

1917-016 Chancery Causes: Kenny Moody vs Nannie Moody

267

Dsh of Wright County

other surnames: Key,
Richards, Kelley

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY:

Kenny Moody , Plaintiff.

vs.

In Chancery.

Nannie Moody, Defendant.

in which the Defendant has been duly served with process
This cause came on this day to be heard on the

Bill of the Complainant, the depositions of witnesses taken
• after due notice, *and the Defendant* ~~and the defendant on whom process was~~
~~served and who appears to have been proceeded against~~
~~in the manner prescribed by law, failing to appear, plead,~~
answer or demurr and was argued by counsel.

On Consideration ~~whereof~~, the court, being of
opinion from the evidence submitted that the defendant,
Nannie Moody since her marriage to the plaintiff has been
guilty of the act of adultery; and it not appearing that
the plaintiff has cohabited with the defendant after know-
ledge of such act on her part, nor that such act occurred
more than five years before the institution of this suit,
nor that it was committed by the procurement or connivance
of the plaintiff; and it further appearing that the plain-
tiff and defendant last cohabited in the County of Isle of
Wight, that both are residents of and domiciled in said
County and have been such for upwards of one year next pre-
ceding the commencement of this suit, doth order, adjudge
and decree that a divorce a vinculo matrimonii be and the
same is hereby granted the plaintiff, Kenny Moody, from his
wife Nannie Moody; that the marriage relations heretofore
solemnized between them be and the same are hereby *rescinded* wholly
~~annulled and set aside.~~

And it appearing that nothing further remains to
be done in this cause, it is ordered that the same be stricken
from the docket.

Final Decree.

2

Mundy ¹¹/₁₁ Mundy.

1917

Oct. 1.

Enter this.

B. D. W.

C. O. B. 7- page 427

HONORABLE A. S. JOHNSON,

CLERK OF THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY:

Kenny Moody,

Plaintiff.

vs.

In Chancery.

Nannie Moody,

Defendant.

Issue summons for plaintiff against defendant
to first September rules 1917, to answer said plaintiff
of a BILL IN CHANCERY for an absolute divorce.

Fee deposited - \$7.50

R. H. Roebles

p. q.

1
Memo. for Clerk

Kenny Moody
27 Chaucery 267
Nannie Moody

Wed Aug 22/1917

TO MRS. NANNIE MOODY,

CARROLTON, VA.

Please take notice that I shall proceed on the 22d day of September, 1917, between the hours of 8 A. M. and 6 P. M. at the office of R. H. Rawles, on Washington Square, in Suffolk, Virginia, to take the depositions of W. G. Saunders and others, to be read as evidence in my behalf in a certain suit in equity depending in the Circuit Court of Isle of Wight County, in which I am plaintiff and you are defendant; and if for any cause the said depositions be not commenced on that day, or if commenced be not concluded, on that day, then the taking of the same will be adjourned and continued from day to day or from time to time, at the same place and between the same hours until the same shall have been completed.

Of all of which you will take due notice.

Very respectfully,

Kenny Moody by
R H Rawles Counsel.

See Service on back of
this sheet.

Notice to Take
Deposits

Executed the within notice this the 24 day of
Aug 1917 by delivering a true
copy of the same to Mr. Nannie Moody in person
in the County of Isle of Wight.

R A Adams
Sheriff of Isle of Wight Co.

The depositions of J. H. Richards and others, taken before Bradford Kilby, a Commissioner in Chancery for the Circuit Court of Nansemond County, at the office of R. H. Rawles, in Suffolk, Virginia, on the 22d day of September, 1917, between the hours of 8 A. M. and 6 P. M. pursuant to notice hereto annexed, to be read as evidence on behalf of Kenny Moody, in a certain suit in equity depending in the Circuit Court of Isle of Wight County, Virginia, wherein the said Kenny Moody is plaintiff and Nannie Mōgdy is defendant.

PRESENT:

R. H. Rawles, Counsel for plaintiff.

The defendant Nannie Moody did not appear either in person or by counsel.

J. H. RICHARDS, being duly sworn deposes and says as follows:

Examined by R. H. Rawles.

Q. State your name, age, residence, occupation, and if you know the parties to this suit?

A. J. H. Richards, 29 years, Newport News, Va., carpenter, and I know both the parties well.

Q. Did you formerly live in Isle of Wight County?

A. Yes.

Q. Were you living in Isle of Wight County in Sept. 1915?

A. Yes.

Q. State whether Nannie Moody visited your home in Isle of Wight County in September, 1915?

A. She did.

Q. The plaintiff charges in his bill in this case that the said Nannie Moody was at your house in Isle of Wight County on or about September 15th or 20th, 1915, and while there on a visit was guilty of unbecoming conduct. Tell all you know about it?

A. She was fast: she had young men visiting her. One night about 9 O'clock about the 15th or 20th of September, 1915, while she was there I went to bed in my bedroom. I had undressed, she came in my room and undressed and got in bed with me.

Q. Did you ask her to do this?

A. I did not.

Q. Were you surprised at her conduct?

A. I was.

Q. How long did she remain in bed with you?

A. About half an hour: until my wife came in and caught her there and ordered her out.

Q. Where was your wife before Nannie Moody got in bed with you?

A. She was in the dining room and kitchen, washing up the dishes and attending to her household duties.

Q. How long did she remain at your house after that?

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A. She left next day. My wife would not let her remain any longer. Her father was phoned for to come and take her away.

Q. Will you tell what took place while she was in bed with you on that occasion?

A. I decline to answer further: you will have to excuse me, you can judge for yourself.

Q. State whether she showed any affection for her husband while she was there?

A. She did not, she made bad remarks about him and did not appear to care for him.

Q. State whether she acted with the discretion required of a married woman, and what was the general course of her conduct?

A. She did not. She was a fast woman ~~and~~ who appeared eager for young men, and nearly always had them around her.

Q. Where does the plaintiff Kenny Moody now live?

A. In Isle of Wight County.

Q. How long has he been living there? Continuously?

A. Ever since I have known him, for twelve years or more.

Q. Where does the defendant Nannie Moody live?

A. In Isle of Wight County: she has resided there all her life.

Q. Where did the plaintiff and his wife Nannie Moody last cohabit?

A. At his residence in Isle of Wight County.

And further this deponent saith not.

J. H. Richards

ARMIE N. RICHARDS, being duly sworn deposes and says as follows:

Examined by R. H. Rawles.

Q. State your name, age, residence, occupation and if you know the parties to this suit?

A. Armie N. Richards, 21 years, Newport News, Va., housewife, and I know the parties well.

Q. Did you ever live in Isle of Wight County, and if so, when?

A. Yes, we lived there in 1915.

Q. Were you living in Isle of Wight County on or about September 15th or 20th, 1915?

A. I was.

Q. Do you remember whether Nannie Moody visited you and was at your home in Isle of Wight County about Sept. 15th or 20th, 1915?

A. She was there nearly two weeks on a visit to us.

Q. What was the nature of her conduct while there?

A. It was very bad indeed for a married woman; she permitted young men to visit her just as if she had been a single woman. One night about the 15th or 20th of Sept. 1915, about nine o'clock I went up in my bedroom - I had up to that time been washing up dishes and attending to my domestic duties, and found her in bed with my husband. I scolded them both. Both looked sheepish, no more than you could expect. Next day I told her she must leave and phoned her father to come after her.

Q. Did you request her to leave?

A. I did, and she left next day.

Q. While she was at your house how did she speak of her husband?

A. Very bad indeed, made slighting remarks about him, so much so, that I talked to her about it. She certainly did deceive me. I had no idea she was such a woman when she came there.

And further this deponent saith not.

Armie N. Richards

JACK KELLEY, being duly sworn deposes and says as follows:

Examined by R. H. Rawles.

Q. State your name, age, residence, occupation and if you know the parties to this suit?

A. Jack Kelly, 21 years, Nansemond County very near the Isle of Wight line, farmer, I know the parties.

Q. How long have you known Kenny Moody?

A. About 8 or 9 years.

Q. How long have you known Nannie Moody?

A. I guess somewhere about 4 years.

Q. Where does Mr. Kenny Moody reside?

A. In Isle of Wight County.

Q. Please state if he has been residing there for the past 12 months, or more?

A. He has been residing in that county continuously ever since I have known him, some 7 or 8 years, and still resides there.

Q. Where does Nannie Moody reside?

A. In Isle of Wight County, and she has been residing there continuously for the last 3 or 4 years.

Q. Where did Mr. Kenny Moody and his wife last cohabit?

A. In Isle of Wight County, at his residence.

And further this deponent saith not.

Jack Kelly

VIRGINIA:

County of Nansemond, to-wit:

I, Bradford Kilby, a Commissioner in Chancery for the Circuit Court of Nansemond County, Virginia, do certify that the foregoing depositions of J. H. Richards, Armie N. Richards and Jack Kelley, were duly taken, sworn to and subscribed before me, at the time and place stated in the caption hereto.

Given under my hand this 23d day of September, 1917.

*See next page. Fee \$5.
Paid*

Bradford Kilby
Comm. in Chancery for Nans. Co.

NOTES.

This is a civil case .

Has adultery been proved ?

Am & E. L. Vol. I page 752 . " From the nature of the case, adultery is rarely susceptible of direct proof ; it can generally be established ^{only} by circumstantial evidence . Direct proof is therefore not required ; it is sufficient to show circumstances from which it may be reasonably inferred . It may be proved by evidence that a man and a woman occupied the same bed undressed in the night ; or even that they occupied a room, with a bed in it . "

Bishop in his work on Marriage and Divorce says .

"Adultery is peculiarly a crime of darkness and must ordinarily be established by circumstantial evidence ; the circumstances must be such as would lead the guarded discretion of a reasonable man to the conclusion of guilt . "

According to the decisions in various cases too numerous to mention here, the proof in this case would be sufficient even if both the parties denied actual carnal knowledge

Their presence in bed together, undressed, for half an hour in the night, leads to the irresistible conclusion, especially when unexplained .

Here the facts are not denied ; one party is silent;

the other party admits the fact that they were in bed together

undressed in the night for half an hour, and until they were surprised, but declines to say what actually took place ; this was his right and privilege, since no man can be compelled to testify to his own conviction ; but he leaves the court to infer what did take place ; neither affirming or denying the carnal act .

The proof is too plain for discussion .

Respectfully .

RH Rauler
Counsel

Deposits.

Money is Money.

Filed Septem 29
1917.

Wm. O. Brown, Clk.

COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF THE COUNTY OF ISLE OF WIGHT, GREETING:

We command you that you summon Nannie Moody to appear at the Clerk's Office of the Circuit Court for our County of Isle of Wight, at the rules to be holden for said court on the 1st. Monday in September, 1917, to answer a bill in chancery filed against her by Kenny Moody. And have then and there this writ.

Witness, A. S. Johnson, Clerk of said Court, at the Courthouse, this 22nd. day of August, 1917.

Teste, A. S. Johnson Clerk.

R. H. Rawls, p.q.

Moody

n of Chambers 26th

Moody

I executed the within ~~Suitor~~ ^{Suitor} this the 24 day of
Aug. 1917 by Servant a true
 copy of the same in Mrs. N. Moody in person
 in the County of Isle of Wight.

R. A. Edwards.
 Sheriff of Isle of Wight Co.

August 25/1917
 Returned Filed
 Dist. Johnson, Clerk

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA:

Kenny Moody,

Plaintiff.

vs.

In Chancery.

Nannie Moody,

Defendant.

TO THE HONORABLE BENJAMIN D. WHITE,

JUDGE OF THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VA.

Humbly complaining sheweth unto the Court your orator, Kenny Moody, of the County of Isle of Wight, and State of Virginia, the following case:

Your orator says that he was married to his present wife on the 20th day of May, 1915; that at the time of said marriage he was of the age of 43 years, and his said wife was of the age of 17 years; that after said marriage he was at all times a constant, dutiful and faithful husband, and did everything in his power to make his wife happy; provided her with a good home and all the necessities and comforts of life. He further says that on the contrary, his wife from the first manifested very little affection for him and always seemed entirely indifferent towards him. He further says that in the early part of the year 1916, his wife, after she had wilfully abandoned and deserted him without any cause whatever and wandered off to live with other people, instituted a suit in this Court for a divorce from your complainant, charging cruelty and desertion on his part. Your complainant says that he answered the bill filed by her in said cause, denying the charge, and setting up as a cross-bill in his answer, the fact that his wife had wilfully abandoned and deserted him without any just or sufficient cause; that numerous depositions were taken and the cause came on finally for a hearing at which time a decree was entered denying to

the complainant the divorce prayed for by her, but granting divorce to the defendant in that case from his said wife from bed and board.

Your orator says that from the time of said desertion on the part of his said wife, he has never lived or cohabited with her a single day or any time; he says that when she first deserted him during the year 1915, she went to her father's and remained away about two months, and again returned home; she remained at her home with ~~her~~ your complainant only a very short time when she again left, and went to the residence of a certain Mrs. Key in said county; that she remained at the residence of Mrs. Key until she was finally ordered away from there by said Mrs. Key on account of her lascivious conduct, the said defendant Nannie Moody permitting young gentlemen in the neighborhood to visit her promiscuously as if she had been a single person. After she was driven away from the home of Mrs. Key, she went to the home of one J. H. Richards in said County of Isle of Wight and remained there from the 15th of Sept. to the 30th of Sept. 1915. Your orator says that while she was at the home of the said J. H. Richards, she was about the 15th or 20th of September, 1915, guilty of the act of adultery with the said J. H. Richards, and that the same took place under the following circumstances:

That one night about the time mentioned, to-wit: Between the 15th and 20th of September, 1915, in said County of Isle of Wight, after the said J. H. Richards had retired to his chamber and gone to bed and while he was in bed, and while his wife was elsewhere on the premises attending to domestic duties, the said Nannie Moody, after having dis-dressed robed herself and being ~~attired~~ only in her night attire, voluntarily entered the room of the said J. H. Richards and

got in bed with him and remained there for some time, during which time the act above charged took place; that while she was in that compromising position the wife of the said J. H. Richards came in the room and found her in bed with her said husband, and then she was immediately requested to leave the premises, which she did. Your orator further says that when depositions were taken in the former divorce suit alluded to he knew nothing of such conduct on her part, or he would have sought to have proven it then, that he has only since then discovered the fact and that since the said act of adultery on her part he has not condoned the same; that he has never lived with or cohabited with her a day since he became aware of it, nor in fact, a single day or any time since it happened, as she never, after it happened, returned to his house to live with him, and he has never been with her or associated with her on any terms since said act.

Your orator further says that he is informed and believes and therefore charges that such act on the part of his wife entitles him to an absolute divorce, as he could never again under any circumstances live with her or countenance her as his said wife; and in fact, if the above had not happened, he had expected, after the expiration of three years from her first desertion, to have filed a supplemental bill in the former case and upon a proper showing therein, have asked for a full divorce on the grounds of desertion, the decree in said former case having permitted him to do this. But since he has been informed of the above fact and act on her part, he deems it his duty, as it is certainly his wish, to apply immediately for an absolute divorce. Your orator further says that he has been domiciled in the County of Isle of Wight, and State of Virginia, for upwards of one year next preceeding the commencement of this suit, in fact, all his life; that he is now and has been all his life a resident of said county; that he and his said wife last cohabited in said county; and that his said wife is now and has been a resident of said county all her life.

IN TENDER CONSIDERATION WHEREOF, And forasmuch as your orator is without remedy in the premises, save by the aid of a court of equity where such matters are alone and properly cognizable, your orator prays that the said Nannie Moody may be made a party defendant to this suit and required to answer this bill, though an answer under oath is hereby waived; that proper process may issue; that all proper accounts and depositions may be taken, after due notice; and that your orator may be granted a full and absolute divorce a vinculo matrimonii from his said wife, Nannie Moody; and for all such other, further and general relief as this case may require, or which to equity may seem meet; and your orator will ever pray, etc.

Kenny Moody & Counsel.

VIRGINIA;

City of Suffolk, to-wit:

I, R. H. Rawles, a Notary Public for the city aforesaid in the State of Virginia, do certify that Kenny Moody ~~whose name is signed to the foregoing bill~~ has this day personally appeared before me in my city aforesaid, and after being duly sworn made oath that the facts contained in the above bill as coming of his knowledge are true and that all other facts mentioned therein as coming from knowledge or information derived from others he believes to be true.

Given under my hand this 25th day of August, 1917.
My term of office expires on the 20th day of January, 1919.

R H Rawles

Notary Public.

Bill.

Mordy vs Mordy.

1st September Rules 1917
Process returned executed
Bills filed. Answer made.

2nd September Rules 1917
Defendant not ap-
pearing, case set
down for hearing