

4449

ERIN CHAPMAN RHODES,)
Complainant,) IN THE CIRCUIT COURT OF
vs.) BALDWIN COUNTY, ALABAMA
VIRGIL BERTRAND RHODES,) IN EQUITY. NO. 4449
Respondent.)

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

Comes the Respondent in the above styled cause and in
answer to the Bill of Complaint heretofore filed therein says as
follows;

1. He admits the allegations of Paragraph One of the Bill
of Complaint except as to the date of departure from Bay Minette,
Alabama and date of alleged residence with Complainant's father
in Grove Hill, Alabama and denies each and every allegation of
Paragraph One not specifically admitted and demands strict
proof thereof.

2. He admits the allegations of Paragraph Two of the Bill
of Complaint.

3. He admits that he and the Complainant were intermarried
on the 29th day of August, 1940, but denies that Complainant was
compelled to leave their home and return to the home of her
father, and denies each and every other allegation of Paragraph
Three not specifically admitted and demands strict proof thereof.

4. Respondent denies that he has become addicted after
marriage to habitual drunkenness and denies that he is as of the
date hereof, a habitual drunkard; denies that he has committed
actual violence on the person of the Complainant attended with
danger to her life or health; admits that the Complainant is now
residing separate and apart from the Respondent, and denies any
and all other allegations of Paragraph Four not herein specifi-
cally admitted and demands strict proof thereof.

5. Respondent admits that there were born of this marriage
to the Complainant, two children: Ann Kathleen Rhodes, who was
born on March 12, 1947, and Virgil Bertran Rhodes, Jr., who was
born on February 8, 1949. Respondent denies that he is not a

fit person to be awarded custody of either of said children and denies that it is to the best interest of these said children to be in the custody and control of the Complainant, and shows that it is to the best interest of these said children to be in the custody of the Respondent who is a fit and proper person. Respondent admits that Ann Kathleen Rhodes is now with the Complainant and that Virgil Bertrand Rhodes, Jr. is now with the Respondent. Respondent further denies each and every allegation of Paragraph Five of the Bill of Complaint not herein specifically admitted and demands strict proof thereof.

6. Respondent admits that Complainant took Six Hundred Dollars (\$600.00) in money at the time of her desertion of the Respondent and admits that she took from the home, silverware, articles of furniture, lines, bed covers, and an electric blanket, and alleges that she took numerous other articles and items not enumerated in the Bill of Complaint. Respondent admits that the piano referred to in the Bill of Complaint belongs to the Complainant's father. Respondent further shows that Complainant had further and additional monies and that she had at the time of her abandonment of the Respondent, check-writing authority on his bank account in which as Complainant knows there were practically no funds on deposit subject to withdrawal, Respondent having had very little return from his farming operation, and Respondent further shows that Complainant removed from a place to which she had access, monies which are and were needed by him to plant, cultivate, grow and harvest a crop, the Respondent being a farmer by occupation. Respondent also admits that no property was registered in his name as owner on the Probate records of Baldwin County, Alabama at the time of his marriage to the Complainant, but denies each and every other allegation of Paragraph Six, except that allegation wherein Complainant alleges that she has no property in her own name and is without income of any character which Respondent neither admits nor denies, having no exact and accurate knowledge thereof, and Respondent denies each and every allegation of Paragraph Six not herein specifically admitted and demands strick proof thereof.

7. Respondent admits that he owns approximately three hundred acres of land within the city limits of Bay Minette, Alabama, but shows that a substantial portion thereof is not suitable for farming purposes and that although it is located within the city limits of Bay Minette, Alabama, it is not suitable for subdividing or sale for residential purposes at a price comparable to other real estate within the city limits in that the property is located adjacent to and near the area within the city of Bay Minette occupied by persons of Negroid blood which is generally known as "Douglasville". Respondent further denies that his farming equipment and other properties are of substantial value and shows to the Court that most of his equipment is antiquated and depreciated to such an extent that it needs replacement. Respondent admits that his income from farming operations varies from year to year, but denies that he has substantial income, showing to the Court that his net profit for the last several farming years has been negligible, and that he is now in debt, all of which is known to the Complainant. Respondent further denies any and all allegations of Paragraph Seven of the Bill of Complaint not herein specifically admitted and demands strict proof thereof.

Filed
3/2/59



Attorney for Respondent

ERIN CHAPMAN RHODES,)	
Complainant,)	IN THE CIRCUIT COURT OF
vs.)	BALDWIN COUNTY, ALABAMA
VIRGIL BERTRAND RHODES,)	
Respondent.)	IN EQUITY. NO. 4449

MOTION TO SET CAUSE FOR TRIAL


Now comes the Complainant, by her Solicitor, and moves the Court to set this cause for trial on Tuesday, February 24th at ten o'clock A. M.



ORDER:

On motion of the Complainant, this cause is hereby set for trial on Tuesday, February 24, at ten o'clock A. M.

ORDERED, ADJUDGED AND DECREED on this the 13 day of February, 1959.


Judge.

Filed Feb. 13, 1959
Alice J. Luck. Reg.

4449

FILED

FEB 18 1959

ALICE J. DUCK, Register

ERIN CHAPMAN RHODES,
Complainant,
vs.
VIRGIL BERTRAND RHODES,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NO. 4449

ORDER OF CONTINUANCE:

By agreement between the parties, this cause is continued from Monday, March 2, 1959, at ten o'clock A. M., to June 3, 1959, at nine o'clock, A. M.



Judge.

4449

FILED

MAR 31 1950

ALICE J. DUCK, CLERK
REGISTER

ERIN CHAPMAN RHODES,)
Complainant,) IN THE CIRCUIT COURT OF
VS.) BALDWIN COUNTY, ALABAMA
VIRGIL BERTRAND RHODES,) IN EQUITY NO. 4449
Respondent.)

DECREE OVERRULING DEMURRER

The demurrer heretofore filed in this cause by the respondent coming on to be heard on this date and being considered by the court, it is ORDERED, ADJUDGED AND DECREED by the court that the said demurrer is not well taken and it is, therefore, overruled.

ORDERED, ADJUDGED AND DECREED on this the 20th day of January, 1959.

Robert M. Hall
Judge

DECREE OVERRULING DEMURRER

ERIN CHAPMAN RHODES,

VS. Complainant,

VIRGIL BERTRAND RHODES,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 4449

FILED
JAN 22 1959
ALICE J. DIX, CLERK
REGISTER

CECIL G. CHASON

ATTORNEY-AT-LAW

FOLEY, ALABAMA

December 30, 1958

Mrs. Alice J. Duck, Register
Bay Minette, Alabama

Dear Mrs. Duck:

I am enclosing herewith demurrer in the case of Erin Chapman Rhodes -vs- Virgil Bertrand Rhodes, Equity No. 4449, a copy of which I am sending to James R. Owen and John Adams, Solicitors for Complainant.

Yours very truly,



C. G. Chason

CGC:fm

encls. as noted

cc: Hon. James R. Owen
Attorney at Law
Bay Minette, Alabama

cc: Mr. John E. Adams
Adams, Gilmore & Adams, Attorneys
Grove Hill, Alabama

ERIN CHAPMAN RHODES,		IN THE CIRCUIT COURT OF
Complainant,		
vs.		BALDWIN COUNTY, ALABAMA
VIRGIL BERTRAND RHODES,		IN EQUITY. NO. 4449.
Respondent.		

ORDER OF CONTINUANCE:

By agreement between the parties, this cause is continued from June 3, 1959, to June 24, 1959, at 9:30 o'clock A. M.

ORDERED on this the 1st day of June, 1959.

Hubert M. Lee

Judge.

FILED
JUN 2 1939
ALICE J. DUCK, CLERK
REGISTER

ERIN CHAPMEN RHODES,)	
Complainant,)	IN THE CIRCUIT COURT OF
vs.)	BALDWIN COUNTY, ALABAMA
VIRGIL BERTRAND RHODES,)	IN EQUITY. NO. 4449
Respondent.)	

ORDER:

The demurrer heretofore filed by the Respondent in this cause is hereby set for hearing on January 20, 1959, at eleven o'clock A. M.

ORDERED, ADJUDGED AND DECREED on this the 9 day of January, 1959.

Hubert M. Isaac

Judge.

11-44-9

FILED
JAN 9 1959
ALICE J. DUCK, CLERK
REGISTER

ERIN CHAPMAN RHODES,

Complainant,

vs.

VIRGIL BERTRAND RHODES,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.

NO. 4449.

ORDER OF CONTINUANCE:

By agreement between the parties, this cause is continued from Tuesday, February 24th, at ten o'clock A. M. to Monday, March 2nd, at ten o'clock A. M.



Judge.

ERIN CHAPMAN RHODES,

Complainant,

-vs-

VIRGIL BERTRAND RHODES,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

CASE NO. 4449

DEMURRER

Comes the Respondent in the above styled cause and demurs to the Bill of Complaint heretofore filed therein, and separately and severally, to each paragraph and aspect thereof, and as grounds of demurrer, assigns, separately and severally, the following:-

1. The Bill is prolix.
2. Paragraph 6 of the Bill contains impertinent and irrelevant matters.
3. For autht that appears, the habitual drunkenness complained of did not continue until or near the time of filing of the Bill.
4. It appears from the prayer for relief that the Bill should have been sworn to.
5. There is no oath to the Bill as is required in a Bill praying for preliminary relief.

*Filed
Dec. 31, 1958
Alice J. Luck,
Reg.*


Solicitor for Respondent

4449

FILED

DEC 31 1959

FILED BY CLERK
REGISTER

ERIN CHAPMAN RHODES,	:	
Complainant,	:	IN THE CIRCUIT COURT
Vs.	:	BALDWIN COUNTY, ALABAMA
VIRGIL BERTRAND RHODES,	:	IN EQUITY.
Respondent.	:	
	:	

TO THE HON. HUBERT M. HALL, JUDGE OF SAID COURT:

Comes your complainant, Erin Chapman Rhodes, and respectfully shows unto your Honor as follows:

1. That your complainant is over the age of twenty-one years and was, until September 29, 1958, a resident of Bay Minette in Baldwin County, Alabama, and had been a resident of said county for several years prior to that date; since September 29, 1958 she has resided at the home of her father in Grove Hill, Clarke County, Alabama.

2. That respondent, Virgil Bertrand Rhodes, is over the age of twenty-one years and resides in Bay Minette, Baldwin County, Alabama.

3. That complainant and respondent were married to each other on August 29, 1940, and lived together as husband and wife until September 29, 1958, on which date complainant was compelled to leave her home and return to the home of her father, under the circumstances hereinafter recounted.

4. Complainant alleges that respondent became addicted after marriage to habitual drunkenness; and that on to-wit: September 29, 1958, while respondent was in a drunken condition he committed actual violence on the person of complainant, attended with danger to her life or health; whereupon, complainant left the home in which she and respondent had been residing and she and respondent have remained separated from each other since that time.

5. Complainant alleges that there are two children born of this marriage, namely: Ann Kathleen Rhodes who was born March 12, 1947, and Virgil Bertrand Rhodes, Jr. who was born February 8, 1949. Complainant alleges that respondent is not a fit person to be awarded the custody of either of said children, and that complainant is in all respects a fit person to be awarded their custody. Complainant

alleges that the daughter, Ann Kathleen Rhodes, is now with her, and that the son, Virgil Bertrand Rhodes, Jr., is with respondent, but complainant alleges that it would be for the best interests of both children that their custody be awarded to your complainant.

6. Respondent owned no property of any consequence at the time of his marriage to your complainant. Complainant alleges that from the time of their marriage until their separation, complainant worked diligently with respondent, assisting him in earning a livelihood and accumulating some property, as well as performing her duties as housewife; title to all of the property which they have accumulated stands in the name of respondent, and your complainant has no property in her own name and is at present without any income of any character. Complainant and respondent had accumulated and had on hand at the time of the separation approximately \$1200.00 in cash, in a place to which they both had access; and, believing herself to be both legally and morally entitled to half of such money, and in order that she and her daughter might not be destitute, complainant did take \$600.00 of such money at the time of the separation; she did also take from the home the silverware which your complainant believes is rightfully hers rather than being jointly owned by complainant and respondent; subsequently, believing that she had every legal and moral right to do so, complainant returned to the home in Bay Minette and took therefrom some articles of furniture, some linens and bedcovers and an electric blanket, all of which complainant alleges belonged to her, but which have no great money value; there is still in the home at Bay Minette a piano, and some other items which belong personally to complainant. Complainant has expended in and about the support of herself and her daughter a substantial part of the \$600.00 with which she left Bay Minette, and alleges that she needs the remainder of it as well as additional contributions from respondent for the further maintenance of herself and her daughter; wherefore, complainant alleges that she is without funds with which to pay her solicitors for their services in this cause. Respondent has contributed nothing to the support of complainant and her daughter since they left Bay Minette as aforesaid, except that on two occasions respondent has sent the daughter \$5.00.

7. Complainant alleges that respondent owns a valuable tract

of land embracing approximately 300 acres, within the city limits of Bay Minette, which your complainant alleges is of great value, and respondent owns farming equipment and other property of substantial value. Respondent's income from his farming operations varies from year to year, but complainant alleges that respondent does have substantial income.

PRAYER FOR PROCESS

WHEREFORE, the premises considered, complainant prays that Virgil Bertrand Rhodes be made a party respondent to this bill of complaint and that process issue to him out of this court, requiring him to plead, answer or demur hereto within the time allowed by law and under the rules of this honorable court.

PRAYER FOR RELIEF

Complainant prays for the following relief:

(a) That your Honor will make and enter an order or decree awarding to your complainant, pendente lite, the custody of both children above named and requiring respondent to pay such sum or sums as your Honor shall deem appropriate to your complainant for counsel fees and for support and maintenance for complainant and her children pendente lite.

(b) That upon final hearing of this cause your Honor will make and enter a decree forever dissolving the bonds of matrimony heretofore existing between complainant and respondent and granting to your complainant a divorce against respondent on account of his habitual drunkenness and his cruelty toward your complainant.

(c) That upon final hearing of this cause your Honor will award to your complainant the permanent custody of Ann Kathleen Rhodes and Virgil Bertrand Rhodes, Jr., the children of this marriage.

(d) That upon final hearing of this cause your Honor will make a permanent award of alimony to your complainant, either in the form of an allocation to your complainant of a portion of the property now owned by respondent or in the form of periodic payments to be made by respondent to your complainant; and if the latter, complainant prays that this court will declare a lien upon the property of respondent securing the payment to your complainant of such sums as this court

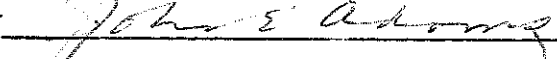
may so award.

(e) That your Honor will direct such references and other proceedings to be had as shall be appropriate for the relief herein prayed.

And if complainant has in anywise mistaken the relief to which she is entitled hereunder, she prays for such other, further or different relief as may be due her, the premises considered.

_____

ADAMS, GILLMORE & ADAMS

By _____

Solicitors for Complainant

4449

FILED
DEC 1 1958

ALICE J. DUCK, Registrar

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. 4449

----- TERM, 19-----

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon VIRGIL BERTRAND RHODES

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against-----

VIRGIL BERTRAND RHODES

-----, Defendant-----

by ERIN CHAPMAN RHODES

-----, Plaintiff-----

Witness my hand this 1st day of December 19 58

Executed
Dec. 3, 1958

Alice J. Luck, Clerk

No. 4449 Page _____

The State of Alabama

Baldwin County

CIRCUIT COURT

ERIN CHAPMAN RHODES

Plaintiffs

vs.

VIRGIL VERTRAND RHODES

Defendants

Summons and Complaint

Filed Dec. 1, 1958 19__

Alice J. Duck Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

12/1 1958

_____, Sheriff

I have executed this summons

this Dec. 3 1958

by leaving a copy with

Virgil Bertrand
Rhodes

Taylor Wilkins Sheriff

W. A. Saller Deputy Sheriff

om