

1909-64

Southampton County Chancery -

Wayton, Katie

vs

Wayton, R.P.

Divorce

IN THE CIRCUIT COURT OF THE COUNTY OF SOUTHAMPTON, VIRGINIA.

To the Honorable James L. McLemore, judge of the circuit court
for the county of Southampton?

Your oratrix, Katie Layton, humbly complaining, would
respectfully show unto your honor that she resides in the
county of Southampton, Virginia, and has been domiciled in
~~this state more than one year next preceding the institution~~
of this suit:

That she was married to R. P. Layton on the thirteenth.
day of December, nineteen hundred and one, and is now twenty
four years of age. During all that time she has been unto
her said husband a faithful and devoted wife, and has borne unto
him two children, to wit: Howard, now eight years of age, while the
second was removed by the divine providence before it was named.
Your oratrix does not pretend that during her married life she
has been wholly faultless, or that she is free from the common
infirmities of human nature, but she does aver and charge that
she has never given to her husband provocation to bad treatment,
or that, except when driven to deperation by his cruel and relent-
less conduct, she has been other than a loving, obedient and gentle
wife.

She does not pretend that her love for him, which was once
so strong, has survived the coarse abuse, the cold neglect, the
public mortification, the want and suffering which her husband
has inflicted upon her, and subjected her and her young child to.
Your oratrix does aver on the other hand that for years her said
husband has been intemperant in his habits, abusive and violent to
her, even to blows, that he has failed to provide for her wants, and
those of her children, that he has withheld the means to purchase
food, raiment, in quantities and of a quality sufficient to provide
your oratrix and her children in such condition as from his means

IN THE CIRCUIT COURT OF THE COUNTY OF SOUTHAMPTON, VIRGINIA.

right to demand.

Your oratrix futher avers that by reason of her husband's brutal treatment she is and has been in great danger of her health and even her life; that in October, nineteen hundred and three, she was compelled to flee from her house to seek shelter and ~~protection from him at her father's house; that time and again~~ ~~protection from him at her father's house; that time and again~~ she has been compelled to flee to the house of neighbors and seek protection from him.

She further avers and charges that her young boy is with her now at her fathers house and that she is in constant fear of her own life and safety as well as that of her child. As it is, your oratrix's life can bat be one of misery and uneasiness. She owes it, however, to her child, as well as herself, that she should seek the court's protection, and should through it obtain the means of support from her husband, the proper custody of her child, and exemption from his threats and the fear of his control.

Your oratrix avers that she is without the means of support, and is now upon the charity of frieds and relatives; that her husband is a strong, hearty and able bodied man of earning capacity and until withing the last few days, was drawing a regular salary of fourty six dollars per month; that he has some personal property in the town of Boykins, Virginia, and ought to be required to provide your oratrix and her child with the necessaries of life

In consideration whereof, and forasmuch as your oratrix is remediless save in the court of equity, she prays that the said R.P. Layton may be made a defendant to this bill, and be required to answer the same, but not on oath, the same being hereby waived; that he be restrained and enjoined from interfering with or in any way molesting your oratrix and he child who is with her; that your oratrix may be divorced from the said R.P. Layton, a mensa et thoro; that he at once, and pending this suit, be compelled to pay such

such sums of money, as temporary alimony, as may be sufficient for the support of your oratrix and her child, and such other sums of money as may be required to pay the costs of this suit and the fees of counsel proper to be paid to carry on this suit; that he may be compelled to make such permanent provision for the support of your oratrix and her child as may be just and right, and to secure the regular, prompt and safe payment of the same in such way as may to the court appear to be effectual; and that all such other, further and general relief may be afforded your oratrix as may be just and right in the premises. And may a summons issue against the defendant hereinbefore named.

 P. Q.

Katie Layton
vs
R. P. Layton

Depositions of J. W. Byers, Nannie Byers, J. S. Holland

Witnesses, taken
before me, William Shands, a Commissioner in Chancery for the
circuit court of Southampton County, Virginia, on the 13th day
of May, in pursuance of the annexed notice, at Boykins, in the
County of Southampton and State of Virginia, between the hours
of eleven A. M. and three P. M. , to be read in evidence in a
suit in which Katie Layton, plaintiff, and R. P. Layton, defend-
ant, pending in the circuit court for the County of Southampton,
in the State of Virginia.

Examination of witnesses: Present, Guy T. Horner, counsel for
plaintiff; no counsel for defendant. J. W. Byers, being first
duly sworn, deposeth and sayeth in answer to interrogatories
as follows:

Q. 1. What is your name, age, occupation and place of residence,

and do you know Katie Layton and R. P. Layton, parties to this
suit?

A. 1. J. W. Byers, age forty, salesman, place of residence, Boykins,
Southampton, County, Virginia. I know the parties to this suit
very well.

Q. 2. How long have you known the parties to this suit, and how long
have you been a resident of Boykins?

A. 2. I have known the parties to this suit intimately for about
two years and have been, myself, a resident of Boykins for
about three years, and have lived within a hundred yards of
them for about two years.

Q. 3. How long have the parties been living in Boykins, and what is
the defendant's occupation?

A. 3. They have been living in Boykins for about two years, the
defendant was section foreman for the S. A. L. Co. on the

Sixth section, between Meherrin River and a point just west of Newsoms, with headquarters and residence at Boykins, up to about a month ago when he was discharged for his brutal and abusive treatment to his wife, and general misconduct toward her. I

Q. 3. know that the official of the Seaboard road, who had direct supervision of him, and duty of hiring and discharging him, had direct information of his treatment of his wife, and that his discharge from the employment of said company followed soon after he got said information, and I can assign no other reason for his discharge, for so far as I am informed, he was an efficient section foreman.

Q. 4. Do you know whether his wife is living with him now, if not, why not?

A. 4. They are not. From the best information I can get, and living near them as I am, it is that he drove her away from him. On a Monday she came to my house in a very nervous and frightened state and I loaned her money to pay her expenses from here to her father's home at Purvis, she informs me that she was forced to leave and go there for protection, from her husband's brutal conduct and threats of violence; she having no means whatever, of getting money to pay for taking herself or her child to her parents home. And under the protection of the Town Sergeant she took the first train for her father's home at Purvis. I know that her husband was in an ugly temper that day because I saw him and talked with him. The money that I let her have to go home on was returned to me by her father, who is a poor but honest man.

Q. 5. While they lived together, did the said Katie Layton make him a good and dutiful wife?

A. 5. My wife and I visited their home frequently and we always found Mrs. Layton amiable and pleasant while her husband was rough

and illtempered, and frequently abused her in our presence and used obscene and profane language. While they were visiting my home one Saturday night, he was so brutal and offensive toward his wife that my wife threatened to have him arrested. Mrs Layton is a frail, delicate lady, with a splendid disposition and character, and during this abusive treatment, she was patient and gentle. And the night in question has was in

Q. 6. such a violent and ugly mood that his wife and child spent the night at my home, because to have gone home with him, would have jeopardised life and safety. I know that he is an unsafe and dangerous man when in one of his ugly moods.

Q. 6. Theyou mean to say that while they were living together here in Boykins, that he was both brutal and unkind.

A. 6. He certainly was.

Q. 7. Do you know whether he has any property here in Boykins?

A. 7. I have been advised, by reliable persons who are in a position to know, that his house furnishings have been stored with Mrs. Edith R. Bowers. I know of no other property belonging to the defendant. She has one child named Howard, age eight, whom she is taking care of in the best manner possible. At the time and further the defendant sayeth not he was employed by the Seaboard road, he drew a salary of \$46 per month. After the separation he boarded with Mrs. Bowers, where he has his boarding place, room, and household furnishings, and which he calls his residence.

And further this deponent sayeth not.

Signed J. W. Byers

Nannie Byers, being first duly sworn, deposeth and sayeth in answer to interrogatories as follows:

Q. 1. What is your name, age, place of residence, and do you know the parties to this suit?

A. 1. My name is Nannie Byers, age thirty-three, place of residence is Boykins, Southampton County, Virginia. I know the parties to this suit very well and have for the past two years, been

living within a hundred yards of them. We visited each other very often, and I had good opportunity of observing and knowing the way they lived and the conduct of the defendant toward his wife and his treatment to her.

Q. 2. Please state what his conduct and treatment towards his wife was.

A. 2. I have observed on repeated occasions, that his conduct towards her was very bad and his treatment of her very harsh, unjust, nay, even brutal. I having heard him remark when he came to my house and got in a fret and began beating his little boy over the head with his rough, strong hand, and when his wife spoke to him very beseechingly in behalf of the child, ripped out an oath and said that he would not only beat the child, but would kill her but for fear of the law. He was beating the child for no good reason whatever. He seemed to be mere-de in a ^{very} ugly vicious mood, and acting in a vicious brutal way towards his helpless ~~child~~ and defenseless child and wife, for notwithstanding, the child obeyed what he told him, he nevertheless, beat him as I said and that is the way he replied to his wife's plea in behalf of her child. I know furthermore,

Q. 3. that both she and her child and her father, who was with her at the time, have come to the house of myself and husband and got us to let them stay there for the night, because ~~of~~ his violent and ugly temper and dangerous threats to them, of bodily injury. My husband and I permitting them to do so because we were fully under the impression that it was the best thing we could do for them to protect them from him at that time; His mood being such at that time that any reasonable person would agree that it was unsafe for them to remain with him.

Q. 3. Do you know what the defendant's occupation was, and what his

pay was per month, and whether or not he has any property in this state now.

A. 3 Section master of section number six of the Seaboard, he drew \$46 per month, has his household and kitchen furniture at his ^{boarding house} ~~where~~ boarded and lived and where he calls his home; the house being conducted by Mrs. Bowers. He had very good household furniture.

Q. 4 Did the plaintiff make him a good, faithful and loving wife ?

A. 4 Yes, sir. I never heard her quarrel and don't remember of seeing ~~her~~ angry, notwithstanding his continuous mistreatment. She is, and always has taken the best care of their only child, Howard.

Q. 5 State whether or not, since his bad conduct and brutal conduct, has forced her to leave him, taking her child with her, to thus avoid bodily harm if not worse, he has contributed anything to support and maintenance of herself and child?

A 5 He has not.

Q. 6 State whether or not he is a strong, healthy and able bodied man, well able to get employment which will pay him ample to take care of not only himself, but to support and maintain his wife and child if he were a man disposed and desiring to do the right thing by her and them?

A. 6 Yes sir.

And further this deponent sayeth not.

Signed
duly

Nannie Byers

Witness, J.S. Holland, being first sworn, deposeth and says as follows:

~~my name is~~
Q. 1 J.S. Holland, sixty three years old, work on railroad as section hand, know all parties to this suit, plaintiff is my daughter. I worked on section with this man for about two years and I know fully of his brutal conduct and treatment of my daughter, as has been stated in the above depositions of these parties; both she and her child have had to flee from his house to the home of

Mr. and Mrs. J.W. Byers for a place to stay and for protection.

I, ~~being~~ ^{having} too, to go along with them, and his conduct becoming so brutal that his wife was forced to leave him and come to my home for me to take care of her and her child the best I could.

I am a poor man and have but little but my heart and home is

always open to my daughter and her child, and I am doing the best I can to help take care of them. *I came here to live*

in order to protect them -

Q 2. Do you know whether the defendant is an able bodied man well versed in railroad section work, and can get such wages as will be sufficient to take care of himself and also to allow his wife and child sufficient sufficient amounts to take care of them.

A 2- Yes sir.

Q 3 From your knowledge of him and his treatment to his wife and child would she be safe in living with him.

A.3 She certainly would not be safe.

Q 4 Where were they living together as man and wife at the time of the seperation.

A.4 Boykins, Southampton County, Virginia, where they have lived for several years. They were married in Nansemond County Va. a

at my home. He has his houldhold and kitchen furniture at his boarding place in Boykins.

And further this deponent sayeth not

Signed

J. S. Holland

State of Virginia

County of Southampton

I, William Shands, a Commissioner in Chancery, for the circuit court of the county of Southampton, State of Virginia, do hereby certify that the foregoing depositions were duly taken, reduced to writing, and signed by the witnesses, respectfully, before me, at the place and time mention in the notice hereto annexed, Given under my hand this the 13th. day of May 1909.

Wm Shands
Commissioner in Chancery

Census Fee \$5.00

Witness Fee -

J. W. Byers .50

Almon Byers .50

J. S. Holland .50

Layton
R.P. Spainchay

Layton

1909/2 Apr. Rules.

1909 Apr. 20th Retd
B.M.

Executed by serving
True copy on the
Defendant R.P. Layton
in person this
10th day of April
1909.

J.D. Turner Sheriff
By D.E. Fette
Deputy Sheriff

The Commonwealth of Virginia.

TO THE SHERIFF OF SOUTHAMPTON COUNTY—GREETING:

We command that you summon

R. I. Layton

to appear at the Clerk's Office of our Circuit Court of Southampton County, at the Rules
to be holden for the said Court on the *3rd* Monday in *April 1909* to answer
a Bill in Chancery exhibited against *him* in our said Court by

Katie Layton

And this *ku* shall in no wise omit under penalty of law. And have then there
this writ.

WITNESS, B. F. McLEMORE, Clerk of our said Court, at the Courthouse this *9*
day of *April*, 1909, in the *33* year of the Commonwealth:

Teste:

B. F. McLemore

C. C.

VIRGINIA: IN THE CIRCUIT COURT
OF SOUTHAMPTON COUNTY.

NOTICE TO TAKE DEPOSITIONS

Chancery

Layton

vs

Layton

The within notice was duly
executed and served upon the
within-named defendant, by
posting a copy thereof on the
front door of his place of
abode, this the 13 5th. day
of May, 1909, he not being
found there.

J. I. Turner
By B. E. Feltz
Deputy

T. Horner
Attorney at Law
Boykins Va.

Not finding R. P. Layton
at his usual place of
abode, or his wife, nor
any person who was a
member of his family
above the age of sixteen
years, I executed the
within notice in South-
ampton County, Virginia,
this 6th day of May, 1909,
by posting a true copy
thereof at the front
door of the place of the
abode of the said R. P.
Layton.

John I. Turner, Sheriff
By B. E. Feltz
His Deputy.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF SOUTHAMPTON.

Chancery Cause -----

Layton

vs

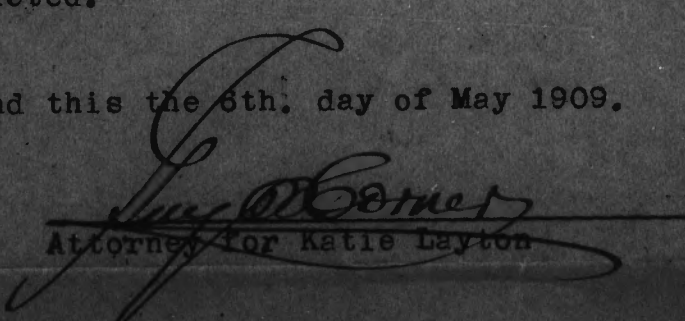
Notice To Take Depositions.

Layton

To R.P. Layton.

TAKE NOTICE that I shall, on the 13th. day of May, 1909, at my office in Boykins, Southampton County, Virginia, between the hours of eleven o'clock A.M. and three o'clock P.M., on that day, proceed to take the depositions of Katie Layton, and others, to be read in evidence in her behalf, in a certain chancery cause depending in the circuit court of the county of Southampton, wherein you are defendant, and if for any reason or cause the taking of said depositions be not commenced on that day, or, if commenced, be not concluded on that day, the taking of the same will be adjourned or continued from day to day, or from time to time, at the same place ^{and} ~~or~~ between the same hours, until the same shall be completed.

Given under my hand this the 6th. day of May 1909.


Attorney for Katie Layton

Layton
vs
Layton

Enter May 18, 1909.
James L. L. L. L.

Katie Layton, Plaintiff

vs

Decree

R.P. Layton Defendant

This day this cause came on to be heard upon the the bill of the complainant and exhibits therewith filed and the depositions of the witnesses, ^{taken after reasonable notice to defendant of the time and place of taking of same} the defendant upon whom process has

been duly served, still failing to appear and plead, answer

or demur to the said bill and was argued by counsel.

it appearing that the parties are now and have for the past year resided in the County of Southampton
ON CONSIDERATION whereof the court doth adjudge, order and decree that *Katie Layton be divorced a mensa et thoro from her said husband R.P. Layton,* ~~the marriage heretofore had and solemnized~~

~~between the plaintiff Katie Layton, and the defendant, R.P.~~

~~Layton, be and the same is hereby dissolved and annulled, and~~

~~that the said Katie Layton be forever divorced a mensa et thoro from the said R.P. Layton.~~

AND IT APPEARING to the court that there is as issue of the said marriage, one infant child under the age of twenty one years of age, ~~at~~ it further appearing from the depositions

of witnesses that the said Katie Layton, the said mother of the said infant child, is a suitable and proper person to be intrusted with the care and custody of the said infant

child, the court doth adjudge order and decree that the care and custody of the said infant child, to wit: Howard *Layton*

be and the same is hereby awarded to the said Katie Layton

~~it appearing further that the defendant has certain chattel property in the town of Boykins, Southampton County, Virginia, and that it appearing from the depositions that the plaintiff~~

~~is without means of support, and funds with which to institute and conduct this suit, and that the defendant is able bodied and strong, and having an earning capacity sufficient to well~~

~~maintain himself,~~ it is further adjudged, ordered and decreed

that the defendant pay to the plaintiff ~~the~~ ^{an} costs attending this suit, including attorneys fee of Forty Dollars \$40. ^{to plaintiffs counsel}

~~and that so much of the plaintiff defendants property be sold as will be necessary to pay the costs of this suit. At it~~

And the further hearing of this cause is continued.

Katie Layton,

VS: Statement of Rules

R. P. Layton,

Katie Layton, Plaintiff
Against; Statement of Rules
R. P. Layton, Defendant,
=====

1909- April 9th: Process issued to 2nd April Rules,

1909- 2nd April Rules: Process returned executed:

Bill filed,

Decree nisi:

1909- 1st May 1 Rules: Bill taken for confessed and cause
set for hearing.

Nam Lorton
R. P. Lorton

Courtland, Virginia, 190

Sum: 25 Copy 13 - Recd 18. Atty 10
Docket 18. Rules 1.00 - Sub; returns 35. Filing
Bill. 15 - Exhibits 15 - Repl. 15 - filing Dep. 15
Decree. 36 - Tax. Costs. 40 Fi Fa. for Costs. 58
Abstract of Decree. 25 Filing away papers 25.

bill \$ 4.63
Shff 1.00
Law 16.50

Comr Wm Shanks 5.00

Witnesses:

J. H. Byers .50
Francis Byers .50
J. D. Holloman .50
1.50

27.88

1.50

28.88

Atty's fee

40.00

68.88