

COURT OF APPEALS OF MARYLAND

Smith v. Smith, 196 Md. 219

76 A.2d 160 (1950) · No. No. 6, October Term, 1950 · Decided October 6, 2001

SUMMARY

The Maryland Court of Appeals affirmed the dismissal of a wife's cross-bill seeking a divorce based on abandonment and desertion. The court held that the evidence did not establish adequate grounds for constructive desertion arising from the husband's alleged lockout. The court also applied the usual rule allowing a wife in a divorce proceeding to recover costs, directing the appellee husband to pay them.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Henderson, J.; Marbury, C.J.; Delaplaine, J.; Collins, J.; Markell, J.
JURISDICTION	Maryland
DECIDED	October 6, 2001
DOCKET	No. 6, October Term, 1950
DISPOSITION	affirmed
PROCEDURAL POSTURE	The wife appealed from a decree of the Circuit Court for Wicomico County dismissing her cross-bill seeking a divorce from her husband on the ground of abandonment and desertion. The husband did not appeal the dismissal of his original bill alleging desertion.
STANDARD OF REVIEW	The court reviewed the record to determine whether it contained adequate grounds supporting the wife's claim of abandonment or constructive desertion.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Appeals of Maryland
PARTIES	Mrs. Smith v. Mr. Smith

TOPICS

- divorce
- family law
- appellate procedure

PRACTICE AREAS

- Family law
- Divorce
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence established abandonment or constructive desertion sufficient to support the wife's cross-bill for divorce.
2. Whether the wife was entitled to appellate costs despite having independent means or income.

HOLDINGS

1. The evidence did not provide adequate grounds to support the wife's cross-bill based on abandonment or constructive desertion, so dismissal of the cross-bill was proper.
2. The wife was entitled to costs because the record did not establish that she had sufficient funds or substantial property and income to justify departing from the usual rule favoring costs for a wife in a divorce proceeding.

KEY QUOTATIONS

*“It is not the province of the courts to settle marital disputes or to determine what husbands and wives should do in order to live harmoniously together. * * * it is not the judicial province to encourage separations or to labor to find grounds for divorce where such grounds do not clearly appear. On the contrary, it has always been recognized that legal separations should not be decreed for light and trivial causes.”* (196 Md. at 221)

FACTUAL BACKGROUND

The parties had been married for thirty-two years and were both fifty-two years old. They jointly owned and lived at a property on East Church Street until the wife moved to another residence in October 1948. The wife claimed that the husband constructively deserted her by repeatedly bolting the rear door after June 20, 1947, but the husband testified that the bolt was installed for burglary protection and that he let her in when he heard her. The wife ultimately left because they were not living together, and she was dissatisfied with his indifference and temper.

PROCEDURAL HISTORY

The Circuit Court for Wicomico County dismissed the wife's cross-bill of complaint. The wife appealed to the Court of Appeals of Maryland, which affirmed the decree and assessed costs against the appellee. The court later denied the wife's motion for rehearing on December 5, 1950.

DISPOSITION

affirmed

CASES CITED

- Flohr v. Flohr, 195 Md. 482, 488, 73 A.2d 874, 876
- Daiger v. Daiger, 154 Md. 501, 508, 140 A. 717
- Stirn v. Stirn, 183 Md. 59, 66, 36 A.2d 695
- Hood v. Hood, 138 Md. 355, 113 A. 895, 896

