

State of New Hampshire
Supreme Court

NO. 2015-0273

2015 TERM

JULY SESSION

In the Matter of Terrie Harman
and Thomas McCarron

RULE 7 APPEAL OF FINAL DECISION OF THE
MANCHESTER FAMILY COURT

BRIEF OF APPOINTED *AMICUS CURIAE* DEFENDING JUDGMENT BELOW

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TABLE OF CONTENTS

TABLE OF AUTHORITIES..... ii

STATEMENT OF THE CASE..... 1

SUMMARY OF ARGUMENT. 2

ARGUMENT..... 3

 I. Divorce is Entirely Statutory, and New Hampshire’s Divorce Statute
 Does Not Provide for Getting Un-Divorced.. 3

 II. There is no Fraud, Accident, Mistake or Misfortune to Justify Setting
 Aside a Decree; and Vacating is a Greater Remedy then Modifying. 7

 III. Getting Remarried is an Adequate Alternative Remedy. 9

 IV. Importance of Finality in Divorce. 11

CONCLUSION..... 12

CERTIFICATION..... 12

ADDENDUM. 13

TABLE OF AUTHORITIES

New Hampshire Cases

<i>Adams v. Adams</i> , 51 N.H. 388 (1872).	7, 11
<i>Armstrong v. Armstrong</i> , 123 N.H. 291 (1983).	7
<i>Biggs v. Town of Sandwich</i> , 124 N.H. 421 (1984).	9
<i>In re Birmingham</i> , 154 N.H. 51 (2006).	7
<i>Bussey v. Bussey</i> , 95 N.H. 349 (1949).	7, 11
<i>Chase v. Brown</i> , 32 N.H. 130 (1855).	7
<i>Clark v. Clark</i> , 10 N.H. 380 (1839).	4
<i>Clough v. Clough</i> , 80 N.H. 462 (1922).	4
<i>Conant v. O'Meara</i> , __ N.H. __ (decided May 15, 2015).	7
<i>Cook v. Sullivan</i> , 149 N.H. 774 (2003).	11
<i>Cotton v. Stevens</i> , 80 N.H. 175 (1921).	11
<i>Daine v. Daine</i> , 157 N.H. 426 (2008).	5
<i>Desaulnier v. Desaulnier</i> , 97 N.H. 171 (1951).	7
<i>Gutbier v. Hannaford Brothers Co.</i> , 150 N.H. 540 (2004).	9

<i>In the Matter of Raybeck,</i> 163 N.H. 570 (2012).	6
<i>Lester v. Lester,</i> 109 N.H. 359 (1969).	7
<i>Norberg v. Norberg,</i> 135 N.H. 620 (1992).	8
<i>Opinion of the Justices (Marital Masters Contempt Powers),</i> 128 N.H. 17 (1986).	4, 6
<i>Parsons v. Parsons,</i> 9 N.H. 309 (1838).	4, 5
<i>Sandberg v. Sandberg,</i> 81 N.H. 317 (1924).	7
<i>Sands v. Stevens,</i> 121 N.H. 1008 (1981).	9
<i>Sullivan v. Indian Head National Bank,</i> 99 N.H. 262 (1954).	7
<i>Veino v. Veino,</i> 96 N.H. 439 (1951).	5
<i>Weld v. Sabin,</i> 20 N.H. 533 (1847).	7

Massachusetts' Case

<i>Dynamic Machine Works, Inc. v. Machine & Electric Consultants, Inc.,</i> 831 N.E.2d 875 (Mass. 2005).	8
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New Hampshire Constitution and Statutes

N.H. CONST. pt. II, art. 76. 3

RSA 458. 5

RSA 458:14. 5

RSA 458:26, II. 5

RSA 458:28. 5

RSA 458:7-b. 5

RSA 490-D. 5

RSA 490-D:2. 5

RSA 490-D:3. 6

Other Authority

An Act to Dissolve the Marriage Between Isaac Brown and Jane his Wife (Nov. 24, 1781), LAWS 1776-1784 at 426. 3

An Act to Dissolve the Marriage Between Peter Barter and Elizabeth his Wife (Dec. 28, 1779), LAWS 1776-1784 at 245. 3

An Act to Dissolve the Marriage Between Robert Rogers and Elizabeth his Wife (Mar. 4, 1778), LAWS 1776-1784 at 145. 3

An Act to Dissolve the Marriage Between Thomas Elliot and Anna His Wife; and to Vest in Her All The Real Estate Which She Was Possessed of in Her Own Right at the Time of Her Intermarriage with the Said Thomas Elliot (Mar. 27, 1782), LAWS 1776-1784 at 463. 3

An Act to Dissolve the Marriage Between Benjamin Welch and Charity his Wife (Nov. 24, 1781), LAWS 1776-1784 at 425. 3

STATEMENT OF THE CASE

Terrie Harman and Thomas McCarron were married in 1989; 24 years passed. On January 31, 2014, they jointly filed for divorce. On June 17, they filed a stipulated decree specifying how they would like their various assets distributed. STIPULATED FINAL DECREE (June 17, 2014), *Appx.* at 14. On July 1, the court issued a decree approving the stipulation. DECREE OF DIVORCE (July 1, 2014), *Appx.* at 20. Five months passed between the time they jointly filed for divorce, and the time the court issued its decree.

In March 2015, about eight months after the decree, Ms. Harman and Mr. McCarron filed a joint agreement to vacate it, AGREEMENT TO VACATE DIVORCE DECREE (Mar. 12, 2015), *Appx.* at 21, which the court denied in April on the grounds it lacked authority. *Id.* (margin order, Apr. 7, 2015); NOTICE OF DECISION (Apr. 10, 2015), *Appx.* at 22.

SUMMARY OF ARGUMENT

The *amicus curiae*, appointed to defend the judgment, first notes that in New Hampshire, authority to grant a divorce is entirely statutory, having once been a prerogative of the legislature, and then having been delegated to the judicial branch by constitutional provision. As such, courts have only those powers specified by statute, and there being no statute allowing courts to vacate a divorce after the decree becomes final, the family court properly demurred.

The *amicus curiae* then acknowledges that while a divorce decree can be set aside for fraud, accident, mistake, or misfortune, none of those were alleged here, and the facts would not support such a claim. This also is not a mere modification, which is allowed by statute.

There is no reason to draw on the equity powers of the court in this case because any adverse consequences are self-imposed, and there is the alternative remedy of getting remarried.

Finally, allowing the court to set aside the divorce in this case would be troublesome policy, because it would open to question the finality of all divorce decrees.

ARGUMENT

I. **Divorce is Entirely Statutory, and New Hampshire's Divorce Statute Does Not Provide for Getting Un-Divorced**

Divorce in New Hampshire is not a common law process, in the inherent authority of the courts. Rather it is entirely statutory. Because nothing in the New Hampshire divorce statute allows for setting aside a divorce decree, courts do not have authority to grant the relief requested by Ms. Harman and Mr. McCarron.

In colonial New Hampshire, before it was a sovereign state, a divorce could only be procured by an act of the legislature. The early record of the New Hampshire general court shows several divorces, the earliest known and four other examples of which are included in the addendum to this brief. *See, An Act to Dissolve the Marriage Between Robert Rogers and Elizabeth his Wife* (Mar. 4, 1778), LAWS 1776-1784 at 145, *Appx.* at 23; *An Act to Dissolve the Marriage Between Peter Barter and Elizabeth his Wife* (Dec. 28, 1779), LAWS 1776-1784 at 245, *Appx.* at 24; *An Act to Dissolve the Marriage Between Benjamin Welch and Charity his Wife* (Nov. 24, 1781), LAWS 1776-1784 at 425, *Appx.* at 25; *An Act to Dissolve the Marriage Between Isaac Brown and Jane his Wife* (Nov. 24, 1781), LAWS 1776-1784 at 426, *Appx.* at 26; *An Act to Dissolve the Marriage Between Thomas Elliot and Anna His Wife; and to Vest in Her All The Real Estate Which She Was Possessed of in Her Own Right at the Time of Her Intermarriage with the Said Thomas Elliot* (Mar. 27, 1782), LAWS 1776-1784 at 463, *Appx.* at 27.

Delegating this authority, the New Hampshire constitution provides that “[a]ll causes of marriage, divorce and alimony ... shall be heard and tried by the superior court, until the legislature shall by law make other provision.” N.H. CONST. pt. II, art. 76.

In England, before the Revolution, all causes concerning marriage and the marital status were tried in the ecclesiastical courts. In a narrow sense these were not common-law courts, but they administered the unwritten law of the realm upon those subjects.... But while these courts had jurisdiction to determine the validity of an alleged marriage, to authorize the parties to live apart, and to provide for the support of the wife by the husband under such a separation, they had no power absolutely to dissolve a marriage legally entered into. A divorce *a vinculo* was obtainable only by act of Parliament. In the provincial period and prior to the adoption of the constitution divorces were here granted by the Legislature, as in other states. When the Constitution ... went into force in 1784 ... it conferred a jurisdiction unknown to the law of England. Under this provision it was soon held that the Legislature had no power to grant a divorce, and that the granting of one by the court was a judicial proceeding. The power of the court was considered to be derived from the Legislature acting under this constitutional provision, and not from the ecclesiastical courts, who did not possess it.

Clough v. Clough, 80 N.H. 462 (1922) (citations omitted); *Parsons v. Parsons*, 9 N.H. 309, 317-18 (1838) ("Prior to the revolution divorces are supposed uniformly to have been granted by the legislature, as they are sometimes granted by parliament in England. No law is found giving the ordinary courts of judicature any power upon the subject.... Upon the adoption of the constitution, in 1783, it was deemed expedient to make a different provision in this respect.... [The constitution] provided for a mere transfer of the jurisdiction which had existed in the assembly and the governor and council."); *Clark v. Clark*, 10 N.H. 380, 384 (1839) ("In England a divorce *a vinculo* is only to be obtained by special act of parliament; but a divorce *a mensa et thoro* may be sought through the action of the ecclesiastical courts. In some states of the union, divorces are granted by the legislature alone. It was so here until the adoption of the constitution, which took effect in June, 1784."); *Opinion of the Justices (Marital Masters Contempt Powers)*, 128 N.H. 17, 21 (1986) ("Part II, article 76 was included in the Constitution of 1784 in order to invest the judicial branch with jurisdiction over separation and divorce. In England, prior to our Revolution, the civil courts of common law and equity possessed no marital

jurisdiction; what we would now regard as jurisdiction over separation and annulment was vested in the ecclesiastical courts, and jurisdiction to grant divorce following a valid marriage resided in Parliament. During New Hampshire's provincial and revolutionary periods preceding the adoption of the 1784 Constitution, the legislature granted divorces. As a consequence, no judicial jurisdiction over marital cases would have been implied merely by the recognition of the judicial power.") (citations omitted).

Thus, "the jurisdiction to grant absolute divorces, must be regarded as strictly statutory." *Veino v. Veino*, 96 N.H. 439, 440 (1951). "Because divorce is statutory, the court has only such power in that field as is granted by statute." *Daine v. Daine*, 157 N.H. 426, 427 (2008). The first divorce statute, providing for property division, was enacted in 1791. *Parsons v. Parsons*, 9 N.H. 309, 318 (1838).

A review of New Hampshire's current divorce statute, RSA 458, shows no authority for a court to undo a divorce decree that has reached finality. *See, e.g.*, RSA 458:7-b ("Whenever, before or during a hearing but *before a final decree*, the court shall determine that there is a likelihood for rehabilitation of the marriage relationship, the court shall ... continue the proceedings and require that both parties submit to marriage counseling.") (emphasis added); RSA 458:14 ("the court ... may *revise and modify* any order made by it") (emphasis added); RSA 458:26, II ("A person concerning whom a legal separation has been decreed may file a motion to *amend the decree* to one of divorce.... [T]he court may, in its discretion, grant such a motion.") (emphasis added); RSA 458:28 ("The parties to such a petition [for legal separation] may at any time resume marital relations, upon filing ... their written declaration of such resumption.").

A review of New Hampshire's family court jurisdiction statute, RSA 490-D, also shows no authority to vacate a divorce. *See, e.g.*, RSA 490-D:2 (family division jurisdiction over

“[p]etitions for divorce, *nullity of marriage*, alimony, custody of children, support, and to establish paternity”) (emphasis added); RSA 490-D:3 (family division equity jurisdiction). A review of family court rules likewise suggests no such authority.¹

That other states have legislated differently is of no import. *In the Matter of Raybeck*, 163 N.H. 570, 571 (2012) (declining to judicially adopt Massachusetts’ alimony statute).

Accordingly, the order denying relief here accurately reflected the court’s lack of authority to annul a divorce that had already been decreed and had already reached finality.

¹It is doubtful that, absent specific legislation, rulemaking could provide authority to vacate a decree. *Opinion of the Justices*, 128 N.H. at 21 (“no judicial jurisdiction over marital cases would have been implied merely by the recognition of the judicial power”).

II. There is no Fraud, Accident, Mistake or Misfortune to Justify Setting Aside a Decree; and Vacating is a Greater Remedy than Modifying

Judgments, including divorce decrees, may be set aside for fraud. *Adams v. Adams*, 51 N.H. 388 (1872) (libelant purposely give “notice” where he knew libellee would not get it); *Bussey v. Bussey*, 95 N.H. 349 (1949) (same); see also *Sandberg v. Sandberg*, 81 N.H. 317 (1924) (upon prompt showing of inadequate notice, decree stemming from default can be set aside); *Conant v. O’Meara*, __ N.H. __ (decided May 15, 2015) (“[F]raud will vitiate a judgment, and a court of equity may declare it a nullity.”) (quotation and citation omitted). Where fraud is claimed, but not found, the decree will not be set aside. *Lester v. Lester*, 109 N.H. 359, 360 (1969) (“No evidence was offered that would have justified the trial court finding fraud in the present case.”); *Desaulnier v. Desaulnier*, 97 N.H. 171, 173 (1951) (“[T]here is no fraud or other equitable ground for vacating the prior proceedings.”).

A divorce decree can also be vacated where there is “accident, mistake or misfortune,” which this Court has “defined as something outside of [the party’s] control, or something which a reasonably prudent person would not be expected to guard against or provide for.” *In re Birmingham*, 154 N.H. 51, 56 (2006). Vacating a decree based on accident, mistake or misfortune must be based on facts in the record, and is “not for dispensation of grace.” *Sullivan v. Indian Head Nat. Bank*, 99 N.H. 262, 263 (1954). Rather, it must arise from an “injustice.” *Chase v. Brown*, 32 N.H. 130 (1855); *Weld v. Sabin*, 20 N.H. 533 (1847). “Whether accident, mistake, or misfortune occurred is determined by the trier of fact, and its finding will be conclusive unless it is unsupported by the evidence.” *Birmingham*, 154 N.H. at 56; *Armstrong v. Armstrong*, 123 N.H. 291, 293 (1983).

There is no basis here for claiming either purposeful fraud or unknowing accident.

Rather, Ms. Harman and Mr. McCarron reconciled after they divorced, and now ask for dispensation of grace. Accordingly, the court has no authority to vacate their decree.

In addition, while the family court has authority to modify a decree, there is a difference between adjusting and discarding. *See, e.g., Norberg v. Norberg*, 135 N.H. 620, 623 (1992) (court's authority to modify alimony upon adequate showing of changed circumstances). Modification means "the changing of the terms of the agreement which may diminish or increase the duty of either party." *Dynamic Mach. Works, Inc. v. Mach. & Elec. Consultants, Inc.*, 831 N.E.2d 875, 879 (Mass. 2005) (contract action). But here, Ms. Harman and Mr. McCarron request the court discard their divorce altogether.

III. Getting Remarried is an Adequate Alternative Remedy

Ms. Harman's and Mr. McCarron's claim of prejudice is that they "have always filed a joint tax return, but are unable to do so now that they are divorced," and that they "have social security spousal rights, pension rights, rights of inheritance, and other financial interests that will be adversely affected if the continuity of their long-term marriage is disrupted by a divorce that is no longer necessary." APPELLANT'S BRF. at 9.

While the family court has equity powers, for several reasons equity is not available to address their claims.

First, there are no facts in the record concerning taxes, social security, pensions, inheritance, or other financial interests, and prejudice is asserted for the first time on appeal. Thus there is no basis in the record to assert any of these items will be affected, whether negatively or favorably.

Second, even if there are adverse impacts, they are self-imposed. Ms. Harman and Mr. McCarron themselves, and no one else, decided to get divorced, and when. *Biggs v. Town of Sandwich*, 124 N.H. 421, 428 (1984) (relief denied where "[t]he record indicates that any hardship the plaintiffs may have suffered was self-imposed").

Third, they had plenty of time to think about these things. Five months elapsed between the day they filed for divorce, and the time the court issued its decree. Ms. Harman and Mr. McCarron are demonstrably able to communicate, and could have withdrawn their joint petition at any point during that five months.

Fourth, equity steps in only when there is no other adequate remedy. *Gutbier v. Hannaford Bros. Co.*, 150 N.H. 540, 543 (2004) ("equitable jurisdiction lies when there is no plain, adequate and complete remedy at law"); *Sands v. Stevens*, 121 N.H. 1008 (1981) (equity

jurisdiction exists when “the remedy at law is plain and complete”). But there is an alternative here; nothing in the record suggests getting re-married is not an adequate remedy.

Accordingly, despite sentimental reasons, there is no justification for the court to exercise its equity jurisdiction beyond its statutory authority.

IV. Importance of Finality in Divorce

There is risk in granting the relief Ms. Harman and Mr. McCarron request. “The finality of a judgment rests upon the proposition [t]hat a matter once litigated and determined before a court of competent jurisdiction shall not be again litigated before any court.” *Cotton v. Stevens*, 80 N.H. 175 (1921) (quotation omitted). Finality creates certainty and conserves judicial resources. *See Cook v. Sullivan*, 149 N.H. 774, 777 (2003).

In divorce, finality is important because things happen – parties die, assets get destroyed, someone inherits a windfall. *See, e.g., Bussey v. Bussey*, 95 N.H. 349 (1949) (during time between divorce and request to vacate decree, party had remarried, had children by later marriage, and died). Thus “[t]here has always been a manifest reluctance to disturb a final judgment of divorce.” *Adams v. Adams*, 51 N.H. 388, 396 (1872). Reintegrating the parties and their assets – a reversal of standard property division – is the job of couples in a marriage contract, not the role of courts.

Divorce is a uniquely fraught area of litigation. For divorced couples, it is often important to have the solace of knowing their former spouse is indeed former. Granting the remedy urged by Ms. Harman and Mr. McCarron, however, would open divorce decrees to the possibility that they can be undone, whether by one party or both together, thereby creating uncertainty where now there exists finality.

CONCLUSION

For the foregoing reasons, this Court should uphold the judgment of the court below.

Respectfully submitted,

By appointed *amicus curiae* defending
judgment below,

Law Office of Joshua L. Gordon

Dated: July 29, 2015

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CERTIFICATION

I hereby certify that the decision being appealed is addended to this brief. I further certify that on July 29, 2015, a total of two copies of the foregoing will be forwarded to Terrie Harman, Esq. and Thomas McCarron, both at PO Box 463, New Castle, NH 03854.

Dated: July 29, 2015

Joshua L. Gordon, Esq.

ADDENDUM

1.	STIPULATED FINAL DECREE (June 17, 2014).....	14
2.	DECREE OF DIVORCE (July 1, 2014).	20
3.	AGREEMENT TO VACATE DIVORCE DECREE (Mar. 12, 2015).	21
4.	NOTICE OF DECISION (Apr. 10, 2015).....	22
5.	<i>An Act to Dissolve the Marriage Between Robert Rogers and Elizabeth his Wife</i> (Mar. 4, 1778), LAWS 1776-1784 at 145.	23
6.	<i>An Act to Dissolve the Marriage Between Peter Barter and Elizabeth his Wife</i> (Dec. 28, 1779), LAWS 1776-1784 at 245.	24
7.	<i>An Act to Dissolve the Marriage Between Benjamin Welch and Charity his Wife</i> (Nov. 24, 1781), LAWS 1776-1784 at 425.	25
8.	<i>An Act to Dissolve the Marriage Between Isaac Brown and Jane his Wife</i> (Nov. 24, 1781), LAWS 1776-1784 at 426.	26
9.	<i>An Act to Dissolve the Marriage Between Thomas Elliot and Anna His Wife; and to Vest in Her All The Real Estate Which She Was Possessed of in Her Own Right at the Time of Her Intermarriage with The Said Thomas Elliot</i> (Mar. 27, 1782), LAWS 1776-1784 at 463.	27

JUN 17 2014

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

10th Circuit Court
Family-Portsmouth

Court Name: 10th Circuit - Family Division - Portsmouth
Case Name: T/M/O Terrie Harman and Thomas McCarron
Case Number: 1070-2014-DM-00029
(if known)

FINAL DECREE ON PETITION FOR DIVORCE, LEGAL SEPARATION,
OR CIVIL UNION DISSOLUTION

This decree is (choose one):

- Agreed to by Parties Proposed By _____
- Ordered by the Court after hearing on _____ at which petitioner respondent appeared.

1. **Type of Case:** (Choose Divorce, Legal Separation or Civil Union Dissolution)

- DIVORCE:**
A decree of divorce is granted to the petitioner respondent parties based on:
 Irreconcilable differences that have caused the irremediable breakdown of the marriage; or
 Grounds stated in the petition. Cross petition, if any, is dismissed.
- LEGAL SEPARATION:**
A decree of legal separation is granted to petitioner respondent parties based on:
 Irreconcilable differences that have caused the irremediable breakdown of the marriage; or
 Grounds stated in the petition. Cross petition, if any, is dismissed.
- CIVIL UNION DISSOLUTION:**
A decree of civil union dissolution is granted to petitioner respondent parties based on:
 Irreconcilable differences that have caused the irremediable breakdown of the civil union; or
 Grounds stated in the petition. Cross petition, if any, is dismissed.

2. **Parenting Plan and Uniform Support Order** N/A
 See attached Parenting Plan and Uniform Support Order

3. **Tax Exemptions for Children** N/A
 The parties shall claim the minor child(ren) as dependent(s) for all income tax purposes, in the following manner:
 Petitioner shall be entitled to claim _____ as tax dependent(s) in all even odd years.
 Respondent shall be entitled to claim _____ as tax dependent(s) in all even odd years.
 A parent may only claim a child as a dependent if that parent is current on child support for the applicable tax year.

10

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

Court Name: 10th Circuit-Family Division-Portsmouth
Case Name: In the Matter of Terrie Harmon and Thomas McCarron
Case Number: 670-2014-DM-00029

DECREE OF DIVORCE

Divorce DECREED.

Cause: Irreconcilable differences which have caused the irremediable breakdown of the marriage.

The following documents are approved and incorporated as part of this decree:

- Agreed Upon Final Decree on Divorce filed by the parties
- Proposed Final Decree on Divorce filed by petitioner filed by respondent
- Parenting Plan
- Uniform Support Order
- Other: _____

n/a may resume use of her/his former name: n/a

Recommended:

Date

Signature of Marital Master

Printed Name of Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

7/1/14
Date

Sharon N. DeVries
Signature of Judge
Sharon N. DeVries

Printed Name of Judge

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

10TH CIRCUIT COURT
FAMILY DIVISION - PORTSMOUTH

Terrie Harman

and

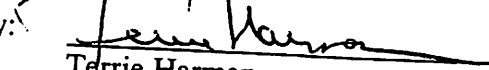
Thomas McCarron

Docket Number: 670-2014-DM-00029


AGREEMENT TO VACATE DIVORCE DECREE

We, Terrie Harman and Thomas McCarron, having fully reconciled, agree to vacate the decree of divorce that was entered in the above-captioned matter on July 1, 2014 on the ground of irreconcilable differences. We agree that the July 1, 2014 divorce decree shall be vacated in full and in all respects.

Date: March 12, 2015


By: 
Terrie Harman

Date: March 12, 2015

By: 
Thomas McCarron

~~APPROVED~~ **DENIED**
~~Approved.~~ SO ORDERED. The Court lacks authority under these circumstances.

Date 4/2/15



Presiding Justice
SUSAN B. CARBON

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

9th Circuit - Family Division - Manchester
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NOTICE OF DECISION

TERRIE HARMON
PO BOX 463
NEW CASTLE NH 03854

Case Name: **In the Matter of Terrie Harmon and Thomas McCarron**
Case Number: **670-2014-DM-00029**

Enclosed please find a copy of the Court's Order dated April 07, 2015 relative to:
Agreement to Vacate Divorce Decree

April 10, 2015

(782)

C: Thomas D McCarron

Mary A. Barton
Clerk of Court

[CHAPTER 4.]

{ *State of* }
 { *New Hampshire.* }

AN ACT TO DISSOLVE THE MARRIAGE BETWEEN ROBERT ROGERS
 AND ELIZABETH HIS WIFE.

[Passed March 4, 1778. Original Acts, vol. 7, p. 63; recorded Acts, vol. 3, p. 394. Laws, 1780 ed., p. 115. Memoir of Robert Rogers in "Memoir of John Stark," by Caleb Stark, p. 386. See paper by Otis G. Hammond on the Royalists in the Revolution. See the biography of Robert Rogers, by J. B. Walker, Granite Monthly, vol. 8, p. 19.]

Whereas Elizabeth Rogers of Portsmouth in the County of Rockingham and State aforesaid hath petitioned the General Assembly for said State, setting forth—that she was married to the said Robert Rogers about seventeen years ago, for the greater part of which time, he had absented himself from, and totally neglected to support and maintain her—and had, in the most flagrant manner, in a variety of ways, violated the marriage-contract—but especially by *Infidelity to her Bed*. For which reasons praying that a divorce from the said Robert Rogers *a vinculo matrimonii*, might be granted—The principal facts contained in said Petition being made to appear, upon a full hearing thereof—therefore—

Be it enacted by The Council and House of Representatives for said State in General Assembly Convened—That The Bonds of Matrimony between the said Robert and Elizabeth, be, and hereby are, dissolved.—

[CHAPTER 2.]

{ *State of* }
 { *New Hampshire.* }

AN ACT TO DISSOLVE THE MARRIAGE BETWEEN PETER BARTER
 AND ELIZABETH HIS WIFE.

[Passed Dec. 28, 1779. Original Acts, vol. 7, p. 139; recorded Acts, vol. 3, p. 574.]

Whereas Elizabeth Barter of Portsmouth hath petitioned the General-Assembly for s^d State setting forth, That she had been married to one Peter Barter about twenty seven years—that for more than nineteen of the last years he had wholly forsaken, and neglected to support her, and the four children he had by her—and that during the short time he did live with her he used her unkindly and was false to her Bed—& praying therefore to be divorced from said Barter *a vinculo matrimonii*—and the facts alledged in said Petition, appearing to be true, and the Prayer thereof, reasonable—

Be it therefore enacted by the Council and House of Representatives in General Assembly convened, that the marriage-contract between the said Peter & Elizabeth be, and hereby is, dissolved—and that he be wholly released and discharged from the Bonds of Matrimony.

[CHAPTER 3.]

{ *State of* }
 { *New Hampshire.* }

AN ACT TO DISSOLVE THE MARRIAGE BETWEEN BENJAMIN
 WELCH AND CHARITY HIS WIFE.

[Passed Nov. 24, 1781. Original Acts, vol. 8, p. 106; recorded Acts, vol. 4, p. 361.]

Whereas Charity Welch Wife of Benjamin Welch late of Portsmouth in the County of Rockingham and State aforesaid Mariner hath petitioned the General Court, setting forth, that She about fourteen years ago was married to the said Benjamin, who about seven years last past left her destitute of any Provision for her support, went to Sea, entered on board a British Man of War; and has continued with and in the service of the Enemy ever since For all which time She had never received either letter or supplies of any kind from him: That the said Benjamin was married again in England and had a Child there, For which Reasons She prayed that the bonds of Matrimony between the said Benjamin & her might be dissolved.—The principal facts set forth in said Petition being proved upon a full hearing thereof:

Therefore,

Be it Enacted by the Council and House of Representatives for said State in General Assembly convened, That the Bonds of Matrimony between the said Benjamin Welch and Charity be and hereby are dissolved and declared null and void.—

[CHAPTER 5.]

{ *State of*
New Hampshire. }

AN ACT TO DISSOLVE THE MARRIAGE BETWEEN ISAAC BROWN
AND JANE HIS WIFE.

[Passed Nov. 24, 1781. Original Acts, vol. 8, p. 108; recorded Acts, vol. 4, p. 365.]

Whereas Isaac Brown of Mason in the County of Hillsborough and State afores^d. Gentleman, hath petitioned the General Assembly for said State, setting forth That in the Year of Our Lord One Thousand Seven hundred and Seventy One, he was married to one Jane Smith. That at the time of such marriage, She was in the third month of her pregnancy by another Man That for these eight years last past the said Jane hath behaved in a most disorderly and unbecoming manner and in every particular hath broken her marriage Covenant, threaten'd to kill her said Husband and denounced Vengeance Even to murder, That the said Jane hath threatned to burn his house and all that was in it, and once actually attempted it, by putting fire to a Quantity of flax in the House, That She the said Jane had many times struck her said hnsband with a large Fire Shovel Chairs and large Clubs, taking Aim at his head, That the said Petitioner hath good reason to believe that the said Jane had determined to poison him, and the said Petition contained other Aggravating Circumstances, For which reasons praying that a Divorce from the said Jane, a Vinculo matrimonii might be granted. The principal facts containd in the said petition being made to appear

Therefore

Be it Enacted by the Council and House of Representatives for said State in General Assembly convened, and by the Authority of the same, That the Bonds of Matrimony between the said Isaac Brown and Jane Brown be, and they are hereby dissolved.

[CHAPTER 12.]

{ *State of* }
 { *New Hampshire.* }

AN ACT TO DISSOLVE THE MARRIAGE BETWEEN THOMAS ELLIOT AND ANNA HIS WIFE ; AND TO VEST IN HER ALL THE REAL ESTATE WHICH SHE WAS POSSESSED OF IN HER OWN RIGHT AT THE TIME OF HER INTERMARRIAGE WITH THE SAID THOMAS ELLIOT

[Passed March 27, 1782. Original Acts, vol. 8, p. 129 ; recorded Acts, vol. 4, p. 412.]

Whereas Anna Elliot of Newtown in the County of Rockingham, and State aforesaid, hath petitioned the General Court, setting forth that, at the Time of her intermarriage with the said Thomas, she was in her own Right possessed of a valuable Real & personal Estate—That the said Thomas had wasted the greater part of her personal Estate, & committed great waste on her Real Estate—That for more than a Year past he had deserted her bed, & utterly neglected to take any Care of her or her Children—And had illegally and adulterously cohabited with another woman—And therefore prayed that she might be divorced from the said Thomas—and that the possession & disposal of her said Estate might again be vested in her—

And whereas upon a full hearing of the matter, the principal facts contained in said petition appeared to be well supported, and the prayer thereof Just and reasonable

Therefore

Be it enacted by the Council and House of Representatives in General Assembly convened and by the Authority of the same it is hereby enacted—that the Bonds of matrimony between the said Thomas and Anna be and hereby are dissolved

And be it further Enacted by the Authority afores^d that all the Lands which the said Anna was siezed & possessed of in her own Right, at the time of her intermarriage with the said Thomas, and since by her not disposed of—be and hereby are vested in the said Anna, for the use of her the said Anna her heirs & assigns for ever