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Record No. 6944

In the
Supreme Court of Appeals of Virginia
at Richmond

EVELYN WARX FRIEND
CRITTENDEN, ET AL.

v.

HENRY T. CRITTENDEN

FROM THE CIRCUIT COURT OF THE CITY OF NORFOLK

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a.m.; Adjourns at 1:00 p.m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6944

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Tuesday the 16th day of April, 1968.

EVELYN WARX FRIEND CRITTENDEN, ET AL., Appellants,

against

HENRY T. CRITTENDEN, Appellee.

From the Circuit Court of the City of Norfolk
Clyde H. Jacob, Judge

Upon the petition of Evelyn Warx Friend Crittenden and Robert C. Stackhouse, Committee of Evelyn Warx Friend Crittenden, an appeal is awarded them from a decree entered by the Circuit Court of the City of Norfolk on the 20th day of October, 1967, in a certain chancery cause then therein depending, wherein Henry T. Crittenden was plaintiff and Evelyn Warx Friend Crittenden and another were defendants; no bond being required.

RECORD

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page 1 }

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BILL OF COMPLAINT

To The Honorable Judge of this Court:

You complainant, Henry T. Crittenden, respectfully shows unto the Court the following cause for equitable relief:

1. The parties hereto are lawfully husband and wife, having been married in the City of Norfolk, Virginia, on January 1, 1941, as evidenced by the certified copy of their marriage license attached hereto as Exhibit "A".

2. Neither complainant nor defendant Evelyn Warx Friend Crittenden is a member of the armed forces of the United States, and they are both adults and both members of the white race.

3. Both complainant and defendant Evelyn Warx Friend Crittenden are as of the commencement of this suit, and they both have been for more than one year next preceding the commencement hereof, *bona fide* residents of and domiciled in the State of Virginia.

page 2 } 4. The parties last cohabited as husband and wife in the City of Norfolk, Virginia.

5. No children were born of the marriage between said parties and none are expected.

6. Commencing in 1959, at which time the parties were living at 2587 Ruffin Way, Norfolk, defendant began to have hallucinations and violent seizures, and early in 1950 she lunged at complainant with a carving knife. Three nights later she tried again to harm complainant by lunging at him with a carving knife, so that he was compelled to lock his door against her. Thereafter, she continued to have violent attacks, and complainant was compelled to seek the services of a psychiatrist for his said wife.

7. On or about May 19, 1950, defendant Evelyn Warx Friend Crittenden was found to be mentally incompetent by a commission lawfully authorized to make such determination; and she was committed to Eastern State Hospital, then at Williamsburg, now in Dunbar, James City County, Virginia, where she presently is confined.

8. By order of the Clerk of the Corporation Court of the City of Norfolk entered on the 4th day of October, 1960,

Robert C. Stackhouse was appointed committee of Evelyn Warx Friend Crittenden. Your complainant has irrevocably delivered to said committee assets whose value now exceeds $10,000.00, the income from which fund is managed by said committee and applied toward her support and maintenance. Said income, plus Social Security benefits payable monthly to defendant in an amount in excess of $56.00, are sufficient to defray the cost of maintaining and supporting said defendant at the present time, and any such expense page 3 } reasonably foreseeable in the future.

9. Complainant and defendant Evelyn Warx Friend Crittenden have lived separate and apart without any cohabitation and without interruption since May, 1950, a period in excess of two years.

WHEREFORE, complainant prays that he may be granted a divorce from the bonds of matrimony from defendant Evelyn Warx Friend Crittenden, on the grounds that they have lived separate and apart without any cohabitation and without interruption for more than two years; that it may be decreed that your complainant has made adequate provision for the support and maintenance of his said wife by delivering assets to the said committee, which, coupled with other income, is sufficient to support and maintain said defendant; that your complainant may be absolved from any further legal responsibility to render support and maintenance to his said wife; and that he may have such further relief as equity deems proper.

HENRY T. CRITTENDEN

By LUTHER W. WHITE, III
Of Counsel

* * * * *

Filed in the Clerk's Office the 22nd day of Feb., 1967.
Teste:

W. R. HANCKEL, Clerk

ELNORA A. GARD, D. C.

* * * * *

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DEMURRER

To the Honorable Judges of the Court aforesaid:

Comes now Philip L. Russo, guardian *ad litem* for Evelyn Warx Friend Crittenden, and he demurs to the Bill of Complaint filed on behalf of Henry T. Crittenden on the grounds that the Bill of Complaint shows on its face that the defendant, Evelyn Warx Friend Crittenden, is mentally incompetent and the said Philip L. Russo therefore says that so long as she is mentally incompetent, a divorce cannot be granted to her husband, the complainant herein.

PHILIP L. RUSSO, guardian *ad litem* for Evelyn Warx Friend Crittenden

Filed 3-3-67. CLYDE AUNSAUSER, D.C.

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DEMURRER

To the Honorable Judges of the Court aforesaid:

Comes now Evelyn Warx Friend Crittenden, in her own proper person by Philip L. Russo, her guardian *ad litem,* and she demurs to the Bill of Complaint filed on behalf of Henry T. Crittenden on the grounds that the Bill of Complaint shows on its face that she is mentally incompetent and she therefore says that so long as she is mentally incompetent, a divorce cannot be granted to her husband, the complainant herein.

EVELYN WARX FRIEND CRITTENDEN

By PHILIP L. RUSSO, *guardian ad litem*

Filed 3-3-67. CLYDE AUNSAUSER, D.C.

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DEMURRER

To the Honorable Judges of the aforesaid Court:

Now comes Robert C. Stackhouse, Committee of Evelyn Warx Friend Crittenden, and states that the Bill of Complaint exhibited against him as Committee in the above cause is insufficient at law and that he demurs to the same.

ROBERT C. STACKHOUSE,
Committee of Evelyn Warx Friend Crittenden

Filed 3-13-67. ELNORA A. GARD, D.C.

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ORDER

On May 8, 1967, this cause came on to be heard upon the respective demurrers to the bill of complaint filed by Robert C. Stackhouse, Committee of Evelyn Warx Friend Crittenden, and Philip L. Russo, Guardian *ad Litem* for Evelyn Warx Friend Crittenden, and Evelyn Warx Friend Crittenden by Philip L. Russo, her Guardian *ad Litem;* upon the personal appearance at the hearing of said Philip L. Russo, Guardian *ad Litem* for Evelyn Warx Friend Crittenden; and upon the arguments of counsel for all parties.

Upon consideration whereof, it is ADJUDGED, ORDERED and DECREED that all the demurrers filed by the respective defendants be, and they hereby are, overruled.

It is FURTHER ORDERED that defendants file their respective answers to the bill of complaint no later than twenty-one (21) days from the date of the entry of this order.

Enter May 23, 1967. C. H. J.

WE ASK FOR THIS:
LUTHER W. WHITE, III, p.q.

page 9 } SEEN AND OBJECTED TO; AND EXCEPTIONS NOTED:

JEROLD G. WEINBERG, of counsel for
Committee for Evelyn Warx Friend Crittenden

PHILIP L. RUSSO
Guardian *ad Litem* for Evelyn Warx
Friend Crittenden

* * * * *

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ANSWER AND CROSS-BILL OF ROBERT C. STACKHOUSE, COMMITTEE OF EVELYN WARX FRIEND CRITTENDEN

For Answer to the Bill of Complaint, Robert C. Stackhouse, Committee of Evelyn Warx Friend Crittenden, one of the defendants herein, says:

1. That the allegations contained in Paragraphs 1, 2, 3, 4, and 5 of the Bill of Complaint are admitted.

2. That the allegations contained in Paragraph 6 of the Bill of Complaint are neither admitted nor denied and strict proof thereof is called for.

3. That the allegations contained in Paragraph 7, 8 and 9 of the Bill of Complaint are admitted.

And for further Answer, this to be treated in the nature of a Cross-Bill, this defendant says:

1. That he is informed, believes, and therefore avers that Evelyn Warx Friend Crittenden has been continuously insane and *non compos mentis* from a time beginning before the separation of the parties in May, 1950.

WHEREFORE, this defendant prays that said Bill of Complaint be denied; that the complainant be required to pay alimony to and make other suitable arrangements for the support of Evelyn Warx Friend Crittenden; that complainant be required to pay attorney's fees and court costs; and that

this defendant be awarded such other relief as the nature of this case may require or to equity may seem meet.

ROBERT C. STACKHOUSE,
Committee of EVELYN WARX
FRIEND CRITTENDEN

By JEROLD G. WEINBERG
Of Counsel

Filed 5-25-67. ELNORA A. GARD, D.C.

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REPORT OF EDWARD W. WOLCOTT COMMISSIONER IN CHANCERY

TO: THE HONORABLE JUDGE OF THE AFORESAID COURT:

The undersigned Commissioner in Chancery, to whom the above styled cause was referred by Decree of Reference entered herein on the 1st day of June, 1967, and pursuant to Agreement of Counsel, did on the 30th day of June, 1967, proceed to take the testimony and to make the inquiries ordered by the Decree.

Your Commissioner attaches hereto the Depositions taken at said hearing, together with the exhibits filed in evidence.

All witnesses who testified at said hearing did personally appear before your Commissioner at the time they testified. At said hearing, Mr. John P. Harper appeared as Counsel for the Complainant, Mr. Jerrold G. Weinberg appeared as Counsel for Mr. Robert C. Stackhouse, Mr. Robert C. Stackhouse, Committee of Evelyn Warx Friend Crittenden, and Philip Lee Russo, Guardian *ad Litem* for the Defendant.

Your Commissioner respectfully reports unto the Court as follows:

1. WHETHER OR NOT THE PARTIES ARE PROPERLY BEFORE THE COURT:

All necessary parties are properly before the Court.

2. JURISDICTION AND VENUE:

The Complainant, on the date this suit was instituted was domiciled in and was then and had been an actual *bona fide* resident of the City of Norfolk, State of Virginia for at least one year next preceding the commencement of this suit.

page 18 } The parties to this suit last cohabited in the City of Norfolk.

This Court has jurisdiction to hear and determine this cause.

3. THE RACE OF THE PARTIES:

Both the Complainant and the Defendant are members of the Caucasian race.

4. WHETHER OR NOT LEGAL GROUNDS FOR DIVORCE EXIST:

The parties to this suit were married in Norfolk, Virginia on the 1st day of January, 1941. (See certified copy of the marriage certificate attached hereto and marked as Complainant's Exhibit "A.")

The testimony of the Complainant revealed that the Complainant and the Defendant separated in 1950 and that the said separation has been continuous and uninterrupted since that time.

The testimony of the Complainant was corroborated by the testimony of the witnesses, Iva Raper and Robert C. Stackhouse, Committee of Evelyn Warx Friend CRittenden.

In the opinion of your Commissioner, the evidence establishes that the parties to this suit have lived separate and apart without any cohabitation and without interruption for more than two years; hence, a divorce from the bond of matrimony may be decreed pursuant to Section 20-91 (9) Code of Virginia, as amended.

Your Commissioner, therefore, recommends that a Decree be entered in this cause, granting to the Complainant from the Defendant, a divorce *A VINCULO MATRIMONII.*

5. OTHER MATTERS PROPERLY RAISED BY THE PLEADINGS:

There were no children born of the marriage between the Complainant and the Defendant.

Your Commissioner reports and recommends as follows:

(a) That neither the Complainant nor the Defendant is a member of the Armed Forces of the United States of America.

page 19-A } (b) That both the Complainant and the Defendant are over the age of 21 years.

(c) The Defendant, having been committed to Eastern State at Williamsburg as insane in 1950, is the beneficiary of an estate administered by Mr. Robert C. Stackhouse, the income from which varies, but by stipulation of the attorneys representing both plaintiff and defendant, the committee and his attorney, it was agreed that the income from the estate, plus $25.00 per month to be paid by the Complainant, Mr. Crittenden, would be sufficient at the present time to maintain the Defendant in her present status. Your Commissioner so recommends.

Respectfully submitted this 3rd day of October, 1967.

EDWARD W. WOLCOTT
Commissioner in Chancery for
The Circuit Court of the City of
Norfolk, Virginia

Filed 10-4-67. CLYDE AUNSASUER, D.C.

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EXCEPTION TO REPORT OF COMMISSIONER IN CHANCERY

The undersigned except to the Report of the Honorable Edward W. Wolcott, Commissioner in Chancery, on the following grounds:

1. The Commissioner erred in recommending that complainant be awarded a divorce *a vinculo matrimonii.*

EVELYN WARX FRIEND CRITTENDEN

By PHILIP L. RUSSO
Guardian *ad Litem*

ROBERT C. STACKHOUSE, Committee of
EVELYN WARX FRIEND CRITTENDEN

By JERROLD G. WEINBURG
Of Counsel

Filed 10-12-67. ELNORA A. GARD, D.C.

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FINAL DECREE OF DIVORCE

This cause came again to be heard upon the Bill of Complaint, the papers formerly read, the Answer of Philip L. Russo, Guardian *ad Litem,* the Answer and Cross-Bill of Robert C. Stackhouse, Committee, the Answer of complainant to the said Cross-Bill, the depositions duly taken and filed herein, the report of the Commissioner in Chancery to whom this cause was referred, the exceptions to the said report by the Guardian *ad Litem* and Committee aforesaid, and was argued by counsel.

UPON CONSIDERATION WHEREOF, and it appearing to the Court that there are no errors in the said report, and the Court perceiving of its own motion that there are no errors in the said report, doth approve and confirm the said report and overrule the said exceptions; and it further appearing to the Court independently of the admissions of either party, in the pleadings or otherwise, that the parties were at the time of the institution of this suit, and for a period of more than one year next preceding the institu-
page 21 } tion of same, actual *bona fide* residents of and domiciled in the State of Virginia; that they last cohabited in the City of Norfolk, Virginia; that the parties are adults and members of the white race, and were married in the City of Norfolk, Virginia on January 1, 1941; that there were no children born of this marriage; that the parties have lived separate and apart without any cohabitation and without interruption since May 1950, a period in excess of two years, it is

ADJUDGED, ORDERED and DECREED that the complainant Henry T. Crittenden be, and he is hereby, awarded a divorce from the bond of matrimony from Evelyn Warx Friend Crittenden.

It is further ADJUDGED, ORDERED and DECREED that the complainant shall pay to Robert C. Stackhouse, Committee, the sum of $25.00 per month for the support and maintenance of the defendant Evelyn Warx Friend Crittenden, in addition to the benefits to be derived from the estate of the said defendant already established by the complainant, and shall also pay a fee of $150 to Philip L. Russo

for professional services as Guardian *ad Litem* in these proceedings.

To all of which the said Guardian *ad Litem* and the said Committee object and except.

Enter Oct. 20, 1967. C. H. J.

We ask for this:
JOHN P. HARPER, p.q.

Seen and Objected to:
PHILIP L. RUSSO
Guardian *ad Litem*

JERROLD G. WEINBERG
Of counsel for Robert C.
Stackhouse, Committee

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ASSIGNMENTS OF ERROR

1. The Court erred in overruling the Demurrers filed by defendants.
2. The Court erred in overruling the Exception of defendants to the Report of the Commissioner in Chancery.
3. The Court erred in awarding a divorce to complainant.
4. The Court erred in entering the Final Decree of October 20, 1967.

EVELYN WARX FRIEND CRITTENDEN

By PHILIP L. RUSSO
Guardian *ad Litem*

ROBERT C. STACKHOUSE, Committee of
Evelyn Warx Friend Crittenden

By JERROLD G. WEINGERG
Of Counsel

Filed 12-5-67. VIRGINIA MANNING, D.C.

* * * * *

Dep.
page 3 }

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Mr. Weinberg: Yes, your Honor. As Counsel for Robert C. Stackhouse, Committee of Evelyn Warx Friend Crittenden, I wish to say that the legal point that was involved in this case has already been decided adversely to us by Judge Jacob when he overruled the demurrer filed by Mr. Russo as guardian *ad litem,* and Mr. Stackhouse as Committee.

That holding in effect decided that the ruling of the Court was that a party who had been separated for more than two years could obtain a divorce from his spouse even though the separation was brought about by reason of the spouse's insanity.

In this particular case the defendant wife has been confined to Eastern State Hospital for many years. That will come out in the evidence. Of course, we do not waive that point but we see there is no need to argue it before your Honor because the Court has already ruled on the matter.

Dep.
page 4 }

I presume that is binding upon you and, of course, we will have to file exceptions to your report which we presume will be in accord with Judge Jacob's ruling.

Mr. Russo: As guardian *ad litem* for Evelyn Warx Friend Crittenden I join in Mr. Weinberg's statement and also I do not waive that point, but we will not argue it before you since the Judge has already decided.

The Commissioner: Subject to those statements, then, gentlemen, if you will proceed. Mr. Harper is to examine the complainant.

Mr. Harper: First, may I complete the record and tender an attested copy of the marriage certificate which is referred to in the bill of complaint. I don't think it has previously been filed.

The Commissioner: Mr. Crittenden, I hand you what purports to be a certificate of marriage and a license of marriage and ask you whether or not that properly identifies you and Mrs. Crittenden as having been married in the Commonwealth of Virginia on the 1st day of January, 1941; is that correct, sir?

Mr. Crittenden: That is correct.

The Commissioner: All right. I will mark this Complainant's Exhibit "A".

Dep.

(Whereupon, the foregoing certificate was marked as Complainant's Exhibit "A".)

Henry T. Crittenden

page 5 } HENRY T. CRITTENDEN, the Complainant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Harper:
Q. State your name, please, sir?
A. Henry T. Crittenden.
Q. You are the complainant in this case?
A. I am.
Q. What is your present address, Mr. Crittenden?
A. 1016 Dune Street.

The Commissioner: Would you spell that, please?
The Witness: D-u-n-e.

By Mr. Harper:
Q. And that is in the City of Norfolk?
A. That is in the City of Norfolk.
Q. How old are you, Mr. Crittenden?
A. I will be 61 next month.
Q. When were you and Mrs. Crittenden married?
A. January 1, 1941.
Q. And where were you married?
A. The City of Norfolk.

* * * * *

Dep.
page 6 } By Mr. Harper:
Q. Are either you or Mrs. Crittenden a member of the Armed Forces?
A. Neither are, no.
Q. Are you both adults?
A. We are.
Q. Are you both members of the white race?
A. Yes.
Q. How long have you been a resident of the State of Virginia?
A. My entire life except for five years except during the time when I was a minor.
Q. And since the time that you and Mrs. Crittenden were married on January 1st, 1941 has the State of Virginia been your permanent home?

Henry T. Crittenden

A. It has.

Q. And has it also been the permanent home of Mrs. Crittenden?

A. It has.

Q. Where did you and she last live together as husband and wife?

A. At 2587 Ruffin Way, Norfolk.

Q. In the City of Norfolk?

A. That is right.

Dep. page 7 } Q. Were any children born of your marriage?

A. There were no children.

Q. Are there any children now expected?

A. No children are expected.

Q. Going back to 1949 or 1950 describe to the Commissioner any unusual conduct or behavior on her part.

A. If you go back further than that we can start and say that since after about six months after we were married her behavior became more and more erratic. She would leave home reportedly to be going to the corner for a pack of cigarettes and be gone for two or three weeks. I have not the slightest idea where she was.

She would complain bitterly about noises under the house when there were no noises, and in the basement. She would have tantrums for no apparent reason whatsoever. In general she was just obviously, I would say, insane.

Q. Well, at any time did she ever attack you or use a knife with regard to you in an improper way?

A. Yes.

Q. When was this?

A. I had learned that I could not possibly sleep with her and I moved into a back room, another bedroom in the house. I always slept rather lightly because she had a habit of getting up in the middle of the night and putting on her clothes and disappearing.

Dep. page 8 } So this particular night I heard her get up and she went in the kitchen and opened a drawer. I could watch her and she came out of the kitchen and through the dining room and into my bedroom with a knife in her hand. I just waited and when she started to stab I grabbed her.

Q. When was this approximately, Mr. Crittenden?

A. I would say that was probably about in the summer of 1948 or maybe 1949. And then about a week later she tried it again.

Henry T. Crittenden

Q. Let me ask you this: Was her conduct on this occasion as a result of any quarrel between the two of you?

A. No.

Q. I mean by that, was she doing this because she was mad at you? Whether she had reason for being mad at you?

A. She had told me some time before that she had been to see a lawyer relative to getting a divorce and that the lawyer had simply laughed at her.

Q. Well then, after this conduct on her part did you seek any medical assistance?

A. After a particularly bad attack, I will call it an attack, I went to see a psychiatrist. I am not sure of his name, Woodson, I will call him. I am not positive, I don't remember it. I visited him on a Sunday afternoon at his own home. I went by myself and he told me that the next time she had one of these attacks and tantrums to call him.

Dep. page 9 } Well, about a week later she did and I called the man. He came out to the house and he told me to have her at his office two days later. In fact, he asked me did I think I could get her there, and I said, "I will have her there," and I did.

* * * * *

By Mr. Harper:

Q. Well now, as a result of the examination by this Doctor Woodson, if that is his name, did you take any steps toward having her committed?

A. He kept her in his office for about an hour and then he came out and told me that I had one of two choices. I could either put her in a private sanitarium or put her in the State Hospital at Williamsburg. I asked the man if it had been his wife under the same conditions what would he do. He told me he would put her in Williamsburg.

Q. Pursuant to that what did you do, Mr. Crittenden? Or what action was taken with regard to having her committed?

A. I asked the man if he could handle it. He said he would and just what he did, I don't know. But, he picked up the phone and called someone and told me to have her before a Commission on a Friday morning which was two days later.

Dep. page 10 } Q. This was the doctor?

A. The doctor, right.

Q. I like to offer for the record an attested copy of the *comitment* proceedings affecting the defendant in this case.

Henry T. Crittenden

* * * * *

The Commissioner: I will mark these papers, Numbering One, Two, Three and Four sheets as Complainant's Exhibit "B".

(Whereupon, the foregoing papers were marked as Complainant's Exhibit "B".)

By Mr. Harper:

Q. Now, Mr. Crittenden, referring to Page 1 marked Part 1 of Complainant's Exhibit "B", I point to what purports to be your signature and ask you if that is your signature?

A. That is my signature.

Q. And was she at this time committed to the Eastern State Hospital at Williamsburg?

Dep. page 11 }

A. She was.

Q. And has she remained there continuously since that time?

A. She has.

Q. Have you and Mrs. Crittenden lived together since 1950?

A. We have not.

Q. Have you lived separate and apart and without any cohabitation and without interruption since May of 1950?

A. We have.

Q. Have you visited Mrs. Crittenden at Eastern State Hospital?

A. Periodically.

Q. How frequently is periodically?

A. At the beginning, every two weeks but due to my own condition I made it every three weeks.

Q. Now, what is your condition?

A. I was retired due to a severe heart attack.

Q. That is the condition that you are referring to?

A. That is right.

Q. Do you continue to visit with her every three weeks?

A. I continue every three weeks.

Dep. page 12 }

Q. And on these occasions does she seem to know you?

A. She does not know me as a husband. At least I do not believe she does, only as a person who bears gifts. She looks forward to the fact that I give her things.

Q. She knows you as a friend?

A. That is correct.

Q. But not particularly as a husband?

Henry T. Crittenden

A. I am willing to say she does not.

Q. Mr. Crittenden, have you made financial provisions for the support and maintenance of Mrs. Crittenden?

A. I have.

Q. And how have you done this?

A. I set up an estate for her.

Q. And did you at one time administer this estate as the committee of her estate?

A. I did.

Q. But who is now the administer?

A. Mr. Robert C. Stackhouse.

Q. I am going to talk to Mr. Stackhouse about that in a moment, but apart from the estate administered by Mr. Stackhouse, did you make any consideration or expense during or on the behalf of Mrs. Crittenden at this time?

A. I do.

Dep. page 13 } Q. Have you continued to do that through the time she has been in Williamsburg?

A. I have.

Q. What do they usually amount to?

A. They consist, at the present, of $25.00 a month which is spending money and for clothes.

Q. Do you send that to the authorities at Williamsburg?

A. I send it to the authorities at Williamsburg and they are also instructed to provide all clothes that she needs and send me a bill.

Q. Do they do that?

A. They do that.

Q. And in addition to that, are there any other provisions you made for her?

A. I give her spending money when I go up there.

Q. Mr. Crittenden, you have indicated that by the papers filed in this case, you seek a divorce from Mrs. Crittenden. I want to ask you why do you want a divorce from her?

A. I am tired of living by myself for one thing. Because I have found that a person who is separated from his wife is not accepted by either married or single people. To the married people I am single or I do not live with my wife. To the single people I am married legally. Therefore, I consider myself more of an outcast than anything else. I would like to rejoin the human race again.

Dep. page 14 } Q. All right. Thank you, Mr. Crittenden. Answer any questions these gentlemen may have.

Iva Raper

CROSS EXAMINATION

By Mr. Weinberg:

Q. Mr. Crittenden, your wife lived with you right up until the time when she was committed to Eastern State Hospital?

A. Yes, sir.

Q. And she was committed on the date which is reflected in Exhibit "B", which would be May 19, 1950?

A. Yes, sir.

Q. And she was insane before that time?

A. She was, to my knowledge, yes, sir.

Q. And she certainly has been insane continuously after that, is that right?

A. That is right.

Q. Mr. Crittenden, as I understand it you would have no objection to an award of alimony on behalf of your wife in the sum of $25.00 per month for the time being, which she would receive in addition, of course, to the financial arrangement that you made for her through Mr. Stackhouse as Committee?

Dep. page 15 } A. That is correct.

Q. You transferred a fund of money to Mr. Stackhouse some years ago?

A. I did.

Q. Which he held as Committee and administered for her behalf?

A. Yes, sir.

Mr. Weinberg: No further questions, your Honor.

* * * * *

Dep. page 16 }

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IVA RAPER, called as a witness on behalf of the Complainant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Harper:

Q. State your name, please, ma'am?

A. Iva Raper.

Iva Raper

Q. And what is your address, Mrs. Raper?
A. 7406 Yorktown Drive, Norfolk.
Q. Do you know Mr. Henry Crittenden, the Complainant in this case?
A. Yes, sir.
Q. Do you know Mrs. Evelyn Crittenden, the Defendant?
A. Yes, sir.
Q. How long have you been knowing them?

Dep. page 17 }

A. Ever since I can remember. I have known him but her, when she was 27, I think.
Q. Did you know them before the time they were married?
A. I knew him before.
Q. Did you know her?
A. No.
Q. Did you attend the marriage?
A. Yes.

* * * * *

Q. Have they lived in the City of Norfolk continuously since the time that they were married except, of course, it has been stated that Mrs. Crittenden is now in Williamsburg; is that correct?
A. Yes.
Q. Do you recall the time that she was—strike that, please. I will ask you this: Did they last live together as husband and wife in the City of Norfolk?
A. Yes.

Dep. page 18 }

Q. Did they live together there up until the time she was sent to Williamsburg?
A. Yes.
Q. Have there been any children born of this marriage?
A. No, sir.
Q. Do you know anything, Mrs. Raper, concerning any irrational conduct and behavior of Mrs. Crittenden?
A. Yes.
Q. And could you just tell us in a few words what you observed prior to the time of her commitment?
A. Well, she spoke erratically and she acted the same way.
Q. You didn't witness any of this business with the knife and all of that? You were not present at that time?
A. No.

Robert C. Stackhouse

Q. Have you visited in the home of Mr. Crittenden since 1950 when she went to Williamsburg?

A. Well, yes.

Q. And are you able to tell us whether or not she has lived with him at all since that time?

A. No.

Q. She has not?

A. No.

Dep. page 19 } Q. In any event have they lived together in the past three years?

A. No.

* * * * *

Mr. Harper: I will put Mr. Stackhouse on.

ROBERT C. STACKHOUSE, called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Dep. page 20 } By Mr. Harper:

Q. You are Robert C. Stackhouse?

A. Yes, I am.

Q. And you are an Attorney here in the City of Norfolk?

A. Yes.

Q. And are you also the Committee of the estate of the Defendant, Evelyn Warx Friend Crittenden?

A. Yes, sir.

Q. And when did you become the Committee?

A. Mr. Harper, I qualified on October 4, 1960. Mr. Crittenden had previously qualified some time in 1959 and he became ill as a result of an heart attack and asked me to serve as Committee. I was appointed on that date.

Q. And you served continually as Committee for Mrs. Crittenden since that time?

A. I have.

Q. And as such Committee have you had occasion to make any inquiries as to her mental condition?

A. Before I qualified on the estate I wrote a letter to the Superintendent at Williamsburg and received a reply from him to the effect that the prognosis was such that they did not anticipate that she would ever become sane again.

Dep. I might also say, Mr. Harper, that in addition to that when Mr. Russo was appointed guardian

page 21 } *ad litem* in this case that he likewise sought a similar opinion and was also advised that she was insane and the possibility of her being cured was practically nil.

Q. Let me offer you this letter from Dr. Ashburg. Is this the communication you referred to?

A. This is the letter sent to Mr. Russo on the date of March 15, 1967 which I have seen.

Mr. Harper: Mr. Russo, at this point do you have any objection if I put a copy in the record?

Mr. Russo: No objection.

Mr. Weinberg: We have copies.

The Commissioner: I will mark this Complainant's Exhibit Number "C".

(Whereupon, the foregoing letter was marked as Complainant's Exhibit Number "C".)

By Mr. Harper:

Q. Mr. Stackhouse, I don't believe I asked you, in which Court is the Committee Estate maintained?

A. In the Corporation Court of the City of Norfolk.

Q. Now, with regard to the assets of the estate have you a computation of the present value of the estate?

A. I do, Mr. Harper. The last approved report Dep. from Commissioner William L. Ward was received page 22 } in early 1967 and the report covers a period from October 12, 1965 through December 31, 1966.

Q. As of December 31, 1966 what was the current principle balance?

A. Well, if you will allow me, I think it would be perhaps more edifying to the Commissioner if I would give him an approximate value of the estate as it exists today because of stocks and bonds which fluctuate.

Q. That would be even better.

A. At the present time, Mr. Commissioner, there is a balance in the Seaboard National Bank of $4,224.53. That is money in the bank. There is a note secured by a deed of trust which is due the estate in the approximate amount of $1800.00. There are bonds which are Government Series "E" Bonds which have an approximate value of $1,864.04. There are stocks with three companies. Sunray; Mid Continental Oil Company; Common Stock. The last quote being $35.00 per share making a total amount of that Sunray Oil

Stock as $1,115.00. The second stock would be Commonwealth Edison, the last quote on that is $47.00 per share and total amount of that stock is valued at $2,021.00. The third stock is Northern Illinois Gas Company which is an unlisted stock with a quote of thirty-four fifty, and an approximate value of $310.50. There is at the present time a total estate to be administered in the amount of $11,335.07. This is an approximation.

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Now, in addition to that, Mr. Commissioner, I receive as Committee for Evelyn Crittenden the sum of $720.00 per annum as Social Security payment on her behalf. I receive approximately $120.00 in dividends each year for a total annual income of $840.00.

The responsibilities of the estate have been such that I pay to the state for the care of Mrs. Crittenden the sum of $100.00 per month or $1200.00 per year which means that the estate is being depleted at the rate of approximately $306.00 per year. Figured roughly without my computation if the status quo remains and the payments were not increased the estate would last at least another 25 years.

Q. Mr. Crittenden paid on the account of ailmony $25.00 per month that would not tend to increase the estate, but you in turn as Committee if you paid that over to the hospital would in turn be meeting the obligation which he is now meeting, is that a fair statement?

A. I think that is correct. Mr. Crittenden at the present time makes many visits to the hospital as he testified. In addition to the payments which I make as stated he pays to the hospital directly for spending money for his wife approximately $25.00 to $50.00 per month and he also buys clothes and so forth.

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Q. Do you feel, Mr. Stackhouse, that if he continued to make his payment of $25.00 a month with the funds and receipts that you have on hand that at least for the foreseeable future this could provide for the needs of Mrs. Crittenden?

A. I would have to say, yes. Not unless we have a catastrophe in the stock market.

(Whereupon, a short discussion off the record was held.)

The Commissioner: It is my understanding, gentlemen, that all Counsel present and concerned with this matter will stipulate that the present income and the foreseeable projected income from the estate as administered by Mr. Stack-

house plus $25.00 a month alimony, which is intended to be paid by Mr. Crittenden to Mr. Stackhouse for Mrs. Crittendents' benefit, as alimony, will be sufficient to maintain Mrs. Crittenden properly under the present condition. Is this a stipulation between all Counsel?

Mr. Weinberg: Yes, sir.

Mr. Harper: Yes.

Mr. Russo: Yes.

Mr. Stackhouse: Yes, sir.

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk.

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