No. 8430

Supreme Court of Illinois

James Jalliff

vs.

Isabel Jalliff

71641 7

1863

At a Regular Term of the Circuit Court held at the Court house in Nashville the County seat of Washington County State of Illinois on Monday the Second day of September in the year of Our Lord one thousand Eight hundred and Sixty one there being present the Honorable Silas L Bryan Judge of the Second Judicial Circuit in the State, Amos Watts States Attorney, Salem Goodnor Sheriff and John A Vernor Clerk holding said Court

The following Cause came on and was tried and the following order and decree was had and Entered of Record in said Court To wit

Isabel Jolliff
vs
James Jolliff } Bill in Chancery for divorce allimony & Relief

State of Illinois
Washington County } ss Of the September Term of the Washington Circuit Court in the year of our Lord 1861

To the Hon Silas L Bryan Judge of the Second Judicial Circuit in the State of Illinois presiding and holding Court in Washington County in said Circuit in Chancery sitting Your oratrix Isabel Jolliff a resident of said County humbly complaining would respectfully represent and shew to your honor that on the — day of March AD 1845 she was lawfully married to one James Jolliff whom she makes defendant to this her Bill in Chancery and

in Washington County aforesaid and resided with the said defendant as his wife in said County until some time in the month of July A.D. 1860. That at all times she behaved herself toward said defendant as a good wife and endeavored by all means in her power to render life agreeable and happy to herself and said defendant but the said defendant forgetful of his marriage vows at and in Washington County aforesaid for the two years prior to his leaving your Oratrix as hereinafter stated was guilty of acts of extreme and repeated cruelty towards your Oratrix, frequently inflicting personal violence upon your Oratrix and heaping upon her the most abusive epithets and threatening her life and person without any just cause whatever That for a period of over three years said defendant has been a confirmed drunkard lying beastly drunk at home and abroad whenever he longed spirituous liquors to indulge his inordinate love of bald faced whisky. That in the month of July A.D. 1860 said defendant without any cause whatever fell upon your Oratrix with great violence and beat her with his fists choked her with his hands kicked and stamped her with his feet and greatly injured her so much so that her life was for a time considered in danger and that said defendant then left your Oratrix departed from the State and has wholly failed to provide necessaries of life for your Oratrix and her and said defendants Children. That your

Oratrix and said defendant have had six children to wit Rebecca aged 15 years Henry H aged 11 years Martha A aged 9 years Rudolph aged 7 years John S aged 6 years Alfred aged 1½ years all with and under the control of your Oratrix at this time

Your Oratrix would further shew to your Honor that owing to the habit of said defendant he is wholly unfit to have the management and control of said children. Wherefore as your Oratrix is without an adequate remedy at law she prays that the Peoples most gracious writ of subpoena issue requiring said defendant to appear and answer this bill not under oath his oath being hereby expressly waived, that upon final hearing and proof of the allegations herein contained your Honor will decree a dissolution of the marriage relation between your Oratrix and said defendant decree that your Oratrix shall retain possession and control of the said children above named and that said defendant pay to her such sum of money yearly or in gross as will be sufficient for the maintainance of herself and her said children and that your honor will make such other and further order and decree in this behalf as may seem just right and equitable and your Oratrix as in duty bound will ever pray &c

Isabel Jolliff by Amos Watts
her solr

State of Illinois } Amos Watts being duly sworn upon
Washington County } oath says that James Jolliff

[8430-03]

Defendant in the above cause is not a resident of the State of Illinois but resides in Kansas as he is informed and does believe Amos Watts

Subscribed and sworn to before me this 17th day of June AD 1861 J N Vernor Clk

Bill and affidavit marked Filed June 17th 1861
J N Vernor Clk

State of Illinois } ss
Washington County } The People of the State of Illinois
To the Sheriff of said County Greeting We command you to Summon James Jolliff if to be found in your county to appear before the Circuit Court of said county the first day of the next term thereof, to be begun and holden at the court house in Nashville on the 1st Monday of September next to answer to a bill of complaint filed in the said Circuit Court on the Chancery side thereof against him by Isabel Jolliff for divorce alimony & Relief and further to do and receive whatever the Court may then and there consider in this behalf And hereof make due return to our said Court as the law directs

Witness John N Vernor clerk of the Circuit Court and the Judicial Seal hereof at Nashville this 17th day of June 1861

John N Vernor Clerk

James Jolliff not found in my county this 23rd day of August 1861 S Goodner Shff
By L S Jenkins Dft

State of Illinois } In Washington Circuit Court
Washington County } September Term 1861 Petition for Divorce Notice To James Jolliff

Affidavit having been filed in my office that you are not a resident of the State of Illinois Notice is hereby given to you James Jolliff that Isabel Jolliff has filed her bill in chancery for divorce alimony and relief in the office of the Clerk of said Court against you Since James Jolliff that Summons has been issued to the Sheriff of Washington County against you returnable on the first day of the next term of said Court to be holden at the Court house in Nashville in said County on the first Monday of September next that unless you appear before said Court on said day and then and there plead answer or demur to said complainants bill the same will be taken as confessed against you and a decree entered accordingly Witness John N Vernor Clerk of the circuit Court of Washington County at his office in Nashville this 17th day of June AD 1861

John N Vernor Clk

Washington County Herald office Nashville Ill Sept 2d 1861 I Thomas C Graves Publisher of the Washington County Herald a weekly newspaper published in Washington County State of Illinois Do Hereby certify that the attached Notice to James Jolliff &c was published in said paper for the period of four weeks Sincerely

[8430-3]

Commencing June 20th A.D. 1861

Filed Sept 4th 1861 J. Vernon clk — Thomas C. Graves

Fees $5.00 — By Hammond

Record of Complainant

State of Illinois } The People of the State of Illinois
Washington County } To the Sheriff of said County
Greeting We command you to summons
William Wayman Meashack Wayman Meacrews
S. Faulkner & Jacob Jolliff personally to be
and appear before the Circuit Court in and
for Washington County on the 5th day of the
present term thereof to be commenced and
holden at the Court house in the town of
Nashville in said County on the 1st Monday of
September to testify and the truth to speak in a
certain action now pending and determined
in said Court wherein Isabell Jolliff is
Plaintiff and James Jolliff defendant on
behalf of said Plaintiff and this you shall in
no wise omit under the penalty on what the law
directs and have you then and there this writ

Witness John N. Vernon Clerk of our Circuit
Court at Nashville 5th day of September A.D. 1861

J. N. Vernon clk

Isabel Jolliff
vs } Bill for Divorce alimony
James Jolliff } and Relief

September 4th Comes the said Complainant
per Walls her Solicitor and the Defendant

ing three times solemnly called comes not but makes Default wherefore the Bill and all things therein contained is taken ~~for~~ as Confessed against the said Defendant and this Cause is set down for hearing on Bill and Exhibits and after Examining the Bill and hearing the testimony in the cause and being sufficiently advised in the premises It is Ordered adjudged and decreed by the Court that the Bans of matrimony heretofore existing between Isabelle Jolliff the Complainant herein and James Jolliff Defendant herein be henceforth and forever disolved and held for nought, It is further ordered and decreed that the care of the children be given to the said Complainant herein and that she have and hold her present homestead as allimony with the right to rent the same till the youngest child becomes of age also all the personal property in her possession & that Complainant pay the costs of this suit

State of Illinois Washington County } ss

I John N Vernor Clerk of the Circuit Court of the County of Washington and State of Illinois do hereby certify that the foregoing is a full true and perfect ~~record and~~ transcript of the proceedings in the above styled cause of Isabella Jolliff vs James Jolliff

28430-47

Bill for Divorce Alimony & Relief as the
as the same appears from the files of my office
as Clerk aforesaid and is now entered of
Record & remaining of Record in the Records of
the Circuit Court of the Said County of Washington
and State of Illinois

In Witness Whereof I John N Vernor Clk
of Said Court have hereunto Subscribed
my Name and affixed the Seal of our
Said Court at office in Nashville
this the Fifth day of September in the
year of our Lord one thousand
Eight hundred and fifty three

John N Vernor Clk

Fees for Recd $ 50

Isabella Jolliff
vs
James Jolliff
Record in the cause

Jus. 5.00

Filed Oct. 13. 1863. A
Paid by Stokes $11.50
N. Shunter Cl

In Supreme Court of the State of
Illinois 1st Grand Division
James Jolliff } Bill for Divorce
vs } allimony & Relief
Isabella Jolliff } In Error
Abstract of Proceedings

Plt Page 1st Term of Court September Term 1861 before
L. S. Bergan Judge
Title of Cause Bill for divorce allimony
and Relief allegation of lawfull marriage
in March 1845 of James Jolliff & Isabella
Jolliff

" 2d Marriage in Washington County Illinois
Resided together as husband & wife until
July AD 1860 That She conducted herself
as a good wife toward deft. Goes
frequent & repeated cruelty, frequent
acts of personal violence upon orator
three years habitual drunkenness confirmed
drunkenness at home, That in July 1860
without cause abandoned orator after
assaulting & beating orator ~~defendant~~
departed from State of Illinois

" 3d Complt & deft had six children by
their marriage aged from 1½ years to 15
years Prayer for Divorce allimony and
custody of Children

" 4th Affidavit of Non residence of deft
the Summons in Chancery to Shff of Washington
County Ills Returnable to 1st Monday of Sept 1861
Return of Shff not found

" 5th Notice by publication in usual form
Certificate of Publisher of Washington County

[8430-6]

Herrald in usual form

Page 6th Subpoenae for complts witnesses

" 7th Order ~~of~~ or decree of Court shows calling of Deft then time come not made default. Bill and all therein contained taken for confessed against deft setting down of cause on bill & Exhibit & ganning bill hearing testimony, decree of Divorce That the care of Children be given to complt and that she hold her present homestead as allimony with the right to Rent the same till the youngest Child becomes of age also all the personal property in her possession and complt pay costs and commencement of ~~Certificate of~~ Clerks certificate

" 8th conclusion of Clerks certificate with Seal

James Jolliff
vs
Isabella Jolliff } Error to Washington County

Now comes the Said Pltff by M. Stokes his attorney and makes and sets down the following assignments of Errors

1st The Court Erred in rendering a decree for divorce without proof of publication having first been made to the Court giving Jurisdiction of the person of the deft

2d The Court erred in allowing allimony of the homestead without fixing any specific sum as allimony and allowing the deft the privilege and opportunity of discharging that sum at stated periods

3d The Court erred in allowing the Complainant the homestead and the right to rent the same untill the youngest child come of age the same being the allimony allowed the complt

4th The court erred in allowing all the personal property in her possession without fixing any definite sum as allimony

5th The decree is uncertain in every respect is indefinite and for these and many other reasons the decree is erroneous and should be reversed

W. Stokes atty for
Plff in error

James Gallaff
vs
Isabella Gallaff
In Error

The Clerk will please issue writ of Error directed to the Shff of the County of Washington State of Illinois returnable to next Term 1863 of Supreme Court 1st Grand Division & oblige

Wm Stoker
atty for Plff

Filed October 13. 1863. K
Paid by Stoker $11.50
N. Johnston Clk
11

Paid by Stoker $11.50

November term Supr. Court 1863

James Jolliff
Plaintiff in error
vs
Isabel Jolliff
Deft in error

Error to Washington

Decree affirmed

Pltffs Costs

1863.	To filing Transcript 20 - Docketing Cause 12.	32
	" Mtd of Error 75 - Revenue Stamps 50	1 25
	" Sci fa	1.00
	" filing Papers	50
	" Abstracts (450 words each)	6-30
	" Entering motion & order	1.00
	" " Opinion of Court	50
	" Docket fee	6-00
	" Certificate & entering Decree	37
	" Fee Bill 50 - Stamps 5 - Postage 15	70
	Pltff Gaining fee on Sci fa	$17.94
	Less Deposit — $11-50	1 25
	Abs furnished 90	$19.19
	$12.40	

Defts Costs

1863.	To filing Papers	43
	" Certificate & Ent. Decree	37
	" Fee 50 - Postage 6 -	56
		$1,36

Jolliff
vs
Jolliff

Cortbell

Entered on page
583 — 1863

James Jolliffe Plff in error
vs
Isaac Jolliffe Deft in error

Error to Washington Co.

The Deft in Error for Joinder in error, says that there is no error in the record appearing as the Pltff herein has therein alleged & this Ds prays may be inquired of by the Court &c.

W. R. S. O'Melveny
for Deft in Error

State of Illinois,
SUPREME COURT,
First Grand Division. } SS

The People of the State of Illinois,

To the Sheriff of Washington County.

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Washington county, before the Judge thereof between

Isabel Jolliff plaintiff and

James Jolliff defendant it is said that manifest error hath intervened to the injury of said James Jolliff as we are informed by his complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mount Vernon, before the justices thereof; to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said Isabel Jolliff

that She be and appear before the justices of our said Supreme Court; at the next term of said Court, to be holden at **Mount Vernon,** in said State, on the first Tuesday after the second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if She shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Isabel Jolliff notice together with this writ.

WITNESS, the Hon. John D. Caton Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this thirteenth day of October in the year of our Lord one thousand eight hundred and Sixty-three.

Noah G. Purston
Clerk of the Supreme Court.

[8430-18]

20

SUPREME COURT.

First Grand Division.

James Jolliff

Plaintiff in Error,

VS.

Isabel Jolliff

Defendant in Error.

SCIRE FACIAS.

FILED.

Service	50
13 Miles	65
return	10
	$1.25

Barnes Gannin Sheriff

Served the within writ by reading the same to the within named defendant Isabel Jolliff as I am therein commanded

October 29 A 1863

Barnes Gannin Sheriff

Washington County Ills

In the Supreme Court, State of Illinois,

FIRST GRAND DIVISION, AT MT. VERNON.

NOVEMBER TERM, A. D. 1863.

JAMES JOLLIFF
vs.
ISABEL JOLLIFF. } Error to Washington.

PLAINTIFF'S BRIEF—Divorce, Alimony and Relief.

Alimony is not a sum of money or specific proportion of the husband's Estate given absolutely to the wife, but is a continuous alotment of sums, payable at regular periods for her support from year to year.—Bishop on marriage and Divorce, Page 591, Sec. 591, 5th Eng. Egr. Rep'ts 126.

Alimony cannot be allowed for a certain period during the wife's natural life, or until her youngest child comes of age. The husband may die first and is only bound for her support during his life; the wife may die before the child comes of age.—Bishop on Marriage and Divorce, Sec. 592 and 597, Note 1, Sec. 549.

W. STOKER, Att'y for Pl'ff.

James Jolliff
vs
Isabel Jolliff

Brief of Deff

2

Filed Nov. 11 - 1865
A. Schuster Clk

IN THE SUPREME COURT OF ILLINOIS,

FIRST GRAND DIVISION----------NOVEMBER TERM, 1863.

James Jolleff. pl'ff in Error,
VS
Isabel Jolleff Def't in Error. } Error to Washington.

BRIEF.

1st Error. The notice is in the record filed in apt time, &c., and this court will not presume that the circuit court had no jurisdiction.

2 The prayer of the bill is in the alternate ALIMONY, in a specific sum, or in GROSS.

The record discloses no facts why the Decree is not correct. She was brutally assaulted, and abandoned with six children to support.

3. The alimony as a matter of law terminates with her death, and limiting it to the age of 21 years of the youngest child, is an error if any of which Def't might complain, but not the pl'ff in error. 18 Ill, page 39,

The court in the absence of anything appearing to the contrary, will presume that the proof warranted the Decree.

M. M. GOODNER & H. K. S. O'MELVENEY, for Def't in Error.

14 Ill. 147
15 " 145
alimony

Volkoff
vs
Volkoff

Digest

20

Filed Nov. 11-1863.
N. Johnston Clk

37
12
444

37
12
74
47
444

4
20
80
10
90
7
630

IN THE SUPREME COURT OF THE STATE OF ILLINOIS.

1st Grand Division.

JAMES JOLLIFF, vs. ISABEL JOLLIFF, } *Bill for Divorce.* *Alimony and Relief.* *Error to Washington.*

ABSTRACT OF PLAINTIFF.

PAGE 1st. Term of Court, September Term 1861. Before S. L. Bryan, Judge. Title of cause, Bill for Divorce, alimony and relief allegation of lawful marriage in March, 1845, of James Jolliff and Isabel Joliff. Married in Washington County Illinois.

Resided together as husband and wife until July, 1860; that she conducted herself as a good wife toward Defendant; avers frequent and repeated cruelty, frequent acts of personal violence upon Oratrix: Three years habitual drunkenness, confirmed drunkenness at home; That in July 1860, without cause abandoned Oratrix; after assaulting and beating Oratrix departed from the State of Illinois.

3rd. Complt. and Ddft. had six children by their marriage, aged from 1-2 years to 15 years. Prayer for divorce alimony and custody of children.

4th. Affidavit of non-residence of Deft. The Summons in Chancery and Sheriff of Washington county, Illinois and returnable to first Monday in September 1861.

Return of Sheriff not found

5th. Notice by publication in usual form, certificate of publisher of Washington County Herald in usual form.

6th. Subpoenae for Complts. witnesses

7th. Order or decree of Court shows calling of Deft. three times, came not, default bill and all therein contained taken for confessed against Deft., setting down, of cause on bill and exhibits examining bill, hearing testsmony. Decree of divorce: That the care of the children be given to Complt., and that she hold her present homestead as alimony, with the right to rent the same till the youngest child becomes of age, also all the personal property in her possession, and Complt. pay costs and commencement of Clerks certificate.

8th. Conclusion of Clerks certificate with seal.

JAMES JOLLIFF vs. ISABELLA JOLLIFF } ERROR FROM WASHINGTON COUNTY.

Now comes the said Plaintiff by W. Stoker, his Attorney, and makes and sets down the following assignments of errors:—

1st. The Court Erred in rendering a decree for divorce without proof of publication having first been made to the court giving jurisdiction of the person of the Deft.

2nd. The court erred in allowing of the homestead without affixing any specific sum as alimony and allowing the Defendent the privilege and opportunity of discharging that sum at stated periods.

3rd. The Court erred in allowing the Complainant the homestead and the right to rent the same until the youngest child come of age, the same being the alimony allowed the Complt.

4th. The court erred in allowing all the personal porperty in possession without fixing any definite amount as allimony.

5th. The decree is erroneous and should be reversed.

James Jolliff
vs
Isabel Jolliff

20

Abstract

Filed Nov. 10. 1863.

N. Johnston Cl

State of Illinois,
SUPREME COURT,
First Grand Division. } SS

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Washington Greeting:

Because, *In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of* Washington *county, before the Judge thereof between*

Isabel Jolliff *plaintiff and*

James Jolliff *defendant it is said manifest error hath intervened to the injury of the aforesaid* James Jolliff *as we are informed by* his *complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay send to our Justices of our Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at* **Mount Vernon,** *in the County of Jefferson, on the* 1st Sunday after the 2d Monday in November *next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.*

WITNESS, *the Hon.* John D. Caton *Chief Justice of the Supreme Court and the seal thereof, at* MOUNT VERNON, *this* thirteenth *day of* October *in the year of our Lord one thousand eight hundred and* sixty-three.

Noah Gillespie
Clerk of the Supreme Court.

[8430-14]

SUPREME COURT.

First Grand Division.

James Jolliff

Plaintiff in Error,

VS.

Isabel Jolliff

Defendant in Error.

WRIT OF ERROR.

Issued & FILED - Oct. 15 - 1863.

N. Johnston Cl

In the Supreme Court, State of Illinois,

FIRST GRAND DIVISION, AT MT. VERNON.

NOVEMBER TERM, A. D. 1863.

JAMES JOLLIFF
vs.
ISABEL JOLLIFF. } Error to Washington.

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W. STOKER, Att'y for Pl'ff.

James Golliff
vs
Isabel Golliff
Brief of Deft

20

Filed Nov 11 – 1863.
N. Schuster Clk

IN THE SUPREME COURT OF ILLINOIS,

FIRST GRAND DIVISION----------NOVEMBER TERM, 1863.

James Jolleff. pl'ff in Error, } Error to Washington.
VS
Isabel Jolleff Def't in Error. }

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The record discloses no facts why the Decree is not correct. She was brutally assaulted, and abandoned with six children to support.

3. The alimony as a matter of law terminates with her death, and limiting it to the age of 21 years of the youngest child, is an error if any of which Def't might complain, but not the pl'ff in error. 18 h Ill, page 89,

The court in the absence of anything appearing to the contrary, will presume that the proof warranted the Decree.

M. M. GOODNER & H. K. S. O'MELVENEY, for Def't in Error.

14 Ill. 147
15 do. 145. decree lien in fee
22 " 425 file doctrine stated

(8430-14)

Folloff
vs
Folloff
Defs. brief.

20

Filed Nov. 11 – 1865
N. Johnston Cl

IN THE SUPREME COURT OF THE STATE OF ILLINOIS.

1st Grand Division.

JAMES JOLLIFF, vs. ISABEL JOLLIFF, } *Bill for Divorce. Alimony and Relief. Error to Washington.*

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3rd. Complt. and Ddft. had six children by their marriage, aged from 1-2 years to 15 years. Prayer for divorce alimony and custody of children.

4th. Affidavit of non-residence of Deft. The Summons in Chancery and Sheriff of Washington county, Illinois and returnable to first Monday in September 1861.

Return of Sheriff not found.

5th. Notice by publication in usual form, certificate of publisher of Washington County Herald in usual form.

6th. Subpoenae for Complts. witnesses.

7th. Order or decree of Court shows calling of Deft. three times, came not, default bill and all therein contained taken for confessed against Deft., setting down, of cause on bill and exhibits examining bill, hearing testsmony. Decree of divorce: That the care of the children be given to Complt., and that she hold her present homestead as alimony, with the right to rent the same till the youngest child becomes of age, also all the personal property in her possession, and Complt. pay costs and commencement of Clerks certificate.

8th. Conclusion of Clerks certificate with seal.

JAMES JOLLIFF vs. ISABELLA JOLLIFF } ERROR FROM WASHINGTON COUNTY.

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4th. The court erred in allowing all the personal porperty in possessio n without fixing any definite amount as allimony.

5th. The decree is erroneous and should be reversed.

James Jolliff

vs

Isabel Jolliff

20

Abstract

Offer

Filed Nov. 10. 1863.

A. Johnston Clk

10 — 10

Jolliff
v.
Jolliff

Lewis v. Washington

Affirmed

Reporter

8430 1803