1904-019
Nansemond Co (Suffolk) Chancery Causes: Annie Ballard vs James E. Ballard

Brinkley, Kelley, Norfleet, Kelly

OVERSIZE
Box 4
- 1 marriage license (exhibit A)

R.R. Smith Clerk Circuit Court of
Nansemond County:

Annie Ballard Pltff

vs

James E. Ballard Dfft.

Issue summons to 1st Sept rules 1904
for plaintiff against defendant to an-
swer a Bill in Chancery for
divorce.

R.R. Rawles p.q.

Tax $1.50

N.B. He lives d Wiley Jones, on or near
Meadow Road and mail for him
Norvey Siding on A.C.L. R.R.

R. N. Rawles Ivy

Annie Ballard

vs } In Chancery

James E Ballard

Memorandum.

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON James E Ballard

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 September 1904 to answer A Bill in Chancery for divorce exhibited against him in the said Court by Annie L Ballard

and have then and there this summons.

Witness, ~~A. P. COMER~~ R R Smith, Clerk of our said Court, at his office, this 29th day of August, 1904, in the 129th year of the Commonwealth.

A copy—Teste:

_____, CLERK.

Teste: A P Comer D C, CLERK.

R. A. Rawles p. q.

Annie Ballard

vs. | In Chancery.

James E. Ballard

1904

September Rules.

First Monday.

Nansemond Circuit Court.

Process Book No. 2

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The depositions of Annie Ballard and others, taken before me R. W. Withers a commissioner in chancery for the Circuit Court of Nansemond County at the office of R. H. Rawles, on Washington Square, in Suffolk, Virginia, between the hours of eight A. M. and ~~eight~~ six P. M., on the 24th day of September, I904, pursuant to notice, hereto annexed, to be read as evidence on behalf of the said Annie Ballard, in a certain suit in equity depending in the Circuit Court of Nansemond County, wherein the said Annie Ballard is plaintiff and James E. Ballard is defendant.

Present:

R. H. Rawles counsel for plaintiff.

Annie Ballard, being duly sworn, deposes and says as follows:
(She is a competent witness. Acts I90I-02, page 799.)

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

A. Annie Ballard, age 39, Nansemond County, Virginia, farmer, and I know the parties. I am plaintiff, my husband is defendant.

2nd Q. Please state where you reside and if your husband, James E. Ballard, is now living with you?

A. I reside on my little farm near Cypress Chapel, in this county. My husband, James E. Ballard, is not with me and has not been for several months. He left me last June, about the last of June. That was about the time that he was put in jail for beating me.

3rd Q. Who owns the farm on which you reside?

A. It belonged to my former husband, J. F. Brinkley; at his death, without a will, it went to our three little children, with my dower right in it.

4th Q. Please state how many children you have and their ages?

A. I have three children, one boy and two girls. The oldest is sixteen years old, the little boy is thirteen years old, and the little girl is ten years.

5th Q. When you and your said husband were married did he furnish you with a home or did you furnish him with a home?

A. I furnished him with a home. He owned no property of any kind, either real or personal, except a very little bit of furniture and he has sent after that and got it since he left. At our marriage I furnished him with a good home and farm and an opportunity to make a living for both of us. He seemed to be improvident and idle and failed to cultivate it. He waited for my children to do all the work, he would not do anything.

6th Q. Is your said husband now living with you?

A. No sir, he is not there.

7th Q. When, and under what circumstances, did he leave you?

A. He left the 5th day of last July. He brought some chickens to Suffolk and came back home and told me he had not sold any of them. I went to the cart and commenced to take them out; just as soon as I com-

menced to take them out and he discovered that I was counting them, he said there are two or three there that H~~e~~ did not want turned out; I said "all right I have turned out six and I will not take out any more". He commenced to curse badly. He told me to "take them God dam it and go to hell me and the chickens". He had been drinking. That was Thursday night; Friday morning he commenced to curse again, I started in the door and asked him what was the matter, in a pleasant way, and he grabbed me and asked me what was the matter with me. He said, "you will go to law about it if I beat you", and I replied "yes I will". By the time I had spoken, he commenced to beat me badly; he grabbed me and blackened and bruised my face and the whole side of my head. After he beat me, I got away from him and went in my cook room and sat down, and he came in and grabbed me by the hair with both of his hands and dragged me out on the porch and beat me again. Then I got away from him and went in the yard and he came out there and beat me again. He told me if I went out of that yard that day he intended to kill me. I complained of my head hurting me and he said "it ought to hurt you" with an oath. Then, as soon as I got able and got an opportunity, I came to town and got out a warrant and the case was tried and he was sent to jail.

8th Q. In your bill in this suit, you charged cruelty on the part of your husband, will you please state to the court anything you may know in regard to any cruelty which he has shown to you, since your marriage?

A. He had assaulted me once before this, and threw me violently against the bed and bruised and hurt me very badly. But I was ashamed to tell it, as I preferred to keep such domestic troubles to myself. I never would have told it, until it got to a point where I could stand it no longer. I am afraid of him and would be afraid now to live with him. He is cruel in his nature and disposition. He has a violent temper when angry, and I do not think it would be safe for me to live with him. He treated my little children very badly; he beat my little boy and bruised him all up.

9th Q. How long have you been living in this county; where is your husband now living; how long has he been living in this county, and where did you and he last cohabit?

A. Both of us have been living in this county continuously all our lives and both of us are now residents of, and living in, this county of Nansemond, and we last cohabited in this county.

And further this deponent saith not.

Annie Ballard

Wesley Kelley, being duly sworn deposes and says as follows:

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

A. Wesley Kelley, age 30, Nansemond County, Virginia, farmer, and I know both the parties.

2nd Q. How long have you known the plaintiff and the defendant?

A. T he plaintiff is my sister, and I have known her all my life. I have known Mr. Ballard, the defendant, about five years.

3rd Q. Where was she living at the time of her marriage? to him?

A. At her farm in Cypress district, in this county. After the marriage he went there to live with her. He was not much of a farmer and did not do anything to amount to anything.

4th Q. How many children has she?

A. She has three children as she has just stated.

5th Q. Where did they live after their marriage?

A. Just as I have said, on her farm near Cypress Chapel.

6th Q. Can you tell how and in what manner her said husband provided for her after marriage?

A. He provided for her very badly in my opinion. She gave him a fair opportunity, provided him with a nice little farm and a good place to make a good, decent, comfortable living. He failed to take advantage of this opportunity and, in fact, did practically nothing. She did not get along after her marriage with him nothing like so well as she did before marriage.

7th Q. In her bill she charges that her said husband has been cruel to her since her marriage, will you please state anything you may know in regard to this?

A. I only lived about two or three hundred yards from them; I have many a time heard him curse and charging around there very violently and wildly, and on one occasion, when he had whipped her little boy and she had remonstrated with him he said: "The next time you fly up about this, I will be God damned if I don't slap you to the floor." After the warrant, spoken of in the bill, was taken out I heard him say that he never should live with her anymore.

8th Q. Is her said husband now living with her?

A. He is not. I have heard that he is at Wiley Jones', in this county.

9th Q. When, and under what circumstances, did he leave her?

A. He left her when the warrant was taken out and when he was sent to jail for beating her. After he got out of jail he did not go back there, but went away.

IOth Q. Please state anything else you may know in regard to this case.

A. I do not know that I can add anything further; there is so much which could be told, but I have about summoned it up. He was cursing and quarreling always; he had a terrible temper and did not try to control it.

And further this deponent saith not.

Wesley Kelley

-----James B. Kelley, -------- -------- --------, being duly sworn, deposes and says as follows:

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

A. James B. Kelley, age 78 years, Nansemond County, Virginia, farmer, and I know both the parties to this suit. The plaintiff is my daughter.

2nd Q. How long have you known the plaintiff and the defendant?

A. I have known my daughter all her life, of course, and I have known Mr. Ballard nearly 40 years.

3rd Q. Where was she living at the time of her marriage? to him?

A. At her home on her little farm near Cypress Chapel, in this county, with her three little children.

4th Q. How many children has she?

A. Three, as I have just stated. Two little girls and one little boy.

5th Q. Where did they live after their marriage?

A. At the same place on her little farm; he had no place and went there to live with her.

6th Q. Can you tell how, and in what manner, her said husband provided for her after marriage?

A. He did not provide for her any; that he didn't; he walked about and drank liquor. I had to help her to conduct her farm.

7th Q. In her bill she charges that her said husband has been cruel to her since her marriage, will you please state anything you may know in regard to this?

A. He was cruel to her; I have both seen and heard it. I live about one hundred and fifty yards from where they lived; I was very often over there; and I know, of my own knowledge, that he did curse and abuse her because I have heard him do so, myself. He never beat her in my presence because I would not have permitted it, that is, if I could have prevented it. She often complained to me about the bad way in which he treated her. He has too much temper, high temper. He did not try to control it. I do not believe it would be safe for her to live with him.

8th Q. Is her said husband now living with her?

A. No sir, he is not.

9th Q. When, and under what circumstances, did he leave her?

A. He expected, when he married her, that he would get the land, and after he found out it was so that he could not get it, then he became wild. So far as I remember, he left her last summer about the time that she got out a warrant charging him with assault and beating her, and he has not been back to live with her since that time. I live right there and would have known it if he had come back.

IOth Q. Please state anything else you may know in regard to this case.

A. I have told you about all that I can. Mr. Ballard is a man of a very violent temper; he often cursed and abused her very badly, which she stood as long as she could and then took out a warrant for his arrest. Since then he has never been back to live with her any more.

And further this deponent saith not.

Robt. N. Withers
Witness.

his
James X B. Kelley
mark

Wilson Norfleet, being duly sworn deposes and says as follows:

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

A. Wilson Norfleet, age 56, residence, Suffolk, Virginia, occupation jail keeper, and I know both parties to this suit.

2nd Q. Do you know whether the defendant, James E. Ballard, is now living with his wife or not?

A. He is not; he is living, so I understand, at Wiley Jones', in this county.

3rd Q. Have you ever heard him express his intention to desert her and never live with her again, if so, please state when and under what circumstances he made such statements.

A. I heard him say, when he was in jail last July for beating his wife, that when he got out of jail he never intended to go back to live with his wife anymore. He said he had done sent after his things, and was going to live elsewhere and would never live with her anymore.
He spoke of her very disrespectfully ; in fact very badly.
And further this deponent saith not .

Wilson Norfleet

Virginia, Nansemond County, To-wit:

I, R. N. Withers, a commissioner in chancery, for the Circuit Court of Nansemond County, do certify that the foregoing depositions of Annie Ballard, Wesley Kelley, James B. Kelley and Wilson Norfleet, were duly taken, sworn to and subscribed to before me at the office of R. H. Rawles, on Washington Square, in Suffolk, Virginia, between the hours of eight A. M. and six P. M., on the 24th day of September, I904.

Given under my hand this 24th day of September, I904.

Robt. N. Withers
Commissioner in Chy

Fee $5.00 Pd

To James E. Ballard

TAKE NOTICE that I shall, on the 24th day of September 1894, at the Office of R H Rawles on Washington Square in Suffolk Virginia between the hours of 8 A. M. and 6 P. M., on that day, proceed to take the depositions of J B. Kelley 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 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,

Annie Ballard
by Counsel.

Executed at Albany
this 8th day of July 1904 by
Delivering a true copy
of the within notice
to J E Ballou personally
at Albany N.Y.

Depositions.

| | | | |
|---|---|---|---|
| | # | | |
| Annie Ballard | # | Plaintiff | |
| vs. | # | | In Chancery. |
| James E. Ballard | # | Defendant | |

by the service of process

This cause which has regularly matured at rules, came on this day to be heard upon the bill and exhibits filed and upon the depositions of Wesley Kelley and others taken after due notice and was argued by counsel.

On consideration whereof, the court being of the opinion, upon the evidence submitted in the cause, that the defendant has been guilty of cruelty towards the plaintiff since their marriage; that he has willfully abandoned and deserted the said plaintiff without cause and with the intention of remaining away forever; and that the plaintiff has reasonable apprehension of bodily hurt from the said defendant, doth order, adjudge and decree that the plaintiff, Annie Ballard, be divorced a mensa et thoro from her husband, the said James E. Ballard.

And the court doth further order, adjudge and decree that the said plaintiff recover of the said defendant the costs expended by her in the prosecution of this suit.

And there being nothing further to dispose of in this suit it is ordered that it be stricken from the docket with leave to either party to have the same reinstated on motion, should it hereafter become necessary.

Decree.

Entered Oct. 10/04

Robert D. Mellis

Entered in Chancery
Order Book No. 3 Page 605.

[WARRANT OF ARREST]

STATE OF VIRGINIA—COUNTY OF NANSEMOND, To Wit:

To A.H. Baker sheriff ~~Constable~~ of Said County:

WHEREAS, W.E. Brinkley on information of the said County, has this day made complaint and information on oath before me, J.C. Holladay, a Justice of the Peace of said County, that Jas. E. Ballard, of said County, on the 24th day of June, 1904, within the jurisdiction of said County, did unlawfully assault and beat her the said Annie Ballard his wife

These are, therefore, in the name of the Commonwealth, to command you forthwith to apprehend and bring before me, or some other Justice of the Peace of the said County, the body of the said Jas. E. Ballard to answer the said complaint, and to be further dealt with according to law.

Given under my hand this 29 day of June, in the year 1904

J.C. Holladay, J. P. SEAL

Case heard and we impose a fine of twenty five dollars and all costs which we ascertain to be $3.70

J.C. Holladay J.P.
J.E. Bunting J.P.

Ex. B.

Commonwealth

vs.

Jas. E. Ballard

WARRANT OF ARREST.

Executed as within commanded, and prisoner produced this 31st day of July 1904

H.H. Baker
Sheriff.
~~Constable.~~

Filed ..... 190....

Virginia: Rockingham County to wit:

I J.C. Holladay a Justice of the Peace for Rockingham County do certify that this is a true copy of a warrant issued by saint J.E. Ballard and of the execution of the same and the proceedings thereon on the Trial of the Same. said original being now in my possession. Given under my hand this 31st day of August 1904.

J.C. Holladay J.P.

To the Honorable Robt. R. Prentis Judge of the Circuit Court of Nansemond county:

Humbly complaining showeth unto your honor your oratrix Annie Ballard of Nansemond county, Virginia, the following case; your oratrix says that she was married to her present husband James E. Ballard, in Nansemond county on the 18th day of March, 1903, by the Rev. H. H. Butler, as will more fully appear by a copy of the marriage license and certificate of marriage herewith filed marked " exhibit A." and prayed to be read as a part of this bill. Your oratrix says that after said marriage she was at all times a constant, dutiful and faithful wife, and she tried in every way to please her husband and to make his life and home a pleasant and happy one. And she further says that at the time of her said marriage to said James E. Ballard, she was a widow, having previously been married to J. F. Brinkley, who was then dead, and that by said first marriage there were three children, all now living, and respectively of the ages of ten, thirteen, and sixteen years, two of said children being little girls, and the other a boy; she further says that at the death of her former husband J. F. Brinkley, he left a small farm of 75 acres situated in said county near Cypress Chapel, she having a dower right in said farm and the other title to same being in her children by descent from her said husband Brinkley. She further says that at the time of her marriage to said Ballard, she was living on said farm, and in a humble way making a comfortable living for herself and children; she further says that at said time the said Ballard, owned no property of any kind either real or personal, and had nothing but himself. That at said marriage she furnished him with a comfortable home, and an opportunity to go to work and make a pleasant living for himself and her, and really hoped that said marriage would prove a source of great happiness to both of them . But your oratrix says that soon

after said marriage, she discovered ~~declares~~ that her said husband J. E. Ballard, was a worthless, idle, trifling man; that he made no effort to cultivate her farm, or to do anything to earn a livelihood for himself and herself as he had promised; that he contented himself with letting things go on just as they had before her marriage. He cursed her and even carried away and sold every thing she could produce on said farm, such as chickens, eggs, other small commodities and converted same to his own use. She further says that he has been very cruel and inhuman to her and her little children; that he beat them without cause, and often beat her. She stood this for a while without complaining, choosing rather to hide her shame than to tell it, until it had reached the point where she did not consider her life safe, or herself safe from great bodily harm. She further says that on the 24th day of June, 1904, he came to Suffolk, became intoxicated returned home and without cause or excuse beat her unmercifully, and dragged her from one room to another by her hair. That she made complaint to the proper authorties, that a warrant was issued against her said husband and he was brought before justices of the peace, Bunting and Holladay, of said county, and upon investigation and trial was fined and sent to jail, and also required to give a bond to keep the peace for twelve months, thereafter, all of which will morefully appear from a copy of the records in said case herewith filed marked "exhibit B." and prayed to be taken as a part of this bill. She further says that after the payment of the fine, her said husband utterly and willfully abandoned and deserted her and declared his intention never again to live with her as his wife or to have anything whatever to do with her.

Under all the circumstances she feels that it would be best for all parties if a decree for ~~have a~~ divorce was given her as she feels that she can no longer with safty live with him.

She therefore charges her said husband with cruelty to her; that he has willfully abandoned and deserted her; and further charges that she has reasonable apprehension of bodily hurt from him. She further says that she and her said husband Jas. E. Ballard last cohabited in Nansemond county Virginia; that they

both have been domiciled in said County for more than one year next preceding the commencement of this suit: in fact for all their lives and that they are now both residents of said county and were at the commencement of this suit.

In tender consideration where-of and for-as-much as your oratrix is remediless in the premises save by the aid of a court of equity where such matters are alone and properly cognizable your oratrix prays t that the said James E. Ballard, may be made a party defendant ~~to~~ this suit and require to answer the same, ~~so~~ ~~the~~ though an answer under oath is here-by waived; that proper ~~processes~~ may issue; that all proper depositions may be taken, and that a decree of divorce from bed and board may be granted your oratrix; and for all such other, fuuther and general relief as this case may require, or which to equity may seem meet. She further prays that she may be allowed the use of her form-er name Annie Brinkley, and she will ever pray,. etc.

Annie Ballard

Virginia Nansemond county to wit;

I R. H. Rawles, and Notary Public, for the county aforesaid inthe ~~state~~ of Virginia, do certify that Annie ~~Brinkley~~ Ballard, whos name iis signed to the fore-going bill has this day personally appeared before me in said county, and being duly sworn ~~and~~ made oath that all the statements contained in said bill as comming of her own know-ledge are true, and that all other statements therein contained as comming from knowledge or information derived from others, she believes to be true. Given under my hands this 5th day of Sept, 1904. My commission expires Jan. 28th, 1907.

R H Rawles N.P.

Bill.

Annie Ballard
Vs. In Chancery
James E Ballard

1904 Aug 29th Process issued returnable to September rules First Monday

" Sept 5th Process returned executed on defendant Bill filed and decree nisi against him

" " 19th Decree nisi confirmed and cause set for hearing.

Costs
Clerk 3.91
Jas 1.50
Stiff 1.00
Atty 15-00
$21.41
By Cash $6.00

Ballard vs Ballard

R N Rawlesng

Annie Ballard

Vs In Chancery

James E Ballard

1904

October 10th

Final Decree.

# MARRIAGE LICENSE

Virginia, Nansemond County to wit:

**To any Person Licensed to Celebrate Marriages:**

You are hereby authorized to join together in the Holy State of Matrimony, according to the rites and ceremonies of your Church, or religious denomination, and the laws of the Commonwealth of Virginia,

James E. Ballard

and Annie Brinkley

Given under my hand, as Clerk of the County Court of said County this 17th day of March 1903.

S M Lawrence, Dpty Clerk.

**CERTIFICATE TO OBTAIN A MARRIAGE LICENSE,**

TO BE ANNEXED TO THE LICENSE, REQUIRED BY SECTION 2229 OF THE CODE OF VIROINIA, AS AMENDED BY ACT OF FEBRUARY 3, 1900.

Time of Marriage, 1903 March 18th.

Place of Marriage, Nansemond Co. Va.

Full Names of Parties Married, James E. Ballard and Annie Brinkley

Color, White

Age of Husband, 54 years

Age of Wife, 37 years

Condition of Husband (widowed or single or divorced) widowed

Condition of Wife (widowed or single or divorced) widowed

Place of Husband's Birth, Nansemond Co. Va.

Place of Wife's Birth, Nansemond Co Va

Place of Husband's Residence, Suffolk Va

Place of Wife's Residence, Nansemond Co Va

Names of Husband's Parents, Jesse Ballard & Sophia his wife

Names of Wife's Parents, James B Kelly & Mary Eliza his wife

Occupation of Husband, Farmer

Given under my hand this 17th day of March 1903

S M Lawrence Dpty Clerk.

**Certificate of Time and Place of Marriage.**

I, W. H. Butler, a Minister of the Christian Church, or religious order of that name, do certify that on the 18th day of March 1903, at the Bride's Home, under authority of the above License, I united in Marriage the persons named and described therein.

Given under my hand this 18th day of March 1903.

Rev. W H Butler

☞ The Minister celebrating a marriage is required, within two months thereafter, to return the License to the Office of the Clerk who issued the same, with an endorsement thereon of the FACT of such marriage, and of the TIME and PLACE of celebrating the same.

A Copy, made this 27th day of August, 1904.
Teste: S M Lawrence, DC.

50

James E. Ballard

With Marriage Certificate

Annie Brinkley

1903
March 18.

"A Copy"

"64 A."

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