

12270

No. \_\_\_\_\_

# Supreme Court of Illinois

Ashbaugh

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vs.

Ashbaugh.

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71641  7

Oliver T Ashbaugh Deft in Error } State of Illinois  
 at } Supreme Court  
 Hannah Ashbaugh Pltff in Error } June Term 1836

And now on this day comes the said  
 Oliver T Ashbaugh Deft in Error by James  
 L Loop his Sol & says that in the judgment  
 of Dismissal aforesaid as well as in the  
 proceedings aforesaid there is no  
 Error & prays that the said Court  
 may inquire into the record & proceedings  
 aforesaid & that the judgment & decree  
 aforesaid may be affirmed  
 &c

J. L. Loop.  
 atty for Deft in Error

I have been employed by Deft in  
 Error in the above case. Deft

I am willing to submit the  
 case without argument  
 June 26<sup>th</sup> 1836 J. L. Loop

State of Illinois  
Stephenson County

Pleas before the Hon. Benjamin  
R Sheldon presiding Judge of the Fourteenth Judicial  
Circuit of said State, at a term of the Circuit Court begun  
and held at the Court house in Freeport in said Judicial  
Circuit & in the County & State aforesaid on Monday the  
third day of September A.D. 1855.

Present the Hon. Benjamin R Sheldon Judge  
Isaac Kleckner Sheriff  
Attest: Joseph B Smith, Clerk

Hannah Ashbaugh

Oliver I Ashbaugh

Be it remembered that at this same  
Term of said Circuit Court to wit: on the 21<sup>st</sup> day of  
August A.D. 1855 Hannah Ashbaugh the Complainant  
by U D Meacham her solicitor appeared and filed in  
the said Court on the Chancery side thereof her Bill of  
Complaint against Oliver I Ashbaugh Defendant  
in the words and figures following to wit:

In Chancery

In the Circuit Court of Stephenson  
County Illinois, of the September  
Term A.D. 1855, in Chancery sitting

To the Hon. Benjamin R Sheldon Judge of the

14<sup>th</sup> Judicial Circuit of the State of Illinois in  
the Stephenson County Circuit Court in Chancery  
sitting. Complaining sheweth unto your Honor your  
Oratrix Hannah Ashbaugh of the City of Hamilton  
in the Province of Upper Canada, that heretofore  
to wit on the 29<sup>th</sup> day of November A.D. 1849 at the  
said City she intermarried with one Oliver T.  
Ashbaugh now of the County of Stephenson and  
State of Illinois, that she lived and cohabited  
with the said Oliver T. Ashbaugh as his wife from  
the time of the said marriage to wit about the  
12<sup>th</sup> day of October A.D. 1852 at the said City of  
Hamilton. That afterwards to wit on or about  
the 12<sup>th</sup> day of October A.D. 1852 he the said Oliver  
Ashbaugh wilfully deserted and absented him-  
self from your Oratrix and has continued to  
absent himself from your Oratrix wilfully from  
the time last aforesaid to the present time and  
still continues to absent himself from your  
Oratrix and declares that he will not live &  
cohabit with your Oratrix. That during all  
the time last aforesaid he has lived absent from  
your Oratrix in the County of Stephenson in the  
State of Illinois and has made no provision  
for the support and maintenance of your  
Oratrix and your Oratrix has supported herself  
by her own exertions & industry. Your Oratrix  
will further <sup>show</sup> unto your Honor that the said  
Oliver Ashbaugh now owns in his own right

one hundred and ten acres of Land in the town  
of Erin in said County of Stephenson which is  
worth about two thousand Dollars and personal  
property to about five or six hundred Dollars ma-  
king the whole amount to about two thousand  
five hundred Dollars. Your Oratrix further shows  
that during all the time last aforesaid she desired  
and sought to live with her said husband in a  
quiet & peaceable manner but he absolutely  
refused to live with her, and has abandoned  
your Oratrix entirely as above stated. In con-  
sideration whereof and to the end that the  
said Oliver Ashbaugh may full true & perfect  
answer make to all and singular the premises  
and that as fully and particularly as if the  
same were here again repeated & he thereto par-  
ticularly interrogated and that the marriage  
between your Oratrix and the said Oliver  
Ashbaugh may be dissolved and a divorce  
decreed according to the statute in such case made  
& provided and that your Oratrix may have a rea-  
sonable allowance of alimony out of the estate of  
the said Oliver Ashbaugh. May it please your  
Honor to grant unto your Oratrix the writ of summons  
issuing out of and under the seal of said Court di-  
rected to the said Oliver T Ashbaugh commanding him  
by a certain day and under a certain penalty therein  
to be inserted to be and appear before the Circuit  
Court of Stephenson County Illinois on the Chancery

side thereof & there & then to answer the premises & your Or-  
ator will ever pray &c

Hannah Ashbaugh

State of Illinois

Stephenson County } On this 21<sup>st</sup> day of August A.D. 1855  
personally came before me a Justice of the Peace in and  
for said County Hannah Ashbaugh the person who  
signed the above bill of Complaint & made oath that  
she had heard read the foregoing bill of Complaint  
by her subscribed and that she knows the contents  
thereof and that the same is true of her own knowledge  
except the matters therein stated to be on her information  
& belief and as to those matters she believes it to be true.

Geo Purinton

Justice of the Peace.

Which said bill has the following endorsements to wit,  
Hannah Ashbaugh vs Oliver J. Ashbaugh  
In Chancery. Bill. Filed Aug 21. 1855. Joseph B.  
Smith Clerk.

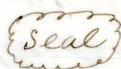
And on the same day to wit on the 21. day of August  
A.D. 1855 the said Complainant by her solicitor filed  
in said Court a bond for costs in said Cause in the  
words and figures following to wit

Bond for Costs

State of Illinois  
Stephenson County & Circuit } In the Circuit Court Sept  
term A.D. 1855.

Hannah Ashbaugh Plaintiff.  
vs  
Oliver T. Ashbaugh Defendant, } In Chancery

I do hereby enter myself  
security for costs in this cause, and acknowledge  
myself bound to pay, or cause to be paid, all costs  
which may accrue in this action, either to the  
opposite party, or to any of the Officers of this Court, in  
pursuance of the laws of this state. Dated at  
Freeport, this 21<sup>st</sup> day of August A.D. 1855.

W. D. Meacham 

Approved J. B. Smith, Clerk Stephenson Circuit Court.

Which said bond has the following endorsements to  
wit: H. Ashbaugh vs O. T. Ashbaugh, Security for  
Costs, Filed Aug 21. 1855. J. B. Smith Clerk.

And on the same day to wit, on the 21. day of  
August A.D. 1855 there issued out of said  
Circuit Court a Summons which is in the  
words and figures as following to wit:

State of Illinois } The people of the State of  
Stephenson County } Illinois to the Sheriff of said County

Greeting: We Command you, that you summon Oliver T. Ashbaugh if he shall be found in your County, personally to be and appear before the Circuit Court of said County, on the first day of the next term thereof, to be holden at the Court House in Freeport in said County, on the third day of September next, to answer unto Hannah Ashbaugh upon a certain Bill of Complaint filed by the said Hannah Ashbaugh in the Circuit Court of said Stephenson County on the Chancery side thereof against him. And have you then and there this writ, with an endorsement thereon, in what manner you executed the same.

Witness, Joseph B. Smith Clerk of our said Court, and the seal thereof, at Freeport this 21<sup>st</sup> day of August A.D. 1855

 Seal

Joseph B. Smith Clerk

Which said summons has the following endorsement to wit: Hannah Ashbaugh vs Oliver T. Ashbaugh - Ch. Sum. I have read this writ to the within named Oliver T. Ashbaugh and delivered him a true copy of the same this 22<sup>d</sup> day of August 1855. Isaac Kleckner Shff; Serving. 30<sup>c</sup> Mileage. 35<sup>c</sup>. Return. 10<sup>c</sup>. = \$ 1.15

And afterwards to wit: on the 20<sup>th</sup> day of September in September term A.D. 1855 of said Circuit Court in the record of the proceedings thereof in said entitled Cause is the following entry to wit:

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Hannah Ashbaugh  
vs  
Oliver T. Ashbaugh } In Chancery

And now at this day comes the Complainant by W. D. Meacham her Solicitor and the said defendant being three times solemnly called came not but made default. It is therefore Considered and ordered by the Court that the said Complainants Bill be taken for confessed against him - and that this cause be set for a hearing ex parte.

And afterwards to wit: on the 21<sup>st</sup> day of September in September term A.D. 1855 of said Circuit Court in the record of the proceedings thereof in said entitled Cause is the following entry to wit:

Hannah Ashbaugh  
vs  
Oliver T. Ashbaugh } In Chancery -  
Bill for Divorce.

And now at this day came on to be heard this Cause upon a final hearing upon the Bill and the proofs both written and oral the same being heard and duly Considered - it is adjudged by the Court that the said Complainants bill be dismissed without prejudice to which decision of the Court the Complainant by her solicitor excepts. It is therefore Considered and adjudged by the Court that the defendants have and recover of the said Complainant his Costs by him about this suit on this behalf expended and that execution issue therefor.

And afterwards to wit: on the 22<sup>d</sup> day of September in September term A.D. 1855 of said Court in the record of the proceedings thereof in said entitled Cause is the following entry to wit:

|                   |   |                                 |
|-------------------|---|---------------------------------|
| Hannah Ashbaugh   | } | In Chancery - Bill for Divorce. |
| vs                |   |                                 |
| Olier T. Ashbaugh |   |                                 |

This day comes the said Complainant by W.D. Meacham her solicitor and files her Bill of Exceptions hereto.

Which said Bill of Exceptions is in the words and figures following to: wit.

Hannah Ashbaugh } In the Circuit Court of  
vs } Stephenson County Illinois  
Oliver T. Ashbaugh } September Term 1855

And afterwards to wit at the day and place with  
in contained this cause came on to be heard Before  
the Hon Ben B. Sheldon judge of said Court and  
the Complainant to maintain and support the  
allegations in her said Bill contained. produced  
Samuel McAfee a witness who being first duly  
sworn testified as follows to wit: Said he had  
been acquainted with the Defendant ever since  
he was a child and was some little acquainted  
with the Complainant. Was acquainted with  
her family. Defendant has resided in this  
Country for the last three years, first saw the  
Complainant about one year ago. Defendant  
came to his house when he first came to this  
Country, about three years ago, Defendant then  
told the witness that he had married the Com-  
plainant some three years before in Hamilton  
Canada. That he had lived with her about  
three years. Defendant further said that he  
had left her there - That he did not intend to  
live with her any more. Witness asked De-  
fendant who was going to take care of & sup-  
port her. He said her Mother had means to  
take care of her. He said their tempers wer not con-  
genial & they could not live together. Complainant

Came here about a year ago to see if the Defendant was going to provide a home for her. Defendant declared he would not live with her any more. She then went back. She came here about three or four <sup>weeks</sup> again ago to see if the Defendant would make any provisions for her and the Defendant then declared to her & in the presence of witnesses he would not live with her and that he would not do any thing for her only what the law Compelled him to do. The Complainant has been living here only three weeks. The Complainant and defendant had been married about six years. Defendant had been in this Country three years. Defendant had done nothing towards taking care of her since he had been in this Country. She had supported herself by her needle work. She was poor, Defendant had real estate in this Country worth about Eighteen hundred or two thousand Dollars. Had some personal property, Cannot state the precise amount. The foregoing was all the Testimony in the case. And thereupon the Counsel for the Complainant moved the Court for a Decree of Divorce and for Alimony agreeably to the prayer of the Bill. And the said Court to grant the said prayer of the Bill & adjudged that the said Cause be dismissed without prejudice as the Complain-

unto Costs to which opinion & decision the  
Complainant by her said Counsel did then  
and then Except & prayed that the testimony  
be incorporated in the Record of this Cause  
& that the same be signed & sealed by the  
said Judge. Benj. R. Sheldon (Seal)

State of Illinois  
Stephenson County *J.*

I, Joseph B Smith, Clerk of the  
Circuit Court in and for said County do hereby Certify  
that the foregoing is a full true and complete record  
of and in the case of Hannah Ashbaugh against  
Oliver J Ashbaugh on the Chancery side thereof as  
of said Circuit Court as the same appears upon the  
Books and files in my office.

In witness whereof I have hereunto  
set my hand and affixed the seal  
of said Court at Freeport this 5th  
day of June A.D. 1856.

Joseph B Smith, Clerk

Clerks fee

Making Complete record \$1.00

Cut & Seal

\$2.25

Hannah Ashbaugh And the Complainant  
Oliver T Ashbaugh } by her Sol W D French  
on this day comes and assigns  
for eva that the Court erect  
in dismissing the bill in  
this case W D French  
Sol for Compt.



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Hannah Ashbaugh

"

Oliver T Ashbaugh

Record

Filed June 23. 1856

L. Seland

Clerk

9581

Kenneth Ashbaugh } Supreme Court State  
as } of Illinois  
Oliver T Ashbaugh } June Term 1856  
Error to Stephenson County Circuit Court  
Abstract of the above Cause

The complainant filed her Bill against  
Def't for a ~~Bill~~ of Divorce & for alimony

The plaintiff charges in her bill that  
on the 29th day of November 1849 married  
the def't at Hamilton in Upper Canada  
that she lived & cohabited with him until  
about the 12th of Oct 1852

That the said Defendant about the  
time last aforesaid wilfully deserted  
Pltff & absented himself from her from  
the time last aforesaid until the filing  
of the bill in this cause See 2<sup>d</sup> page  
of Record in this cause

The proof shows that the parties were  
married as stated in Bill and it further  
shows that Def't came to this state about  
<sup>three or about four years</sup> before filing bill. That he publicly  
<sup>he had left his wife</sup> declared when he first came to the state that  
he did not intend to live with her any  
<sup>that she was poor & supported herself by sewing</sup> more that they could not live together  
That Def't had lived in this state ever  
<sup>since he left his wife</sup> since he left his wife, Pltff came twice  
to the state to see if Def't would provide &  
take care of her & he declared he would do  
nothing for her only what the law compelled  
him to do The proof shows that Def't is

worth about \$2000. See 9<sup>th</sup> Page of Record

The Court below assumed will ~~on~~  
~~the ground that Pltff had not~~  
~~resided in this state one whole year~~  
~~previous to filing her bill~~ To which  
opinion Pltffs her Solicitor excepted  
Ss. 6

U D Newell  
Sol for Complainant

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Hannah Ashbaugh

vs

Oliver T. Ashbaugh

Abstract.

Filed June 24. 1886

L. Leland  
Clerk

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Hannah Ashbaugh

vs

Oliver P. Ashbaugh

1856

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Sum

12270

1856

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1856