1933-072 Chancery Causes: Elizabeth J. Hatchell vs Peyton M. Hatchell 588

Isle of Wight County

other SURNAMES: JOYNER

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

APRIL 26TH 1933.

Hatchell

vs: # 558

Hatchell

It appearing, pursuant to a decree entered herein on the 6th day of March, 1933, that the parties, or their Counsel, have been notified by the Clerk of this Court of the terms of said decree, and no good cause having been shown, it is ordered that this cause be removed from the docket, with leave to reinstate the same as provided in Section 6172 of the Code as Amended.

Natchell

vs } 558

Natchell

March TERM 1933 Filed

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

Elizabeth J. Hatchell, ----------, Complainant.

v). In Chancery. No. 558

Peyton M. Hatchell, ----------, Respondent.

This day came Elizabeth J. Hatchell, by counsel, and presented her bill of complaint, in this cause, duly verified by affidavit, and moved the Court to require the respondent, Peyton M. Hatchell, to pay to her, the said Elizabeth J. Hatchell, a reasonable sum of money for the maintainence and support of herself and her three infant children, during the pendency of this suit, and a sufficient sum of money to enable her to carry on and prosecute the same; and, the Court having considered the bill of complaint, and affidavit thereto, it is Adjudged, Ordered and Decreed that the said Peyton M. Hatchell pay unto Elizabeth J. Hatchell, or Johnson and Stephens, her attorneys, the sum of $25.00 within three days from the date of service of this order, and a like sum of $25.00 on each Saturday thereafter until the further order of this Court, and to pay to the said Johnson and Stephens, the sum of $50.00 on account of attoorney fees and costs of this cause:

for the support of herself and the three children of said marriage

And on the further motion of the said Elizabeth J. Hatchell, by her counsel, an injunction is hereby awarded enjoining and restraining the said Peyton M. Hatchell from entering or occupying the dwelling house occupied by the complainant and respondent as their dwelling house, which said dwelling house and farm is the property of the said three infant children, and enjoining ~~this~~ and restraining him, the said Peyton M. Hatchell, from molesting or taking into ~~consideration~~ his custody the three infant children, or any one of them; and, from molesting or in any manner interfering with the complainant, Elizabeth J. Hatchell, until the further order of the Court; and, further restraining and enjoining the said Peyton M. Hatchell from assigning, encumbering, converting, disposing of, or concealing any of

his estate, either real, personal or mixed, including a tract of land situate in Isle of Wight County, containing 45 acres, more or less, situate on the State Highway leading from Smithfield to Isle of Wight Courthouse, and bounded by the lands of Warner and Moody et als., and including such money, monies, securities, evidences of debt, or other things of value that he might have deposited in the Merchants and Farmers Bank, Smithfield, Virginia, or any other place;* and, ~~that~~ it appearing that the complainant is without means it is further adjudged, ordered and decreed that no bond be required of her, and that the Clerk of this Court deliver to the Sheriff of this County ~~two~~ copies of this order, one to be served on the said Payton M. Hatchell and the other to be served upon the Merchants and Farmers Bank, Smithfield, Virginia; and, the said sheriff is hereby directed to make known to the Court, by proper return, of the time and manner of such service.

*And said Bank or any other banking institution

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

April 5, 1929

Elizabeth J. Hatchell, ----------, Complainant.

v). Chancery. No. 558

Peyton M. Hatchell, ----------, Respondent.

This day came Elizabeth J. Hatchell, by counsel, and presented her bill of complaint in this cause, duly verified by affidavit, and moved the Court to require the respondent, Peyton M. Hatchell, to pay to her, the said Elizabeth J. Hatchell, a reasonable sum of money for the maintainence and support of herself and three infant children, during the pendency of this suit, and a sufficient sum of money to enable her to carry on and prosecute the same; and, the Court having considered the bill of complaint, and affidavit thereto, it is Adjudged, Ordered and Decreed that the said Peyton M. Hatchell pay unto Elizabeth J. Hatchell, or Johnson and Stephens, her attorneys, for the support of herself and the three ~~infant~~ children of said marriage, the sum of $25.00 within three days from the date of service of this order, and a like sum of $25.00 on each Saturday thereafter until the further order of this Court and to pay to the said Johnson and Stephens the sum of $50.00 on account of the attorney fees and costs of this cause:

And on the further motion of the said Elizabeth J. Hatchell, by her counsel, an injunction is herey awarded enjoining and restraining the said Peyton M. Hatchell from entering or occupying the dwelling house occupied by the complainant and respondent as their dwelling house, which said dwelling house and farm is the property of the said three infant children, and enjoining and restraining him, the said Pwyton M. Hatchell from molesting or taking into his custody, and from in any manner interfering with the complainant, Elizabeth J. Hatchell, or in any manner interfering with the custody of the three infant children, or any one of them; and, further restraining and enjoining the said Peyton M. Hatchell from assigning, encumbering, converting, disposing of, or concealing any of his estate, either real, personal or mixed, including a tract of land situate in Isle of Wight County,

containing 45 acres, more or less, ~~xxxx

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

MARCH 6th 1933.

Hatchell

vs: # 558

Hatchell

IT APPEARING that this cause has been on the docket of this Court for more than two years, and that no order has within said period been entered herein, it is therefore ordered, pursuant to the provisions of Section 6172 of the Code of Virginia, as amended, the Clerk of this Court be directed to notify the parties to this cause, if known, or their counsel of record, at his or their last known address, in writing, at least fifteen days before the 25th day of April, 1933, so that on said day all parties named have an opportunity to be heard, and that, except for good cause to then be shown, this cause will be removed from the docket for failure to prosecute the same to a final decree.

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Vs # 558

Natchez

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Virginia: Circuit Court of
County of Isle of Wight.

Elizabeth J. Hatchell,

v). Chancery. No. 558

Peyton T. Hatchell.

Note for Decree.

Enter this:

Apr., 6th., 1929.

Book 8
page 496.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

Commonwealth of Virginia,

To the Sheriff of Isle of Wight County — Greeting:

WE COMMAND YOU, That you summon Peyton M. Hatchell,

to appear at the Clerk's Office of the Circuit Court of the County of Isle of Wight at the rules to be holden for the said Court on the Third Monday in April, 1929, to answer a bill in chancery, exhibited against him in our said Court by Elizabeth J. Hatchell,

And have then and there this writ.

Witness, R. A. EDWARDS, Clerk of our said Court, at the Courthouse, this 6th day of April, 1929, and in the 153rd year of the Commonwealth.

R. A. Edwards Clerk.

Executed the within described subpoena and injunction
order this the 6th day of April 1929 by serving a true
copy of the same on Peyton M. Hatchel in person in the
county of Isle of Wight.

H. C. Whitehead, Sheriff.

Elizabeth J. Hatchell,

vs. } CHANCERY NO. 558

Peyton M. Hatchell,

ORIGINAL SUBPOENA

Virginia, Clerk's office of the Circuit Court of the County of Isle of Wight.

....., 19....

Returned, entered and filed.

Teste:

.....*Clerk*

To Second April------ *Rules*

19 29

Johnson & Stephens, *p. q.*

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

Elizabeth J. Hatchell, ----------, Complainant.

v). Chancery. NO. _____

Peyton M. Hatchell, ----------, Respondent.

To the Honorable Benjamin Dey White,

Judge of the Circuit Court of the County of Isle of Wight, State of Virginia:

Your complainant, Elizabeth J. Hatchell, represents to the Court the following case, and prays for such relief therein as is equitable and proper:

1. That on the 2nd. day of January, 1917, she was married, at Gatesville, Norcth Carolina, to Peyton M. Hatchell, the respondent herein, her maiden name being Elizabeth Joyner; and,

2. That continuosly from the date of the marriage aforesaid up to the 30th., day of March, 1929, your complainant and respondent lived together as man and wife in the County of Isle of Wight, State of Virginia; and,

3. That your complainant has resided in, and has been domiciled in, the State of Virginia, ever since the marriage aforesaid, and is now domicilied in, and is, and has been, a bona fide resident of the County of Isle of Wight, State of Virginia, for at least one year prior to the institution of this action; and,

4. That up until the 30th., day of March, 1929, your complainant and the said respondent resided on a certain farm situate near Isle of Wight Courthouse, in the County and State aforesaid, which said farm is owned by the three infant children of the respondent and your complainant, they have acquired the same by virtue of the last will and testament of P. Maurice Hatchell, deceased; and, that your complainant has no home other than this; and,

5. That for the past two years the said respondent has been intemperate in his habits, abusive and violent to your complainant, making violent and brutal attacks upon her person; and, that by reason of the said violent and brutal attacks she has been for a long time, and is at the present time, in great danger of her health, and she believes that even her life is in danger; that on innumerable occasions your complainant has been violently attacked and cruelly struck, bruised and painfully and dangerously hurt and injured by the said respondent; that she is weak and unable to protect herself against the aforesaid violent attacks upon her by the said respondent; thatbecause of the inability of your complainant to protect herself the aforesaid violent attacks she has been forced, time and again, to flee from him, with her three infant children, from her home, and to seek shelter and protection with friends and relatives, from respondent; that upon the occasions of the violent and brutal attacks upon her on the part of the respondent, and at times when he would threaten her life unless she left the premises, she has been compelled to call in friends and neighbors for her protection against the brutal, inhuman, violent and cruel assaults committed, and attempted to be committed, by respondent; and,

6. That the violent and brutal attacks aforesaid have been made upon your complainant by the respondent for no just cause whatsoever, she having, at all times, been a most loyal, devoted, true and faithful wife; and,

7. That your complainant has endeavored, in every possible way, to persuade and induce the respondent to cease the excessive use of intoxicants and become more humane and kindly in his treatement to her, and her children, but to no avail; that on the other hand the said respondent has become more intemperate in his habits, and more violent in his conduct, and attacks upon her, until she has reached

the point where she can no longer tolerate or endure his inhuman, brutal and cruel treatement of her, fearing not only further bodily injury at his hands, but that to reside any longer with him in the same house will be to endanger her life as well as her body; and,

8. That of the aforesaid marriage there has been born three children, to-wit: Jack Hatchell, age eleven; Louise Hatchell, age nine; and, Peyton Hatchell, Jr., age seven; that the said children are now in the care and custody of your complainant; that because of the habitual intoxication of the respondent, and his habitual and continued use of vile, profane and indecent language in the presence of the said infant children, and your respondent, it is not proper and to the best intersts of the said infant children that they live and reside in the same house with the respondent; and,

9. That your respondent last co-habited with the respondent on the farm aforesaid, in the dwelling house, occupied by them as aforesaid, as man and wife, on the 29th., day of March, 1929; and, that on the 30th., day of March, 1929, the said respondent deserted your respondent and the said infant children leaving them in the Town of Smithfield, alOne, and without funds; and,

10. That the said respondent is seized and possessed of a certain tract of land situate in Hardy Magisterial District, County of Isle of Wight, State of Virginia, containing forty acres, more or less, bounded by the State Highway leading from Smithfield to Isle of Wight Courthouse, the lands of Warner and Moody, et als., that the said respondent is possessed of considerable personal property, both tangible and intangible, consisting of farming implements, teams, automobile, truck, cash in bank, evidenced of debt and other securities; amd, that your complainant is informed that the respondent has considerable cash on deposit in the Merchants and Farmers Bank, Smithfield, Virginia, and other evidences of debt in the said bank for safekeeping; and,

that your complainant is informed that the said respondent has threatened to convert all of his evidences of debt into cash, withdraw all of his money from the bank and otherwise dispose of his property, insofar, as possible, if any attempt is made on the part of your complainant to secure alimony; that your complainant is of the opinion that the respondent will carry out his threats leaving her, and the three said infant children, destitute;

In tender consideration whereof, and foasmuch as your complainant is remediless in the premises, save in a co rt of equity where matters of this kind are alone and properly cognizable, she prays that the said Peyton M. Hatchell, be made a party defendant to this, her bill of complaint, and required to anser the same, tho not under oath, answer under oath being hereby expressly waived; that the said Peyton M. Hatchell be restrained and enjoined from occupying the premises, or entering thereon, which belongs to the said infant children; and, from, in any way, interfering or molesting your complainant and her infant children herein named; that the said Peyton M. Hatchell be forever restrained and enjoined from molesting, or exercising any control over the ~~the~~ true said infant children; that a divorce a mensa et thoro be decreed to her; that he, the said respondent, at once, and during the pendency of this suit, be compelled to pay such sums of money, as temporary alimony, as may be sufficient for the support of your complainant and her infant children; 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 cause; that he be compelled to make such permanent provision for the support of your complainant and the said infant children as may be just and proper, and to secure the regular, safe and prompt payment of the same in such a way as to the Court may appear effectual; that an injunction be awarded restraining and enjoining the said Peyton M. Hatchell from converting assigning,

encumbering, or in any way disposing of, or concealing, any of his property of every or any character, kind or description, real, personal or mixed, until the further order of this court; that the said Court may not require any notice whatsoever to be given to the said respondent, or anyone else, before an injunction is awarded; and, that your complainant may have all such further, other and general relief in the premises as the nature of her case may require, or to equity shall seem meet.

And as in duty bound she will ever pray etc.

Elizabeth J Hatchell

State of Virginia.
County of Isle of Wight, to-wit:

I, A. E. S.Stephens, a Commissioner in Chancery for the Circuit Court of the County of Isle of Wight, State of Virginia, do hereby certify that Elizabeth J. Hatchell, whose name is signed to the foregoing bill of complaint, has, on this day, personally appeared before me in my said County, and made oath that the statement therein contained, which are made from her own knowledged, are true; and, that those made of which she has obtained knowledge from others, she believes to be true.

Given under my hand this the 5th., day of April, 1929.

A E S Stephens.
Commissioner in Chancery.

Virginia: Circuit Court of the County of Isle of Wight.

Elizabeth J. Hatchell

v). Chancery. No. 558

Peyton M. Hatchell.

Bill of Complaint.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut