1903-005
Nansemond Co (Suffolk) Chancery Causes: Berry Battle vs Phyllis Battle

Ricks, Boyett, Cross, Clarke, Clark, Franklin

Berry Battle R A Rawles p q

1903 To A. P. GOMER, Clerk Circuit Court of Nansemond County, Dr.

May 28th. Tax ~~and Clerk Fees~~ in suit in Chancery against Phillis Battle $1.50

June 29th 1903 Paid A. P. Gomer ..... Clerk.

R N Bowles
Mary P Lasseter
$1,50

Office of
Register of Deeds Nash Co.,
J. A. Whitaker, Register.

Nashville, N. C., May 23rd 1903

North Carolina }
Nash County }

This is to certify that the Marriage records of this office shows that Marriage licence was issued for the Marriage of Berry Battle & Phyllis Ricks (Colored) and were married by R. C. Tilley Minister of the Gospel. On 19th day November 1881 at Rocky mount N.C.; Witness present at marriage. Wister Tilley Richard Parr.

J. A. Whitaker
Register of Deeds
Nash Co

Fee - 50 ¢

Certificate of Marriage

Ex "A".

Mr. A. P. Gomer Clerk Circuit Court
of Nansemond County:—

Berry Battle — Pltff

vs.

Phyllis Battle — Deft

Issue summons in plaintiff
against defendant to first July
rules 1903 to answer a Bill in
Chancery.

R H Rawles p.q.

Direct summons to Sergeant City of
Portsmouth and send to me.

Memo. for Clerk

Battle vs. Battle

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE ~~SHERIFF~~ Sergeant OF ~~NANSEMOND COUNTY~~ the City of Portsmouth —GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Phyllis Battle

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 Monday in July 1903, to answer a Bill in Chancery, exhibited against her in the said Court by Berry Battle

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this 28th day of May, 1903, in the 127th year of the Commonwealth.

A copy—Teste:

_____, CLERK.

Teste: A. P. Gomer, CLERK.

R. H. Rawles p. q.

Berry Battle

vs. | In Chancery.

Phyllis Battle

1903

July Rules.

First Monday.

Nansemond Circuit Court.

Process Book No. 21

Page

Return to R. H. Rawles

Executed in the City of Portsmouth Virginia on this 2nd day of June 1903 by delivering a true copy hereof to Phyllis Battle in person, Williamston Nansemond Co. Virginia

City of Portsmouth Va, Reed 50¢ fee for service

Wm Fourcher Smith

To Phyllis Battle :-

TAKE NOTICE that I shall, on the 25th day of July 1903 ~~Sq~~,

at the Office of R. H. Rawles Attorney at Law

on Washington Square

in Suffolk Virginia

between the hours of 6 A. M. and 9 P. M., on that day, proceed to take the depositions of W. D. Bozett and others, to be read in evidence in My behalf, in a certain Suit in equity depending in the Circuit Court for the County of Nansemond Virginia wherein you are defendant and I am plaintiff; and if, from any cause, the taking of the 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 and continued from day to day, or from time to time, at the same place and between the same hours, until the same shall be completed.

Respectfully yours,

Berry Battle by
R. H. Rawles Counsel.

Notice to take depositions.

Executed in the City of Portsmouth Virginia on this 2nd day of June 1903 by delivering a true copy of the within notice to Phyllis Battle in person Williamson Smith sergt of said City of Portsmouth

Recd. 50¢ fee for service
Wm Son Smith

Return to
R. H Rawles
Suffolk Va.

The depositions of W. D. Boyett and others, taken before me, C. H. Causey, a Commissioner in Chancery for the Circuit Court of Nansemond County Virginia, on the 25th day of July, 1903, between the hours of - 6 - A. M. and 9 P. M., at the office of R. H. Rawles, Attorney at Law, on Washington Square, in Suffolk, Virginia, pursuant to notice herewith annexed and returned, to be read as evidence on behalf of — Berry Battle — in the Chancery suit now pending in the Circuit Court of Nansemond County, wherein the said Berry Battle is plaintiff and Phyllis Battle is defendant.

Present:

R. H. Rawles, Counsel for Plaintiff.

The defendant did not appear either in person or by Counsel.

.W. D. Boyett being duly sworn, deposes and says as follows:

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

Ans. W. D. Boyett, thirty two years old , Suffolk Virginia, merchant and I know both the parties to the suit .

2nd Ques. How long have you known the plaintiff and what do you know of his character, habits of life, general conduct and disposition?

Ans. I have known Berry Battle for six or seven years:/ he is a man of good character; as good as any colored man I ever knew; he is perfectly honest and will certainly pay his debts; I never saw any bad habits on his part ; he is an exception in my opinoin; always conducted himslf w well; he is a man of quiet and peaceable disposition.

3rd Ques. Do you know whether he and his wife are now living together or not?

Ans. . I am satisfied they are not.

4th Ques. How long did she live with him after their marriage?

Ans.
Until she left him about four years ago.

5th Ques. Do you know whether she has ever returned to live with him since she left him at the time mentioned?

Ans. She has not.

6th Ques. Would you have been likely to have known the fact, if she had returned, and what were your opportunities ~~is~~ for knowing the same?

Ans. I bought for him the house in which they lived, and let him have it ; he has paid me for it ; when they were living together, they traded with me daily; she had and carried his pass book, and bought what she pleased at my store, and he always paid for it; My store was in sight of their home; after she left her husband at the time abovementioned I saw her once or twice in Suffolk and asked her if she had come back to live with her husband, and she said she had not ; that she come up to see her mother and that she never expected to come back to live with her husband any more.

7th. Ques. Do you know where she now is, and what is she doing?

Ans. She is living in Portsmouth, Va., but I donot know what she is doing.

8th Ques. Please state how the plaintiff conducted himself regarding his wife, and how he took care of her and treated her when they were living together?

Ans. So far as I saw he always treated her well ; better than she deserved. If he ever mistreated her, I never heard of it .
He bought a home for her and took care of her and paid all bills that were contracted by her so far as I konw.

9th Ques. Do you know of any cause or reason, on his part, which induced her to abandon and desert him?

Ans. None that I know of. I think that she left him because she was in love with another man.

10th Ques. Please state any and all other facts you may know, in regard to this case, relating to the separation of the plaintiff and the defendant

Ans. As stated before, when they were livivg together , before they seperated about four years ago, in sight of my store I saw them both almost daily; after she left I did not see her there anymore, or in Suffolk, except on the occasion of the visits mentioned above, when she told me that she was not coming back to live with him any more. If she had come back and lived with him at his home I should have certainly seen her . Thee is no question about her having deserted him.

11th Ques. Where is the plaintiff now living, and how long has he been living here continuously?

Ans. He lives in his same home on Tynes Street, near Suffolk? He has lived there six or seven years.

12th Ques. Do you know whether he owns any property or not?

Ans. He owmes the house and lot on which he lives and some personal property.

13th Ques. Where did he and his wife last cohabit?

Ans. At the same place mentioned above, in Nansemond County , Va.

And further this deponent saith not.

W. L. Boyett

Baltz

J. D. Cross being duly sworn, deposes and says as follows:

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

Ans. J. D. Cross, Suffolk Virginia, merchant, twenty eight years of age, and I know the parties to the suit .

2nd Ques. How long have you known the plaintiff and what do you know of his character, habits of life, general conduct and disposition?

Ans. I have known him for ten years, he is an alright man, good character, industrious, hard working man, disposed to take care of his money, peaceable, and ~~quite~~ quiet.

3rd Ques. Do you know whether he and his wife are now living together or not?

Ans. They are not .

4th Ques. How long did she live with him after their marriage?

Ans. she lived with until about four years ago, when she left and went away. I have not seen her back here living with him since; in fact I have not seen her here at all since she then went away.

5th Ques. Do you know whether she has ever returned to live with him since she left him at the time mentioned?

Ans. She has not; I saw them quite frequently, almost daily, when they were living together ; she traded with me, and Mr Boyett for whom I clerked, very often.

6th Ques. Would you have been likely to have known the fact, if she had returned, and what were your opportunities for knowing the same?

Ans. Yes I should, because they lived right near where I did business, and he trades with me now, and if she were here I would se her, as I did before she left: He is an honest man, and always pays up his debts. I am quite sure she has not returned to live with him since she left four years ago for I would surely have seen her ~~her~~ if she had been here.

7th Ques. Do you know ~~whether~~ where she now is, and what she is doing?

Ans. I do not .

8th Ques. Please state how the plaintiff conducted himself regarding his wife, and how he took care of her and treated her when they were living together?

Ans. He took as good care of her as any one in his circumstances could ; he always bought a plenty of something to eat and as far as I know took good care of her. I never knew him to mistreat her. He is as quiet and easy man as I ever knew/

9th Ques. Do you know of any cause or reason, on his part, which induced her to abandon and desert him?

Ans. I do not .

10th Ques. Please state any and all other facts you may know, in regard to this case, relating to the separation of the plaintiff and the defendant.

Ans. All I know is that they lived together for a long time near where I did business; that he supplied her with all the necessaries of life; ; that about four years ago she left him, and that since that time she has not returned. I do not know why she left; he never gave her any cause for leaving to my knowledge.

11th Ques. Where is the plaintiff now living, and how long has he been living here continuously?

Ans. At the same place on Tynes street, in Suffolk, and has lived there continuously for some fifteen years, and I regard him as an honest and worthy man, whose word can be taken.

12th Ques. Do you know whether he owns any property or not?

Ans. He owns the place where he lives.

13th Ques. Where did he and his wife last cohabit?

Ans. At that place in Nansemond county Virginia.

.And further this deponent saith not.

J. D. Cross

Fill

~~Phil Clarke~~ Clarke being duly sworn, deposes and says as follows:

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

Ans. Phil. Clarke thirty oneyears old, Tynes Street in Suffolk, and I know both the parties to the suit .

2nd Ques. How long have you known the plaintiff and what do you know of his character, habits of life, general conduct and disposition?

Ans. I have known the plaintiff, Berry Battle, for about fifteen years quiteintimately; we worked together a good deal; he was aman of very good character; peaceabledisposition; not disposed to quarrel or fuss; he is a hard working and industrious man who attends to his own business and does not meddle with other people.

3rd Ques. Do you know whether he and his wife are now living together or not?

Ans. They are not now living together; she left him a little over four years ago and went away; it was some time in February 1899; she has never since been back to live with him.

4th Ques. How long did she live with him after their marriage?

Ans. Until about the time mentioned above, that is in February 1899.

5th Ques. Do you know whether she has ever returned to live with him since she left him at the time mentioned?

Ans. To my knowledge she has not ; I saw them almost daily up to the time she left, and she has not since been back.

6th Ques. Would you have been likely to have known the fact, if she had returned, and what were your opportunities for knowing the same?

Ans. Yes I shloud have known the fact, as I live right across the street from where they lived, and where he now lives; and as I said, I saw them almost daily when they were living together, and if she had come back to live with him again, I would alomost certainly have seen her there .

7th Ques. Do you know where she now is, and what she is doing?

Ans. I have heard, she was at Portsmouth, but do not know of my own knowledge .

8th Ques. Please state how the plaintiff conducted himself regarding his wife, and how he took care of her and treated her when they were living together?

Ans. I took him to be a mighty good man to his wife; and I think he took the best care of her he could in his circumstances . I never heard of his mistreating her, and I never heard of his being a mean man no way. They lived right there in the same house all the while. He owns the house where he lives.

9th Ques. Do you know any cause or reason, on his part, which induced her to abandon and desert him?

Ans. I know of no reason whatever for her leaving him ; she had a good home: I often visited them.He was a hard worker; I never saw her do any work except attending to her house affairs. He took care of his earnings and always carried it home; he did not spend his money foolishly. That is the way he acquired a home for her .

IOth Ques. Please state any and all other facts you may know, in regard to this case, relating to the separation of the plaintiff and the defendant

Ans. I have about stated all I know ; they lived together till she left him as stated above; and since then he has been living at the same place. I am quite sure she has never been back .

IIth Ques. Where is the plaintiff now living, and how long has he been living here continuously?

Ans. He is living at the place stated ~~her~~ above in Nansemond county and has been living there about fifteen years continuously/.

I2th Ques. Do you know whether he owns any property or not?

Ans.

Yes he owns the house and lot on which he lives/

I3th Ques. Where did he and his wife last cohabit?

Ans. At the same place in Nansemond county .

And further this deponent saith not.

Gill Clark

George S. Franklin . being duly sworn, deposes and says as follows:

1st Ques. What is your name, age, residence, occupation and do you know the parties to this suit?

Ans. George S. Franklin, forty six years old, Suffolk Virginia, laborer, and I know the parties to the suit .

2nd Ques. How long have you known the plaintiff and what do you know of his character, habits of life, general conduct and disposition?

Ans.

I have known him about five or six years; he is a man of good character, who always proved all right; in his habits he is industrious, temperate, and of a saving disposition ; peaceable and quiet and inoffensive .

3rd Ques. Do you know whether he and his wife are now living together or not?

Ans. They are not

4th Ques. How long did she live with him after their marriage?

Ans. She lived with him till about February 1899, when she left him and has not been back since. I live right there at them. I know when she left. I saw them almost daily before she left. He lives in his own home right near me, not more than one hundred yards away / .

5th Ques. Do you know whether she has ever returned to live with him since she left him at the time mentioned?

Ans. She has not . I have been living right there all the time.

6th Ques. Would you have been likely to have known the fact, if she had returned, and what were your opportunities for ~~in~~ knowing the same?

Ans. Yess I would haveknown it, if she had come back, I live right there by them, and the fact that I saw them daily, when she was there living with him, and have not seen her there in over four years now, makes me know that she has not come back. It would have been almost impossible for her to have come back without my knowledge.

7th Ques. Do you know ~~whether~~ where she now is, and what she is doing?

Ans. I do not. I have heard she was in Portsmouth.

8th Ques. Please state how the plaintiff conducted himself regarding his wife, and how he took care of her and treated her when they were living together?

Ans. He treated her kindly as a husband should and provided for her ; give her a good home and plenty to eat and wear ; he did not curse or abuse her or ill treat her in any way. He was a hard working man and carried home all thathe made. I never saw any cause of complaint against him .

9th Ques. Do you know of any cause or reason, on his part, which induced her to abandon and desert him?

Ans. I do not know of any at all; she just went away because she wanted to I suppose.

10th Ques. Please state any and all other facts you may know, in regard to this case, relating to the separation of the plaintiff and the defendant

Ans. I do not know of any thing else .

11th Ques. Where is the plaintiff now living, and how long has he been living here continuously?

Ans. He is living at the same old home on Tynes street in Suffolk Virginia, and has been living there ever since I knew him.

12th Ques. Do you know whether he owns any property or not?

Ans. I think he owns his home where he lives.

13th Ques. Where did he and his wife last cohabit?

Ans. In Nansemond county at that same old home.

And further this deponent saith not/

George S Franklin

State of Virginia,

County of Nansemond, To-wit:

I, C. H. Causey, Jr. Commissioner in Chancery, for the Circuit Court of Nansemond County Virginia, do hereby certify that the foregoing depositions in the case of Berry Battle ——

—— Vs. Phyllis Battle now pending in the said court, were duly taken, sworn to and subscribed before me at the time and place therein mentioned, and that I was personally present during the taking of the said depositions, and that all the questions and answers therein contained were written and subscribed in my presence.

Given under my hand, this 25th day of July, 1903.

C. H. Causey Jr

Commissioner in Chancery
of the Circuit Court for Nansemond
Co. Va.

Depositions

1903 July 25th Filed

Berry Battle
vs.
Phyllis Battle

In chancery.

This cause come on this day to be heard on the Bill and exhibits filed and on the depositions of W.D. Bryett and other witnesses taken after due notice; the defendant by whom process appears to have been duly served failing to plead answer or demur, and was ~~in~~ proved by Counsel.

On consideration whereof, it appearing to the court that the defendant has wilfully abandoned and deserted the plaintiff for more than three years prior to the commencement of this suit: that the plaintiff and defendant last Cohabited in this County: that the plaintiff is a resident of this County and was such at the institution of this suit and that he had been domiciled in this State for at least one year next preceding the commencement of this suit, doth order adjudge and decree that the plaintiff be, and he is hereby, absolutely divorced from his said wife and the bonds of Matrimony heretofore entered into between them are entirely dissolved and set aside and their Contract of marriage wholly annulled: that the plaintiff recover of the defendant the costs of this suit by him expended: and nothing further remaining to be done it is ordered that this cause be stricken from the docket.

Final Decree.

Entered Oct. 13
1903.

Robert R. Prentis

Entered in Chancery
Order Book No 2
Page 529.

To the Honorable Robert R. Prentis, Judge of the Circuit Court of Nansemond County, Virginia.

Humbly complaining sheweth unto your honor your orator, Berry Battle, who is now, and has for fifteen or twenty years, been a resident of Nansemond County, Virginia, and near the town of Suffolk, the following case: Your orator says that on the 19th day of November, 1881, he was married to Phyllis Ricks, in Nash County, North Carolina, by the Rev. R. C. Tilley, a minister of the gospel, duly authorized to celebrate the rights of marriage, as will more fully appear by a duly certified affidavit of said marriage, signed by the register of deeds of said County of Nash, in the State of North Carolina, under his official seal, herewith filed marked "Exhibit A", and prayed to be read as a part of this bill. He further says, that after said marriage, his said wife lived with him in Nansemond County Virginia, until the year 1899, and that on the 20th day of February in said year 1899, his wife, without any just or legal excuse or cause, willfully abandoned and deserted him and went to the city of Pourtsmouth to live. That since said date of desertion, she has never returned to him, nor have they ever lived together. He is informed that she is now living in said city of Portsmouth, under the assumed name of Annie Battle, and declares , so far as his information goes, that she will never return to live with him again. He further says, that after said marriage, he went to work and by industry and diligence, acquired him a small home in the suburbs of Suffolk where he now resides, and that he was, at all times, a constant, faithful, dutiful and provident husband doing all in his power to make his wife comfortable and happy, and to render life pleasant for both of them. He further says, that since the desertion of his said wife, he has written to her and urged her to return to him, holding out to her, that it would be

better, in after life, for both of them, and assuring her, that he would, in the future, as in the past, do all he could for her and try to make her life happy, but, that to all these intreaties on his part, she has turned a deaf ear, and has refused to even hold any correspondence with him, and still refuses to return to live with him. He has therefore reached the conclusion, that if they are to be always separated, by her voluntary act, that it will be best for him, as well as for her, to be divorced.

He therefore charges that his said wife, Phyllis Battle, formerly Phyllis Ricks, has wilfully deserted and abandoned him for a period of upwards of three years. He says that he is now a resident of Nansemond County, and has been continuously for twenty years; that he and his said wife last ~~cohabited~~ cohabited in this county, and that he has been domiciled in this State for at least one year preceding the commencement of this suit, and as he sees no hope for a reconciliation, he thinks it best that the ties of matrimony heretofore existing between them be dissolved and he therefore asks that this be done. In tender consideration whereof, and for as much as your orator is without remedy, save in a court of equity, where such matters are alone and properly connizable, your orator prays that the said Phyllis Battle may be made a party defendant to this bill and required to answer the same, though an answer under oath is hereby waived; that proper depositions in this case may be taken and that your orator may be absolutely and forever divorced from his said wife and the bonds of matrimony existing between them be absolutely annulled; and for all such other, further and general relief, as this case may require, or which the equity may seem meet and your orator will ever pray, etc.

Wit Test:
L. D. Jacobs.

Berry his X mark Battle

Virginia, Nansemond County, To-wit:

I, R. H. Rawles, a Notary Public, in the county aforesaid, in the State of

Virginia, do certify that Berry Battle, whose name is signed to the foregoing bill, has this day personally appeared before me in my County and State aforesaid, and made oath that the statement contained in the said bill, as coming of his own knowledge are true, and that all other statements therein contained, as coming from knowledge or information derived from others, he believes to be true.

Given under my hand this I7th day of June, I903.

R H Rawles N P

My term of office expires on the 28th day of January, I907.

Bill.

1903 July 6th Filed.

Berry Baute
against } In Chancery
Phillis Baute.

1903 May the 28th. Process issued returnable to July rules first Monday.

" July 6th. Process returned executed on defendant. Bill filed and decree nisi against him.

" " 20th. Decree nisi confirmed and cause set for hearing.

Costs
Clerk $3.95
Jay 1.50
Shff 1.00
Atty 15.00
$21.45

Perry Battle

vs } In Chancery

Phyllis Battle.

1903

October 13th

Final Decree.