

1926-004
Nansemond Co (Suffolk) Chancery Causes: John Byrd vs Hortense Byrd

Beale, Clayton, Estes

The Commonwealth of Virginia,

To the Sheriff of the County of Nansemond, Greeting:

WE COMMAND YOU, That you summon Hortense Byrd

to appear at the Clerk's office of the Circuit Court of the County of Nansemond
at the rules to be held for the said Court on the Third Monday in June, 1926,
to answer a bill in chancery, exhibited against her in our said Court by
John Byrd

And have then there this writ. Witness G.E. Bunting, Clerk of our said
Court, at the court-house, the 4th day of May, 19 26, and in the
.....year of the Commonwealth.

G.E. Bunting, Clerk

No. 300

John Byrd

vs.

SUBPOENA IN CHANCERY

Hortense Byrd

Marshall Andrews

p. q.

To 3rd Monday - June 1926

Wansemond County Circuit Court.

May 24

Hortense

Byrd

E B Rawls

To Hortense Byrd:

TAKE NOTICE: That on the 2nd day of August, 1926, at the office of James H. Corbitt, in Suffolk, Virginia, between the hours of 10:00 A. M., and 6:00 P. M., on that day, I shall proceed to take the depositions of Margaret Byrd, myself, and others, to be read as evidence in my behalf in a certain suit in equity depending in the Circuit Court of Nansemond County, Virginia, wherein I am complainant and you are respondent; and if from any cause the taking of said depositions be not commenced, or if commenced be not concluded on that day, the taking thereof will be adjourned 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,

John Byrd
By James H. Corbitt
Counsel.

July 20, 1926.

I, this 22nd day of July, 1926, acknowledge sufficient and legal service of the above notice.

Hortense Byrd.

It is stipulated and agreed that the taking of the above named depositions may be commenced on the 2nd day of August, 1926, at the hour and place mentioned; that the depositions may be taken in shorthand by or under the direction of a Commissioner in Chancery ^{or Notary Public} authorized to take depositions, and transcribed on the typewriter; and that final oath and signature of the witnesses be waived.

John Byrd
By James H. Corbitt
Counsel.
Hortense Byrd.

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,

John Byrd

and

Hortense Beale

Given under my hand, as Clerk of the Circuit Court of Nansemond County (or City) this 7th day of September, 1920

G.E. Bunting, Clerk.

MARRIAGE CERTIFICATE

To be annexed to the License, required by Section 5074 of the Code of Virginia, 1919, as amended by Act of February 16, 1910.

VIRGINIA: In the Clerk's Office of the Circuit Court for the County (or City) of Nansemond

Date of Marriage September 7, 1920 Place of Marriage Suffolk Va.

FULL NAMES OF PARTIES

John Byrd

and

Hortense Beale

Age of Husband 22 years; Condition (single, widowed or divorced) Single

Age of Wife 16 years; Condition (single, widowed or divorced) Single

Race (White or Colored) Colored Residence

(PRESENT)

Husband's Place of Birth North Port L.I. Mailing Address Nansemond County

Wife's Place of Birth Suffolk Va. Mailing Address Nansemond County

Names of Husband John Byrd and Margaret his wife

Parents Wife John Beale and Damsel his wife

Occupation of Husband Lather

Given under my hand this 7th day of September, 1920

G.E. Bunting, Clerk.

Certificate of Time and Place of Marriage

I, M.R. Riddick, a Minister of the Mission Baptist

Church, or religious order of that name, do certify that on the 7th day of Sept., 1920,

at Suffolk, Virginia, under authority of the above License, I joined together in the Holy State of

Matrimony the persons named and described therein. I qualified and gave bond according to law authorizing

me to celebrate the rites of marriage in the County (or City) of Nansemond, State of Virginia.

Given under my hand this 8th day of Sept., 1920

A true copy made this 21st day of May 1926. Teste; G.E. Bunting Clerk. Mills R. Riddick

(Person who performs ceremony sign here.)

The Minister or other person celebrating a marriage is required, within thirty (30) days thereafter, to return the License and Certificate of the Clerk and his certificate of the time and place at which the marriage was celebrated to the Clerk who issued the License; failure to comply with these requirements of the law makes the Minister or other person celebrating the marriage liable to a fine of not less than ten nor more than twenty dollars for each offense (see Section 5074 of the Code of Virginia, as amended by Act approved February 16, 1910, Acts 1910, chapter 28, pages 36 and 37).

Exhibit A

Copy

County (or City) Nansemond

John Byrd

Husband

and {

Marriage License

Hortense Beale

Wife

Date of Issue Sept. 7th, 1920

Marriage Register No. 3 Page 134

John Byrd.....Complainant
vs. DEPOSITIONS
Hortense Byrd.....Defendant

The depositions of John Byrd and others, taken before me, Sue W. Riddick, a Notary Public for the City of Suffolk, in the State of Virginia, pursuant to notice hereto annexed, at the office of James H. Corbitt, in Suffolk, Virginia, on the 2nd day of August, 1926, between the hours of ten A. M. and six P. M., to be read as evidence on behalf of John Byrd in a certain suit in equity, depending in the Circuit Court of Nansemond County, Virginia, wherein Hortense Byrd is defendant and John Byrd is plaintiff.

Present: Marshall Andrews, Attorney for the Complainant.

Defendant did not appear in person or by Counsel.

John Byrd, being duly sworn, deposes as follows:

Q. Please state your name, age and residence.

A. John Byrd; 27; Suffolk, Virginia.

Q. How long have you been residing in Suffolk.

A. All my life I should say.

Q. Do you live in Nansemond County or the City of Suffolk.

A. Nansemond County, near Suffolk.

Q. Are you the complainant in this suit for divorce against your wife, Hortense Byrd.

A. Yes, sir.

Q. When were you married to Hortense Byrd.

A. September 7th, 1920.

Q. You have annexed to bill of complaint in this case a certified copy of license showing your marriage was September 7th, 1920, is that correct.

A. Yes, sir that is correct.

Q. After you were married, where did you and your wife, Hortense Byrd, live.

A. Stayed with my mother first, then we lived with her mother a while and then went to ourselves.

Q. Did you live in Nansemond County with your wife all the time you lived together.

A. Yes, sir.

Q. How long did you live with your wife after you were married.

A. Until the 10th day of November, 1921.

Q. Did your wife leave you on that day.

A. Yes, sir, she did.

Q. Has she lived with you at all since that time.

A. No, sir.

Q. Did she give any reason for going away and leaving you.

A. No, sir.

Q. Did she say anything to you when she left.

A. Said she did not love me and was going to leave

me for good, that she did not love me and the only reason she married me was to get her freedom.

Q. Have you been willing and ready to make a home for her since then.

A. I was for about three years, but after that I got satisfied.

Q. Do you know of any reason why she left you or did you give her any cause to leave you, and desert you.

A. No, sir, no cause I know of. I tried to satisfy her in every way. Look like she had everything a woman could want but she did not love me and went off.

Q. Has she lived with you any time since the 10th day of November, 1921.

A. No, sir, I met her on the street in Clerksburg, West Virginia, that is where she went, I was driving a jitney and I said, "Hortense, I would like to speak to you a minute". She said, "Damm it, you don't want to speak to me," and went on and I drove on. Have not spoken to her since.

And further this deponent saith not

Margaret Byrd, being duly sworn, deposes as follows:

Q. State your name, age and residence.

A. Margaret Byrd; legal age; Live on St. James Avenue, Nansemond County, right across the railroad from Suffolk.

Q. Are you the mother of John Byrd.

A. Yes, sir.

Q. Do you know when John Byrd and Hortense Byrd were married.

A. Yes, sir, September 7th, 1920.

Q. Did they live with you at your house in Nansemond County after they were married.

A. Just well say they lived there all the time. Her mother wanted them to come up there and they went up there but they lived right at my house all the time.

Q. Did they live there until November 10th, 1921.

A. No, they lived at her mother's house, stayed there two or three weeks and then they rented a house beside of her house and that is where they were living when she left John.

Q. Do you know anything of the circumstances of her leaving John.

A. She told me she did not love him and was not going to stay with him, that she just married him to get her freedom.

Q. Did John Byrd live at your house after November 10th, 1921.

A. Yes, sir.

Q. And Hortense Byrd did not live with him then.

A. No, sir.

Q. Did Hortense Byrd say anything else to you about living with John Byrd.

A. She did. I asked her if she felt like living with John. She said, "No, that I don't. I don't feel like living with any one man." Then I knew what she was. She did not want him and left.

Q. Have John Byrd and Hortense Byrd, to your knowledge, lived together as man and wife since the 10th day of November, 1921.

A. No, sirm they have not.

And further this deponent saith not.

Charles Clayton, being duly sworn, deposes as follows:

Q. State your name, age and residence.

A. Charlie Clayton, St. James Avenue, Nansemond County, have lived on that street for 15 years; I am 54 years old.

Q. What is your occupation.

A. Laborer at Suffolk Peanut Company, have been there for 19 years.

Q. Do you know John Byrd.

A. Yes, sir.

Q. Did you know Hortense Byrd.

A. Yes, sir, but did not know her like I did John because I was all time having conversation with his mother at her store. We did not live far apart.

Q. You remember John Byrd and his wife, Hortense Byrd lived with Margaret Byrd in her home in Nansemond County.

A. Yes, sir.

Q. Do you remember anything about Hortense Byrd leaving her husband, John Byrd.

A. Yes, sir.

Q. What do you know about that.

A. I was always going to the store early in the morning and I used to joke Margaret Byrd about her daughter in law and one evening she said, "I ain't got no daughter in law, she done parted with my son."

So I stopped joking her about her daughter in law when I found out she had left John. I thought she would return since she had a good home. They were a nice young couple and very few colored folks in that neighborhood were getting along as good as they did. I used to admire that daughter in law and John was good to her. Her and John to my knowledge have never been without anything. I am telling what I know, no thinking about it.

Q. You then lived near them when they were married.

A. Yes, and before they were married.

Q. What is the reputation of John Byrd in his community.

A. John is a young man, never ~~hard~~ heard anything except he was a good boy, never heard nothing but that and have been knowing him ever since I have lived there.

Q. Did he provide a good home for her and take care of her.

A. Yes, sir.

Q. Have you ever heard anyone say he gave her cause to leave him.

A. No, sir.

And further this deponent saith not.

James A. Estes, Junior, being duly sworn, deposes as follows:

Q. Please state your name, age, residence and occupation.

A. James A. Estes, Junior; 49; letter-carrier; Suffolk, Virginia.

Q. Do you know John Byrd and Hortense Byrd, the parties to this suit.

A. Yes, sir.

Q. How long have you known them.

A. Ever since they were children. They are not more than 25 years old.

Q. Do you remember when they were married.

A. I was at the marriage but do not remember exactly what year it was.

Q. Do you live in the community these people live in.

A. Yes, sir.

Q. Do you know anything about Hortense Byrd leaving her husband, John Byrd.

A. I know they parted soon after they were married.

Q. Did he leave her or did she leave him.

A. She left him.

Q. Have they lived together since she left him.

A. I am quite sure they have not. I have heard nothing of it.

Q. Did John Byrd give her any cause to leave him.

A. I understood she left voluntarily. I have always understood that.

Q. What is the reputation of John Byrd in his community.

A. He is a young boy, never heard anything bad about him, as good as anyone.

Q. From what you have been able to learn about this case do you think John is at fault in any way.

A. No, she deserted him.

Q. Do you know whether John Byrd furnished a home for his wife while they were married.

A. I don't know who furnished it but they had a nice home. They lived with his mother and had everything she could want.

And further this deponent saith not.

STATE OF VIRGINIA,

CITY OF SUFFOLK, To-wit:

I, Sue W. Riddick, a Notary Public for the City of Suffolk, in the State of Virginia, do hereby certify that the foregoing depositions

were duly taken, reduced to writing and ^{sworn to} signed by
the witnesses, respectively, before me, in my City
aforesaid.

In witness whereof I have hereunto set my hand
at Suffolk, Virginia, this 10th day of August, 1926.

Sue W. Riddick
Notary Public.

My commission expires the 25th day of March, 1929.

IN THE CIRCUIT COURT OF
NANSEMOND COUNTY, VIRGINIA

John Byrd

vs. DEPOSITIONS

Hortense Byrd

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

JOHN BYRD

V.

HORTENSE BYRD.

DECREE.

which has been regularly matured at rules
This cause came on this day to be heard upon the complainant's bill, and the exhibit filed therewith, and the depositions taken before a Notary Public on behalf of the complainant, and was argued by counsel.

On consideration whereof, and it appearing to the court, independently of the admissions of either party in the pleadings or otherwise, that the said parties were lawfully married on the 7th day of September, 1920, at Suffolk, in Nansemond County, in the State of Virginia; that since the said marriage the said Hortense Byrd, without any justification whatever, wilfully deserted and abandoned the said John Byrd for a period of more than three years prior to the institution of this suit; that the said John Byrd has resided and has been domiciled in this State and County ever since the date upon which the said Hortense Byrd wilfully deserted and abandoned him, and for more than one year next preceding the commencement of this suit, ~~and that the said Hortense Byrd was not at the commencement of this suit a resident of this State:~~ The court doth adjudge, order and decree that the said John Byrd be divorced from the bond of matrimony which was created by the aforesaid marriage, and that the said marriage be, and the same hereby is, dissolved and annulled; and, nothing further remaining to be done in this suit, it is further ordered that it be removed from the docket.

VIRGINIA:
IN THE CIRCUIT COURT
OF NANSEMOND COUNTY.

JOHN BYRD

V.

HORTENSE BYRD

DECREE

Enter. Seph 14. 1926.
Jus. L. McGinnore.

#6, Page 34

John Byrd,
v.
Hortense Byrd.

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BILL

To the Honorable James L. McLemore, Judge of the Circuit
Court of Nansemond County, Virginia:

Your complainant, John Byrd, respectfully represents:

1. That on the 7th day of September, 1920, your
complainant, John Byrd, was lawfully married in Nansemond
County, in the State of Virginia, to Hortense Byrd, whose
maiden name was Hortense Beale, as will appear by a certified
copy of the marriage license and certificate of marriage
herewith filed marked "Exhibit A" and made a part of this
bill; and,

2. That continuously from the date of the said
marriage until the 10th day of November, 1921, your complainant
and the said Hortense Byrd lived together as husband and wife
in Nansemond County, Virginia; and,

3. That the said Hortense Byrd has wilfully deserted
and abandoned your complainant for a period of more than
three years; that is to say, on the 10th day of November,
1921, the said Hortense Byrd did, voluntarily, wilfully and
without any justification whatever, leave the home of your
complainant in Nansemond County, Virginia; that immediately
before leaving she stated to your complainant that she was
going to leave him forever and that she would never return
to him; and that she has not returned to your complainant
since that day; and,

4. That your complainant has resided and has been

domiciled in this State ever since the aforesaid marriage, and is domiciled in, and is and has been an actual bona fide resident of this State for at least one year preceding the commencement of this suit; and,

5. That your complainant last co-habited with the said Hortense Byrd in Nansemond County, Virginia.

IN CONSIDERATION WHEREOF, and forasmuch as your complainant is remediless in the premises save in a court of equity, your complainant prays that the said Hortense Byrd may be made a party defendant to this bill, and required, but not on oath, to answer the same, the oath being hereby waived; that proper process may be issued; that a divorce from the bond of matrimony which was created by the aforesaid marriage be decreed him; and that your complainant may have all such further, and other, and general relief in the premises as the nature of his case may require, or to equity shall seem meet.

John Byrd
Complainant.

James H. Corbitt
Counsel.

VIRGINIA:
IN THE CIRCUIT COURT
OF NANSEMOND COUNTY.

JOHN BYRD,

v.

HORTENSE BYRD.

BILL

Filed June 21, 1896

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LAW OFFICES OF
JAMES H. CORBITT
SUFFOLK, VIRGINIA

TO THE CLERK OF THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA:

John Byrd Plaintiff

v.

Hortense Byrd Defendant

Issue summons in chancery to second June¹⁹²⁶ rules, to
answer a bill for divorce from the bond of matrimony.

Marshall Andrews p.q.

Auth Htho:

*May 4, 1934, process issued. Returnable to
John Auler, 3rd Monday 1934
John Auler, 3rd Monday, 1934 Blue field &
Clem m di*

Memo &
Pete Toler

_____+