1891-005
Nansemond Co. (Suffolk) Chancery Causes: W.T. Benton vs Ella E. Benton

Roberts, Jones, Morgan, Brinkley

W T Benton
vs
Ella E Benton

Costs

| | |
|---|---|
| Clerk | $11.38 |
| Say | 1.50 |
| Shff | 50 Newell |
| Atty | 15.00 |
| | $21.38 |

COURTS:
NANSEMOND, ISLE OF WIGHT AND SOUTHAMPTON COUNTIES,
AND UNITED STATES COURTS AT NORFOLK.

OFFICE OF E. E. HOLLAND,

*Commonwealth's Attorney for Nansemond County.*

Suffolk, Va., .....

To Clerk of the Circuit-Court of Nansemond Co:

W. J. Burton Plaintiff

vs

Ella E. Burton

Issue Summons in Chancery to June (2nd) Rules 1891.

E. E. Holland

June 4, 1891

P.Q.

Burrows
vs
Burrows

Chancy.

Memorandum

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CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Ella E Benton

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for the said Court, on the ~~first~~ third Monday in June 1891 ~~next~~, to answer W S Benton a Bill in Chancery, exhibited against her in the said Court by ~~said~~ W S Benton

and have then and there this summons.

Witness, ~~PETER B. PRENTIS~~ A P Gomer, Clerk of our said Court, at his office, this 4th day of June 1891, in the 115th year of the Commonwealth.

Teste:

A P Gomer Clerk.

Executed this the 10th day of June 1891. by
delivering a copy of this
to Ella E. Benton
in person.
Wm. H. Bowles
Sheff

E E Hallcom

W T Benton

vs } In Chancery.

Ella E. Benton

1891

June Rules

3rd Monday

Process Book No Pg

Circuit Court

To Mrs.Ella E.Benton-

You are hereby notified, that on Monday the 21st day of September, 1891, at the office of E.E.Holland, in the Town of Suffolk, Virginia between the hours of 6 A.M. and 6 P.M. I shall proceed to take the depositions of James Jones and others , to be read as evidence in my behalf in a certain cause in Chancery depending in the Circuit Court of the County of Nansemond, wherein I am plaintiff and you are defendant; and if from any cause the taking of said depositions be not commenced or if commenced be not concluded on that dsy, the taking thereof will be adjourned from day to day, at the same place, and between the same hours, until the same shall be completed.

Respectfully,

W. D. Benton
By Counsel

Executed by delivering a copy hereof to Ella E. Benton-
this the 17th day of September, 1891

Jno. W. Ames Jr Sergt

The depositions of J.B.Jones and others taken before E.E.Holland, a notary public for the County of Nansemond, Virginia, at his Office in the Town of Suffolk, Virginia, on the 21st day of September, 1891, between the hours of 6 A.M. and 6 P.M. pursuant to notice hereto attached, to be read as evidence in behalf of W.T.Benton, plaintiff in a certain suit pending in the Circuit Court of Nansemond County Virginia, wherein said W.T.Benton is plaintiff, and Ella E.Benton is defendant-

Present-W.T.Benton-Present Ella E.Benton-

Jas.B.Jones, a witness being duly sworn deposes and says as follows:

1st.Q.What is your name, age, residence, occupation, and do you know the parties to this suit?
Ans-Jas.B.Jones; am fifty four years old; live in Gates Co, N.C.: am a farmer; and I know the parties to this suit-

How long have you known the parties to this suit?
Ans.I have known the plaintiff all his life, and the defendant for some ten or twelve years.

3rd.How far did these parties live from you when they lived together as man as wife?
Ans.They lived about three miles from me-
I was not present at their marriage, but I know they lived together as man and wife, and as the result of their living together had three children-

Do you know how long they lived together as man and wife?
Ans.Some six or seven years-

4th.Are they living together now?
Ans.They are not.

5th.Q.How long have they been living apart?
Between five and six years.

6th.Q.Do you know anything about why she left him?
I do not.

Have they lived together since they separated at any time?
They have not.

Where does plaintiff live?
Ans.In Gates Co, N.C.

Did she leave his home?
Ans.She did-

State all that you may know about the separation?
I know that she left his home some five or six years ago and has not returned since. I understand she went to her fathers. Plaintiff told me that if she would return he would treat her as his wife as best he could, and I really believe he was anxious for her to return, and I told her that he was anxious for her to return-She told me that she would never live with him again-That she had left him for good, and would under no circumstances return and live with him. She went to him and wanted him to consent to a divorce, and he told her he would not consent, that he wanted her to come back home and attend to her business as his wife, and live with him again.

I am satisfied that he has been at all times willing and anxious for her to return and live with him as his wife, and that he would have gladly taken her back at any time, and I am satisfied that she knew this and still she positively refused at all times to return. Although he has several times requested it she has always positively refused to return.

And further this deponent saith not- Jas B Jones

Jas.E.Morgan, another witness being duly sworn deposes and says as follows;

Ist.Q.What is your name, age residence, occupation and do you know the parties to this suit?
Ans.Jas.E.Morgan; age, fifty two; live in Gates Co, N.C.; am a merchant and farmer; and know the parties to this suit?

2nd.Q.How long have you known these parties?
I have known the plaintiff all his life; and the defendant since her marriage with him?

3rd.Did they live together as man and wife during your acquaintance with them, if so, how long?
Ans.I know they lived together as man and wife; they afterwards separated, but I do not know how long it has been since the separation-

Was the plaintiff so far as you know a good husband?
He was a good husband-his wife was kind-I never heard of any trouble between them-

You say shhey separated-did she leave his home?
Ans.She left his home-without cause so far as I know or have heard-

State anything you may know about the separation?
I only know they separated.

And further deponent saith not- J. E. Morgan

F.P.Brinkley another witness being duly sworn deposes and says;
What is your name, age, residence, occupation and do you know the parties to this suit?
Ans.F.P.Brinkley, am forty years old nearly; live in Nansemond Co, Va am a farmer ;and know the parties to this suit-

State all that you may know about the separation?
I know that they separated; that she left him; she left him so far as I know without cause; and I have heard her say that she would never return and live with him.
And further this deponent saith not. F. P. Brinkley

W.W.Jones, another witness being duly sworn deposes and says as follows:

What is your name, age residence, occupation, and do you know the parties to this suit?
Ans.W.W.Jones, age, nearly forty seven; live in Nansemond County; am a farmer and know the parties to this suit?

How long have you known the parties to this suit?
Ans.I have known plaintiff ever since he was a small boy; have only known his wife since their marriage-

Are they living together now as man and wife; if not do you know how long it has been since they did live together as man and wife?
They are not liveing together now-She left him at least six years ago-and has not lived with him since-

Was the plaintiff a good husband so far as you know?
He was-So far as I know she left without cague.

And further this deponent saith not. W. W Jones

A.L.Roberts another witness being duly sworn deposes and says:

What is your name, age residence, occupation, and do you know the parties to this suit?

A.L.Roberts; am 27 years old, live in Suffolk, Va. am a railroad conductor, and know the parties to this suit.

2nd.Q.Were you present at the marriage of W.T.Benton and Ella E.Roberts?

I was present and saw them married. They were married near Windsor in Isle of Wight County, Va, by Rev.J.F.Deans.

3rd.3.How long did they live together after their marriage?

About Eight years I think, but would not be certain.

Do they live together now, if not how long have they been separated?

They do not. Have been separated over five years.

Do you know whether Mrs.Benton refuses to return and live with her husband?

She positively refuses to do so.

And further this deponent saith not. A. L. Roberts

Virginia, Nansemond County, towit:

The within depositions of James B. Jones, J.E. Morgan, F.P. Brinkley W.W. Jones, and A.L. Roberts, were taken, subscribed and sworn to before me E.E. Holland, a notary public, in and for said County in said State, this the 21st day of September, 1891.

Given under my hand this the 21st day of September, 1891,

E.E. Holland.
N.P.

Benton
20 Dobson
Benton

W.T.Benton-
vs-In Chancery

Ella E.Benton

This cause came on this day to be heard on the bill and the examinations of witnesses and was argued by counsel.On consideration whereof the Court being of opinnion, from the evidence furnished in the cause, that the defendant Ella E.Benton has wilfully abandoned and deserted the plaintiff W.T.Benton, for a period of over five years, doth adjudge, order and decree that themarriage heretofore had and solemnized between the defendant Ella E.Benton (formerly Ella E.Roberts)and the plaintiff W.T.Benton shall be ,and the same is hereby dissolved;and ~~th~~ that the said W.T.Benton be forever divor ced from the said Ella E. Benton.And the Court doth further order,adjudge and decree that upon the payment of the costs of this suit that the same be removed from the docket.

W.T.Benton

vs-In Chancery

Ella E.Benton

Decree for divorce

Oct 14 1891, To be entered

cmt

Entered in Chancery Order
Book 2 no 2, Page. 477

To the Hon. C.W.Hill, Jusge of the Circuit Court for the County of Nansemond.

Complaining showeth unto the Court your complainant, W.W. Benton, that on the I6th day of January, in the year I879, in the County of Isle of Wight, Virginia, he was married to Ella.E. Roberts; that from that date until the I8th day of December in the year I885 they lived together as man and wife, and she bore him three childen, towit; Lonnie, Bertha and Vera. On said I8th day of December, in the year, without any excuse or cause she left your complainant, taking with her, Bertha and Vera, two of the children, and went to her mothers home, with whom she has since lived. Your complainant has since that date repeatedly and in good faith, in person and by letter, urged his wife to return to him, and assured her of his continued affection for her. Your complainant states that his wife has not only refused to return to him, but has repeatedly and emphatically declared her intention never to return to him. Your complainant futher states that while they lived together he sought in every possible way to be a constant, faithful and dutiful husband, and that his said wife abandonned and deserted him without cause and without excuse. Your complainant further states, that notwithstanding such abandonment and desertion, which he charges was wilful and without excuse, he has sought in every possible way to secure her return-promising to be a loving and devoted husband-but without success. Your complainant is driven therefore to ask for that redress which the law affords him, a divorce a vinculo matrimonii, on the ground of wilfulabandonment and desertion, for ever five years-that is to say from the I8th day of De-

cember in the year I885 until now-which said abandonment and desertion the said complainant charges and alleges was without cause and without excuse.

Your complainant states that his said wife is now living so he has been informed with her ~~mother~~ brother in Suffolk, County of Nansemond, Virginia, and that she has with her their two children Bertha and Vera.

In tender consideration whereof and for as much as you complainant is remediless save in a Court of equity where matters of this kind are alone cognizable, your complainant prays that the said Ella E. Benton may be made a party defendant to this bill and required to answer the same-answer under oath being waived-; that proper process issue; that your complainant may be divorced from her a vinculo matrimonii; that the children may be allowed to remain with whichever parent they desire; that all proper orders and decrees may be made and all such other , further and general relief may be afforded your complainant as the nature of his case may requireor to equity shall seem meet. And your complainant will ever pray &c.

W. T. Benton
By Counsel

Virginia, Nansemond County, towit;

Personally appeared before me, a notary public, in and for the County of Nansemond, in the State of Virginia, W.T. Benton, and made affidavit that he believes the statements made in the foregoing bill are true.

Given under my hand this the 15th day of June, I89I

E. E. Holland
N. P.

Circuit Ct. Hancock Co

W. P. Benton

vs In Chancery

Ella E. Benton,

E. E. Holland &c.

W T Benton Complainant
Against } In Chancery
Ella E. Benton Defendant.

1891. June 4th. Process issued returnable third Monday in June

" " 15th. Process returned executed on Defendant. Bill filed and decree nisi against defendant.

" July 6th. Decree nisi confirmed and cause set for hearing

Chancery Notes
W S Benton
vs
Ella Benton