

BILLY A. PUTERBAUGH v. FERN PUTERBAUGH

5-6213

491 S.W. 2d 386

Opinion delivered March 12, 1973

DIVORCE—RESIDENCE REQUIREMENTS—WEIGHT & SUFFICIENCY OF EVIDENCE.—Chancellor's conclusion that the wife was a resident of the county at the time of instituting divorce proceedings held not contrary to the preponderance of the evidence in view of proof that she had lived and worked in the city several years prior to marriage, was without funds to support herself at the time of separation and returned to the city to seek employment, and intends to reside and be a resident of the county.

Appeal from Pulaski Chancery Court, Third Division, *Kay L. Matthews*, Chancellor; affirmed.

Smith, Williams, Friday, Eldridge & Clark, by: *Frederick S. Ussery, Ronnie A. Phillips* and *L. Weens Trussell*, for appellant.

Jack L. Lessenberry, for appellee.

CONLEY BYRD, Justice. Appellant Billy A. Puterbaugh contends that an order for temporary support, maintenance and attorney's fees for his wife, appellee Fern Puterbaugh, should have been dismissed because his wife was not a resident of Pulaski County at the time she filed her complaint on August 16, 1972.

Ark. Stat. Ann. § 34-1204 (Repl. 1962), provides that divorce proceedings shall be in the county where the complainant resides.

This record comes to us only upon the testimony of appellee to the effect that she intends to reside and be a resident of Pulaski County. Appellant relies upon *McLaughlin v. McLaughlin*, 193 Ark. 207, 99 S.W. 2d 571 (1936), to support his position that the Pulaski Chancery Court had no jurisdiction. Here, however, the proof on the part of appellee shows that she lived and worked as a legal secretary in Little Rock from 1962 to 1967, shortly before her marriage in February 1968. Also that she was without funds with which to support herself at the time of separation and that she came to

Little Rock to seek employment. In the *McLaughlin* case, the proof was to the effect that the wife moved to Little Rock for the sole purpose of filing for a divorce.

From a review of the record upon appellee's testimony alone, we cannot say that the chancellor's ruling is contrary to a preponderance of the evidence.

Affirmed.

GEORGE ROSE SMITH, J., concur.

HARRIS, C. J. and HOLT, J., not participating.
