

IN THE ALABAMA COURT OF CIVIL APPEALS

MAUREENE BASS DEES)	
)	
Appellant,)	
)	
-vs-)	CASE NO. CIV. 2114
)	
MORRIS S. DEES,)	
)	
Appellee.)	

ON APPEAL FROM THE CIRCUIT COURT OF
MONTGOMERY COUNTY, ALABAMA

BRIEF OF APPELLANT

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ORAL ARGUMENT REQUESTED

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At the time of the divorce, Morris' net worth, based upon his own calculations, was \$3,876,029 (R. 1252, et. seq; Def. Ex. 86-87; Stipulation, R. 231). His annual income exceeds \$230,000 (Def. Ex. 76-79), of which more than \$160,000 annually is derived from municipal bonds upon which Morris pays no income tax (Def. Ex. 28).

B. The Cause Of The Break-up: Vicki Booker McGaha

Although Maureene was subjected to a number of degrading sexual episodes by Morris during the marriage which will be discussed hereafter, neither Morris nor Maureene ever wanted or sought a divorce until Morris established his permanent relationship with Vicki Booker McGaha in August of 1977. It was Morris' absolute refusal to give up his mistress, whom he was supporting and whom he had made pregnant, that directly caused termination of Maureene's marriage and forced her to institute these divorce proceedings.

In August, 1977, Morris tried the "Weisenhunt case" in Birmingham, and became acquainted with Vicki Booker McGaha, who was a member of that jury (R. 1459). Thereafter, Morris and Vicki began a sexual affair which has still not ended, and which was the cause of termination of two marriages.

Following their meeting in Birmingham during the Weisenhunt trial in August, 1977, Morris had sexual relations with Vicki at Oak Mountain State Park in Shelby County (R. 1461), the Prattville Holiday Inn, the Holiday Inn East, the Governor's House Hotel, and the Howard Johnson Motel (R. 1462).

The first trip that he took with her was a four day trip to the "Cajun Country" in Louisiana on a motorcycle in April, 1978 (R. 1464-1465). In August, 1978, Vicki joined Morris in Columbus, Georgia, where she stayed

with him at the Holiday Inn (R. 1468).

Maureene first found out about Vicki when she was contacted by Vicki's husband, who subsequently turned over to her letters that Morris had written to Vicki and tape recordings of conversations that Morris had had with Vicki (R. 361-362). Mr. McGaha divorced Vicki McGaha in May, 1978 (R. 1469).

Around this time, at Morris' request, Maureene met with Morris and Vicki at the Sheraton Mountain Brook Inn to discuss the situation (R. 358). During this conversation Morris told Maureene that he was in love with Vicki, that they wanted to be together, and they didn't care if they had anything but a shack with a dirt floor if they could be together (R. 358). Morris told Maureene that he and Vicki were going to live together and they they hoped she would understand. Maureene learned that the affair had been going on since August of 1977 (R. 280-281, et seq). In later conversations Morris cried and told Maureene that he loved them both, and that "Vicki has such beautiful blue eyes and she can see right through you" (R. 360). Following this meeting, Maureene separated from Morris for the first time and filed the first suit for divorce (R. 361).

C. The Reconciliation

After Maureene and Morris had been separated for about four to six weeks, Morris telephoned her and said that he had made a mistake, that he did love Maureene and wanted her back, and he swore never to see Vicki McGaha again (R. 282). To assure her of this Morris arranged another meeting among the three of them as Joe Levin's lake cabin on July 3, 1978 (R. 367, et seq).

This meeting was bizarre. In a three-way conversation Morris would first ask Vicki to state how much she loved him, and he would then turn to Maureene to ask her to state how much she loved him (R. 367). It was as if he were staging a contest to see who loved him the most, or who would do the most for him (R. 367). After a lengthy conversation, during which Morris had taken his socks off, he announced, "Alright, I'll tell you girls my answer when I get my socks on." After taking an inordinate amount of time putting his socks on, he got up, walked around behind them, put an arm on each girl, and ceremoniously stated, "I tell you this day, July 3, 1978, I, Morris Dees, can't live without either one of you." (R. 368). At that point, Maureene said, "I'll tell you what, Vicki, you can have him." (R. 368).

In response to these statements by Morris, Maureene made it clear once again that Morris could not have them both, that he could not remain married to her and live with Vicki, and that he must make up his mind one way or another. At the conclusion of the meeting, Morris promised never to see Vicki again (R. 282). He told Vicki that he and Maureene had reconciled, and that he could not see her anymore (R. 1357). Morris himself testified that in Maureene's presense he told Vicki that it was all over and that he wouldn't see her anymore (R. 1357; 1522-1523).

D. Morris Can't Give Up His Mistress

Morris' promises did not last long. Although Maureene didn't know it at the time, less than two weeks later he resumed his relationship with Vicki (R. 1523). By his own admission, he found himself unable to terminate the relationship with Vicki, in response to questions by his own attorney:

(At R. 366)

Q. (By Mr. Byrne) Now, give the Court some judgement about how many times you attempted during 1978 and 1979 to break off your relationship with

Vicki Booker?

A. Oh, gosh, about every month I'd say. It was a continual off and on relationship.

(At R. 1367)

A. (By Morris, describing Defendant's Exhibit 103, a letter from Morris to Vicki) Well, its an undated letter. I think it was in January of 1979, and it basically described the continuing problem of we ought to end this relationship. I'm telling her that I don't really think I've got the strength to and I wish she would do it herself."

(At R. 1434)

Q. (By Mr. Smith) Let me ask you if you said this or this in substance in response to a question by Mr. Byrne. 'I attempted every month to break off my relationship with Vicki'.

A. I think that would be a pretty accurate statement before Maureene left home."

Morris had been supporting Vicki since her divorce from her husband in May, 1979, and he continued to do so as they continued their affair even after promising Maureene in July, 1978 that the affair was over for good. Morris admits to having provided the following support to Vicki during the eleven-month period from may, 1978 through March, 1979 (R. 1504, et seq):

May 30, 1978	\$1,500	
June 6, 1978	500	
June 22, 1978	1,500	
July 6, 1978	1,000	(after "reconciling" with
July 30, 1978	1,500	Maureene July 3rd)
Aug. 26, 1978	1,500	
Aug. 27, 1978	1,625	
Sept. 20, 1978	1,500	
Nov. 27, 1978	5,000	
Jan. 25, 1979	5,000	
March, 1979	2,000	
Total	\$22,625	

Morris stopped sending Vicki money only when the present divorce suit was filed (R. 1506). In addition, Morris loaned Vicki \$28,000, at 8% interest, to enable her to purchase her former husband's interest in their home at the time of her divorce (R. 1351).

E. Maureene Is Compelled To Seek Divorce

In November, 1978, Morris finally admitted to Maureene that, notwithstanding the promises that he had made in July to abandon Vicki and reconcile with Maureene, he had continued to see Vicki in Birmingham, that she was then five months pregnant with his child, and that he would be going to Birmingham in a few days to be with her while she had an abortion which Morris was paying for (R. 364). Over the next sixty days, Maureene concluded that he simply could not accept the situation any longer. It was apparent to Maureene that Morris was not going to stop seeing Vicki, and Maureene

was not willing to live in a situation where she knew for a fact that her husband really had, in effect, two wives (R. 412). Morris was supporting Vicki and had been doing so for almost a year. He treated Vicki like a wife, supplying all of her financial and emotional needs. He was there when she needed him. He was spending almost half a week going back and forth to Birmingham two or three times a week, attempting to divide his time between them (R. 412). In January or February, 1979, Maureene told Morris that she could simply no longer accept this situation, and that she was going to leave (R. 385). Following this conversation, Morris started trying to induce Maureene to execute certain agreements (which will be discussed in detail hereafter) that would permit each of them to have sexual relations with other parties (R. 385). Maureene refused to sign any of these agreements (R. 387).

While trying to induce her to sign these agreements, Morris continued to tell Maureene that he loved her and that he would stop seeing Vicki (R. 390). However, he did not stop seeing her. During this period he took Vicki and her children to the ballet in Birmingham, and spent the night at Vicki's house (R. 390). He met Vicki in New Orleans for the Sugar Bowl in January, 1979, where they spent two days together (R. 1473).

In March, 1979, Maureene left Morris for the last time, and she has lived separate and apart from him ever since (R. 370). Morris and Vicki moved into the family home in Mathews (R. 370). Maureene commenced the present suit on March 8, 1979.

Following the final separation, Morris openly continued his relationship with Vicki. Taking his daughter, Ellie, with him, Morris met Vicki in Los Angeles on March 10, 1979 (R. 1473). He introduced Vicki to Ellie as "Pat" (R. 1475), and after leaving Los Angeles the three of them flew to Las Vegas together (R. 1475). They had only one room for the three of them, but Morris claimed that Vicki sat up all night in the hotel lobby (R. 1476). Morris took Vicki to the White House signing of the Israel-Egypt Peace Treaty on March 26, 1979 (R. 1518). On June 4, 1979, Morris took his daughter Ellie, and Vicki and her family, to the Grand Hotel (R. 1479).

F. Morris Sets A Trap

In February, 1979, Morris Dees realized that he was in a precarious legal position. He had been conducting an affair with Vicki McGaha for almost two years; she had become pregnant by him and had received an abortion which he had paid for; he was supporting her and spending most of his time with her and planned to continue to do so; and Maureene, who was fully aware of all of these facts, and stated that she could not tolerate the situation any more and was leaving him to institute divorce proceedings. To protect himself in the impending litigation, Morris had to find a way to neutralize Maureene.

In February, 1979, after Maureene informed Morris that she was leaving him, Morris wrote out an agreement, which he showed to her on a Sunday afternoon, and asked her to stay and live by this agreement (R. 385). This agreement, identified and introduced as Plaintiff's Exhibit 30, purported to permit the parties to lead separate lives but stay married, and provided that they would not hold anything against each other that had happened either before or after the date of the agreement (R. 386). The first such purported agreement (Pl. Ex. 30) provided in part as follows:

"Whereas they (Morris and Maureene) feel that they can better work toward a more complete and satisfying relationship in their marriage if they have an open marriage, i.e., where each party, while still living together as man and wife, be free to have relationships with

the opposite sex, which said relationships may consist of sexual intercourse. . ."

During the time that he was discussing this agreement and urging her to sign it, Morris continued to tell Maureene that he loved her and that he had stopped seeing Vicki (R. 390), which was another lie. Plaintiff's Exhibit 31 is another agreement which Morris drafted because he did not like the language of the first agreement, and contains this provision:

[PAGE 11 MISSING]

A. Prior to even drawing up these agreements, I agreed to it orally. I have already said that . . .

Q. When did you first orally agree that your wife, your lawful wife, could have sexual intercourse with other people?

A. About a day before this agreement was drawn up.

Q. This was some time in February?

A. Yes

Q. And it was one day preceeding the first agreement?

A. Approximately."

(At page 253)

"Q. You knew she (Maureene) knew about you and Vicki?

A. About the abortion, and she said, I am going to use that and I said, Maureene, look if you have somebody you want to have sex with, go ahead and have sex with them. We said that that night at the bar.

Q. That was clear and unmistakable?

A. Clear and unmistakable.

Q. You encouraged her to and if there was anybody --

A. If you call that encouragement --

G. Morris' Trap Works: The Hotel Room Agreement

On March 4, 1979, Maureene walked naively into the trap which Morris had set. On that date, she flew to Washington, D.C., where she met Brian O'Daugharty (R. 576). Maureene knew Mr. O'Daugherty in connection with her work on the National Endowment, and he was the Director of the Media Arts Program (R. 341). Morris had told her that she could see anyone she wanted, as long as she was discreet (R. 578), and her flight to Washington was booked under the name of Better Foster (R. 576). Maureene and O'Daugherty had dinner together on the night of March 4th, and returned to her hotel room (R. 578). When they were in bed together, Morris and a Montgomery private detective, both of whom had been hiding in the bathroom, jumped out and started taking photographs, Morris said word in substance as follows:

"Alright sister, you wanted a divorce. Now I want one, because I've got you where I want you." (R. 586)

Morris was acting crazy, and Maureene thought he was going to kill everybody in sight. He told her that he had five detectives with him (R. 592). He hit her and gave her a busted jaw. (R. 592). He then started writing something on paper which he then gave her to sign (R. 422-423). This document, entered unto evidence as Plaintiff's Exhibit 43, was a separation agreement (R. 423). The agreement provided that Morris was to have custody of Ellie, the parties' nine-year old daughter. Maureene was to receive "25,000 alimony-in-gross upon the "execution" (sic) of a divorce,

and that in addition she was to receive \$1,500 per month as alimony for a period of three years from the divorce. Under this agreement, Maureene relinquished all claims to any real estate owned by Morris, and agreed to return to him the diamond ring which he had given to her. The agreement recites that, although it is execute on March 5th in Washington, D.C., it will be notarized by an Alabama notary (the detective) and shall be governed by the laws of Alabama. Maureene signed the agreement because she was afraid not to (R. 423).

After returning to Montgomery, Morris asked attorney Paul Lawrey to handle the divorce based upon the hotel room agreement (R. 412). Although he knew that Maureene was already represented by Maury Smith, Morris instructed her to go to Paul Lowery's office for this purpose (R. 427). She declined to do this, and later Paul Lowery came to the house where Maureene was staying, with papers for her to sign, but she refused to do so (R. 428-429).

Apparently in a last effort to induce a settlement with Maureene, Morris later told her that he was sorry he had the photograph taken in the hotel room, that he should not have taken them, and that he wanted her to have them (R. 426). He gave them to her with instructions to destroy them, telling her that these were the only copies (R. 426). He also gave the original signed copy of the hotel room agreement. She tore up both envelopes without looking inside (R. 426). Morris' statement that these were the only copies of the photographs was another lie, since he introduced the photographs into evidence at the trial.

H. Morris' Sexual Appetite

Maureene was literally force to file suit for divorce in March, 1979, because of Morris' obstinate refusal to give up his mistress who he was then supporting and who had become pregnant by him. However, Maureene did not give up her marriage easily. Prior to Morris' permanent involvement with the McGaha woman, Maureene had endured a long series of degrading incidents which evidenced Morris' voracious and eclectic sexual appetite. Since early in their marriage, Morris repeatedly bragged to Maureene that with his looks and his money he could have any woman he wanted, and he constantly bragged about women propositioning him (R. 350, et seq). [Some insight into the size of Morris' ego is provided by his letter of January 22, 1979, to "Ham" Jordan (a copy of which he sent to Vicki) in which he makes application to be appointed Attorney General of the United States to replace Griffin Bell, giving as one of his principal qualifications the fact that "... all my life, I have been a winner."] (Pl. Ex. 91). Later in the marriage he repeatedly told her of women that he had had sexual intercourse with during the marriage (R. 354). He said further that he enjoyed trying to turn on gay people and he expressed a desire to have an experience with a gay (R. 354).

Early in the larriage, Morris gave her a book on "Open Marriage" and started encouraging her to have sexual intercourse with other men (R. 419-420). During the year or so after they were married, Maureene became aware that her husband was having an affair with a woman name Becky Logan (R. 458). During the same period, she began receiving anonymous telephone calls concerning her husband and a black woman in town (R. 459).

A. Dianne Hicks. In his deposition, Morris admits that in the spring of 1973 (Morris depo. p. 27), or during the summer of 1973 (Morris depo. p. 25), he had an affair with Dianne Hicks, a Mobile lawyer who was working for the Southern Poverty Law Center

(Morris depo. p. 25). He had sex with her during a canoe trip down the Tallapoosa River (Morris depo. p.25), and also in Brewton where they were working together on a trial (Morris depo. p. 26-27).

B. Cathy Bennett. in the fall of 1974, Morris brought to the family home in Mathews a girl named Cathy Bennett who was a psychologist who had worked with Morris on several cases (R. 284). She stayed in their home in Mathews for about a week, during which time they had Bobby Kennedy there as a guest (R. 285). Maureene was suspicious of her husband's relationship with this girl (R. 286), and later Morris admitted having an affair with her (R. 1325). Morris told Mrs. Dees that his affair with her was over in December, 1974, But she later found that he and Cathy continued to conduct an affair in Atlanta where Morris lived for a period during the Jimmy Carter campaign (R. 287, 291).

C. Judith Rogers. in the fall of 1977 (R. 1344), Morris and Maureene held a Little Theatre party at their home, attended by Dr. Rogers, a Montgomery physician, and his wife Judith, who is a criminal psychologist (R. 292, 1344, 1345). During the party Morris admits that he took Judith into a back room of his house, while the party was going on, and had intercourse with her (R. 1344, 293).

D. Deborah Levy. In the spring of 1976, Morris invited to the house Deborah Levy who worked for the American Civil Liberties Union in New York, and the man with whom she lived in New York, Michael Gaas (R. 299, 303). The Southern Poverty Law Center was considering starting a magazine in opposition to the death penalty, and Morris was interviewing Deborah Levy for the job of running the magazine (R. 301). She was not hired for the job, but she and her boyfriend did visit the Dees home in Mathews for several days on two different occasions (R. 301). in August, 1976, Morris and Maureene took them on a canoe trip down the river (R. 202-203). After supper, they had all gone to bed in sleeping bags, when Maureene woke up and found Morris and Deborah naked, having sex on the sandbar (R. 306). Morris turned to Maureene and insisted that she have sex with the other man. (R. 306). Later Maureene went back to sleep and woke up shortly before dawn, and found Morris and Deborah having intercourse again right next to her (R. 307). While having intercourse with Deborah, Morris leaned over and kissed Maureene (R. 308). The next morning Maureene objected strongly to the night's events and stated emphatically that she did not want anything of that nature to happen again (R. 309). The following month, in September, 1976, she and Morris went to New York for a tennis tournament and to take one of the children to a special school in Boston (R. 310). Over Maureene's objections, Morris insisted upon visiting Deborah Levy and Michael Gaas (R. 310). While the group was having dinner together in a restaurant Maureene, returning from the restroom, overheard Morris and Deborah making plans to be together the following afternoon (R. 315). Later when confronted with this Morris admitted having such plans (R. 320). Later in a conversation among the four of them, Morris stopped the conversation in the middle and said to Michael Gaas "I've just got to tell you this because I feel bad about it. I want to tell you that Deborah and I were planning to go off this afternoon and make love and I just want to tell you that." (R. 322). This embarrassed Maureene and made her furious (R. 324). Gaas responded that if that's what Morris was here to do he should just get up and go do it, following which Morris and Deborah got up and went into the bedroom where they remained for about forty-five minutes (R. 325, et seq). While they were gone

Maureene had sexual intercourse with Michael (R. 326). Afterward Morris left the apartment, returned in about thirty minutes and hit Michael in the face (R. 327).

E. Pamela Horowitz. In the spring of 1977 Morris planned a trip to Kentucky and invited Maureene to go with him, knowing that she could not go because she was in rehearsal for a play (R. 330). Over Maureene's objection, he took with him, on his motorcycle Pamela Horowitz, a lawyer working for the Southern Poverty Law Center at that time (R. 331). He drove the motorcycle and she rode behind him from Montgomery to Kentucky, and they were gone for four or five days, during which they shared the same hotel accommodations (R. 331-332). F. Charlie Springman (homosexual). On August 11, 1978, Maureene and Morris' tenth anniversary, they were having dinner at the Watergate Hotel in Washington, D.C., and afterward had drinks in the bar (R. 333, et seq). In the bar, they saw Charlie Springman, who Maureene knew as a Regional Coordinator for the National Endowment of the Arts (R. 335). She had told Morris that Springman was gay, but Morris had never met him. When they saw him in the bar, Morris suggested inviting him over for a drink (R. 335). After a while, to Maureene's surprise, Morris suggested that Charlie come up to the room with them (R. 336). In the room, they drank wine and talked, and Morris unbuttoned his shirt to the waist (R. 336). Charlie tried to leave several times but Morris wouldn't let him (R. 337). Finally Morris proposed that Charlie spend the night with them (R. 337). Mrs. Dees protested, and put on her robe and nightgown to go to bed (R. 337-338). Soon Charlie and Morris were in the bed naked, with Maureene in the middle with her gown on (R. 338-339). Springman and Morris hugged and kissed, and Morris tried to get Charlie to have relations with Maureene, but Springman was physically unable to because he was not interested (R. 340). In fact, no one made any effort to have sex with Mrs. Dees during this incident (R. 341). Springman kissed Morris' penis, and in fact, Morris complained that he bit him and that it hurt (R. 340). Morris kissed Springman on Springman's penis (R. 341). After about thirty minutes they all went to sleep (R. 342). When Maureene woke up the next morning, Morris was gone (R. 342), but Springman was still asleep in the bed. After five or ten minutes Morris returned and found Maureene crying. He apologized for the incident and said that he would not let anything like that happen again (R. 343). Morris denies parts of this episode, he admits its essential features: Morris admits that he invited Springman to the room (R. 1571); that Maureene put on a nightgown and robe and got into bed (R. 1537); that Morris got into bed with nothing but his underclothes on (R. 1575); and that Springman got into the bed naked (R. 1590).

G. Morris' Step-Daughter. Holly Buck, Maureene's daughter by a previous marriage, is eighteen years old (R. 728). She was seven years old when her mother and Morris married, and she has lived with them in the house at Mathews from then until the separation (R. 728). Holly testified that, in the summer of 1977, Morris attempted to molest her in the following incident (R. 729): One night Maureene and Morris were sitting drinking wine and discussing a case Morris was trying. She was with them. Around eleven or twelve o'clock Maureene went to bed and Holly stayed up with Morris discussing the case. Morris kept offering Holly wine, some of which she accepted. At Morris' suggestion, they went outside to the pool, and he suggested that they go for a swim, but Holly was tired and declined (R. 731). She went to her room and

then went into the bathroom. Looking out the window, she saw Morris in the bushes beside the bathroom window looking in (R. 731). She said "Morris, is that you", but he said nothing and ran away (R. 732). Two months later, she was asleep one night and Morris entered her room from Ellie's room, through the bathroom. He was in his underwear and he sat on the bed where Holly was lying on her stomach facing away from the door. He touched her on the back and woke her up. He told her that he had brought her a present, and he presented her with a vibrator. He plugged it in and said he had brought it to her. He proceeded to rub it on her back and said, "Let me show you how to use it" (R. 733). She said that's not necessary, but he started to place it between her legs when she raised her voice and said no loudly. He then took the vibrator and left (R. 734). All he had on was a pair of bikini underwear shorts (R. 734). About two hours later, she had fallen back asleep and he came back in (R. 735). He brought the vibrator with him, plugged it in and said again, "Let me show you how to use it." He tried to show her again by putting it between her legs, but she raised her voice again and he stopped. He took it and left (R. 635). She did not tell her mother about this incident until the separation when they moved out of the Mathews house in the spring of 1979 (R. 736).

H. Morris' Future Daughter-in-law. Karen Sherman Dees is Morris' daughter-in-law, who is married to Morris' son Scooter (Morris, III) (R. 345). Before Karen and Scooter were married, when they were eighteen or nineteen, which was three or four years ago, an incident occurred on Mother's Day at the family home in Mathews (R. 345). The Dees had Karen and Scooter to dinner at the house, and they cooked out (R. 346). While Scooter and Maureene were cleaning up and washing dishes, Karen and Morris went out to go swimming (R. 345). Five or ten minutes later, Maureene and Scooter started down the path toward the pool, with Maureene in front. As she approached the gate, she could see Morris and Karen standing with their arms around each other with no clothes on, and Morris had an erection. Maureene immediately turned and told Scooter that she did not want to go swimming and the two of them headed back to the house without Scooter having seen anything (R. 347). Later, Karen and Morris returned from the pool, fully dressed, and the group stayed in the den for a little while (R. 349). Morris got up and went to bed, and Maureene joined him a few minutes later. While lying in the bed, Maureene looked up and saw that Karen had entered the room (R. 349). She didn't have any clothes on but had a towel or sheet wrapped around her (R. 350). She came over and got in the bed on Morris' side (R. 350). Nothing happened, but she remained there for about ten minutes, and eventually got up and left (R.350-351). Morris told Maureene that he just couldn't understand why she came in the room (R. 351).

In 1974 and 1976, after Maureene had become aware of some of Morris' infidelities, she had two brief sexual liasons; one with Charles Morgan, with whom she was co-starring in a Little Theatre production, and the other with Steve Denton, who was visiting in Montgomery for a tennis tournament.