

FREEMAN *v.* FREEMAN.

Opinion delivered November 11, 1918.

DIVORCE—EVIDENCE OF ADULTERY.—Evidence *held* insufficient to sustain charge of adultery.

Appeal from Pulaski Chancery Court; *Jno. E. Martineau*, Chancellor; affirmed.

*Thomas J. Price*, for appellant.

1. The findings of the court are contrary to the law and evidence. The evidence proves adultery. 46 Cent. L. J. 89; 5 A. & E. Enc. L. 824.

2. Improper evidence was admitted. 25 Conn. 195; Wharton on Ev. 777; 1 Greenl. Ev. 140, § 101; 192 S. W. 893; 7 *Id.* 821; 2 Greenl. Ev. 40, § 40, etc.

*Fred A. Isgrig* and *Fred A. Snodgrass*, for appellee.

1. No proper abstract was made and filed. 102 Ark. 95.

2. The evidence fails to show adultery but sustains the findings and decree of the chancellor.

HART, J. This is a suit for divorce brought in equity by John H. Freeman against Chaney Freeman on the ground of adultery.

According to the testimony of John H. Freeman, he had been separated from his wife for some time and concluded to go up to the house where she lived one night in August, 1916. When he reached the house, he found that the front door was unlocked and he walked into the hall. He found another young negro named Jim Lee standing up in the back hall with his wife hugging and kissing her. He attacked the young man and ran him out of the house. He said that his wife helped Jim Lee to fight him when he attacked him for hugging and kissing her.

Other witnesses testified that they saw Jim Lee run out of the house, and that he had his hat off, and was attempting to put on his clothes as he ran.

The defendant, Chaney Freeman, denied that she had committed adultery with Jim Lee on the occasion in question or at any other time.

Jim Lee testified that he had gone over to her house in order to go to town with her son. He denied that he committed adultery with the defendant on that occasion or on any other occasion.

The son of the defendant testified that he was lying on a bed in the house sick when the plaintiff came into the house on the occasion in question and attacked Jim Lee. He denied that there was any improper conduct between his mother and Jim Lee.

The chancellor found the issues in favor of the defendant and dismissed the complaint of the plaintiff for want of equity. The case is here on appeal.

We have copied above the substance of the evidence heard by the chancellor. The finding of the chancellor was correct and the decree will be affirmed.

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