forwarding" of clients to the "hard core" offenders, and in a general effort to clean up the profession, the Birmingham Bar Association created a special committee to investigate the problem. Soon the committee was working closely with the Bar Association officials to fashion a better case to present to the U.S. Attorney. The eventual success of the prosecutions would prove to be in large measure due to the diligent efforts of many members of the Birmingham Bar Association. In addition, the Chief Postal Inspector of the United States was contacted and agreed to make available to the investigation a large number of Postal Inspectors.

The problem of gathering evidence was compounded for the investigators by the fact that both of the courts in question operated out of more than one courthouse. If an investigator requested to see a certain file, he might naturally be refused on the grounds that the particular file in question was at the other courthouse; usually the
clerk would offer to get the file and make it available at a later time when he would have been able to secure the file from its hiding place, or to create a file if none already existed.

To combat this problem, the investigators gathered a select group of lawyers from the Birmingham Bar Association and sent them out as a task force to descend upon the six courthouses in question at precisely the same time on a particular day. Along with Postal Inspectors, these lawyers checked the files, dockets, and receipt books to try to find records of the divorces in question. No such records were found in the Courthouses.

In addition, other Postal Inspectors obtained search warrants for the offices of the suspected "lawyers," and the searches turned up literally thousands of divorce files, complete with documents of Complaint, Answer and Waiver, and copies of the final decree. The divorces had never been actually recorded in the courts.

Based upon this evidence, a Federal Grand Jury returned indictments against the two "lawyers," two judges, two court registers, and another individual. All were convicted of mail fraud and served time in the penitentiary.

The "quickie divorce" had been a problem in Alabama for almost a quarter century, but only in 1971 was the Alabama State Bar Association confident that the problem was finally solved. While the State Bar Association's officials and various local associations, such as Birmingham's had made repeated diligent efforts to end the problem, even doing all that was reasonably possible to stop the involved lawyers without disbarring them, still they were hampered by splits in the ranks of Association members and members of the Alabama Legislature over how to resolve the "quickie divorce" dilemma."

The Bar Association found the resolution of the problem injected into its meetings and elections for a number of years, especially during the early years of the dilemma. For example, the merit of candidates for president of the Association was often judged by some members according to how vigorously that particular candidate would oppose "quickie divorce" if elected. Those with

11. Some legislators argued to have the one-year residency requirement reinstated. Their opposition suggested that no durational residence requirement was needed, and that the proper solution was to carefully enforce the "bona fide residence" requirement. Widespread rumors charged "pro-quickie" legislators with tying up the biennial legislative sessions with unrelated topics to keep the divorce question off the floor of the Legislature.
“Quickie Divorce” 205

“quickie” practices obviously would oppose a candidate who promised a strong stand against them. Fortunately, those lawyers who were elected to official positions in the Association for the most part made sincere efforts to attack the illicit divorce practice.

The investigations and prosecutions of offenders by the Bar Association, coupled with the eventual amendment of Title 34 of the Code by the Legislature, finally ended the era of the “Alabama quickie” in about 1971. The infamous proviso was stricken from the statute, Section 27 of Title 34 was repealed, and Section 29 amended so as to reinstate the residency requirement, but reducing it to a six month period.

Also, the liberalization of divorce laws by several of the states on whose business the “quickie” practice had depended played a large part in the disappearance of the practice, since there was much less pressure on the citizens of these states to find an outside forum to secure divorces.

The era of the “quickie divorce” was surely not something of which the Bar or the citizenry of Alabama can be proud. The national image of both was tarnished greatly for a number of years. The diligent work and continuous efforts by interested members of the Bar to correct the problem, however, is an example of what is often required by members of the legal profession who recognize their obligation to their profession and to the public.

David R. Boyd