

Beulah LOVETT v. Lona TURNER,
Adm'x of The Estate of William LOVETT, deceased

74-44

510 S.W. 2d 569

Opinion delivered June 10, 1974

[Rehearing denied July 15, 1974.]

DIVORCE—PROCEEDINGS & RELIEF AFTER REMAND—REVIEW.—Following reversal and remand of the case for determination of the husband's mental capacity to maintain a divorce action, the chancellor's finding, after taking additional evidence, that the husband was mentally competent to maintain the action, and award to the wife of her statutory property rights on the basis that the husband was at fault *held* not contrary to a preponderance of the evidence.

Appeal from Bradley Chancery Court, *Donald A. Clarke*, Chancellor; affirmed.

Haley & Claycomb, for appellant.

Paul K. Roberts, for appellee.

CONLEY BYRD, Justice. Following our reversal and remand in *Lovett v. Lovett*, 254 Ark. 349, 493 S.W. 2d 435 (1973), for the determination of William Lovett's mental competency to maintain a divorce action, the trial court after the taking of additional evidence granted appellee William Lovett a divorce on three years separation but awarded to appellant Beulah Lovett her statutory property rights on the basis that appellee was at fault. For reversal appellant contends that the trial court erred in finding that appellee had the mental capacity to maintain the divorce action.

The record shows that appellee again testified before the court and that in addition several other witnesses testified that appellee, although under a Veterans Administration Guardianship, carried on a normal life. On the other hand appellant produced evidence which if believed would have shown that appellee was not mentally competent. On the record before us we cannot say that the Chancellor's finding on the issue of mental incompetency is contrary to a preponderance of the evidence. It therefore follows that the judgment must be affirmed.

Affirmed.