
In The
Supreme Court of Virginia

RECORD NO. 002927

SANDRA NOLEN GRISSE,

Appellant,

v.

DILLARD LAWSON NOLEN,

Appellee.

APPENDIX

William C. Leach (VSB No. 22924)
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Counsel for Appellee

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V I R G I N I A:

IN THE CIRCUIT COURT OF FRANKLIN COUNTY

IN RE: LORAIN CHITWOOD NOLEN)

PETITION

COMES NOW, Dillard Lawson Nolen, Petitioner, in person and by counsel, and respectfully states as follows:

1. That your Petitioner and Loraine Chitwood Nolen were lawfully married many years ago.
2. That one child, Sandra Nolen Grisso was born of the marriage of Dillard Lawson Nolen and Loraine Chitwood Nolen.
3. That Dillard Lawson Nolen and Loraine Chitwood Nolen were divorced, by Final Decree of Divorce entered by the Circuit Court of Franklin County, Virginia, on August 17, 1993.
4. That notwithstanding the aforesaid divorce, your Petitioner, Dillard Lawson Nolen and Loraine Chitwood Nolen, continued to live together as man and wife, having lived together for a total of 43 years.
5. That Loraine Chitwood Nolen died, intestate, on August 4, 1999.
6. That Sandra Nolen Grisso, the Petitioner and Loraine Chitwood Nolen's daughter and sole heir has been estranged from Dillard Lawson Nolen and Loraine Chitwood Nolen for a long period of time, she, having

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Fee 50.00 LF (123) 3.00
Whi Tax 5.00 TTF (109) 3.00
LL (219) 4.00 SP (104)
Total \$ 64.00
Tested: By Dillard A. Nolen
Alice S. Hall Clerk

last seen and visited with her mother, Loraine Chitwood Nolen, in November of 1998.

7. That Loraine Chitwood Nolen at all times indicated her desire to be buried in Franklin Memorial Park, Franklin County, Virginia.

8. To that end, Dillard Lawson Nolen, on or about February 11, 1998, purchased Lot 60-B, Graves #1 and #2, in Section 4 of Franklin Memorial Park, said Graves to be used by Dillard Lawson Nolen and Loraine Chitwood Nolen.

9. Further, Dillard Lawson Nolen purchased, on February 2, 1998, a marker for the graves purchased from Franklin Memorial Park, which marker has been engraved.

10. Further, that Dillard Lawson Nolen from January 15, 1993, through and including July 8, 1993, purchased and paid for pre-arranged funeral services for Loraine Chitwood Nolen.

11. That upon the death of Loraine Chitwood Nolen on August 4, 1999, Sandra N. Grisso, being her sole heir, refused to allow and in fact ordered your Petitioner not to come to the funeral or to the burial; your Petitioner was required to obtain a Court Order to attend the funeral services.

12. Notwithstanding the decedent's desires, Sandra N. Grisso caused her mother, Loraine Chitwood Nolen to be buried at Sandy Ridge Baptist Church, Franklin County, Virginia, at which church she was not a

member; further, to date, no tombstone has been erected at the grave of Loraine Chitwood Nolen.

WHEREFORE, inasmuch as your Petitioner is without remedy, save in a Court of Equity, where all such matters alone are properly cognizable, your Petitioner prays:

A. That process be served upon Sandra N. Grisso, 880 White Oak Road, Boones Mill, Franklin County, Virginia, and that she be required to answer same, but answer under oath is hereby waived;

B. That a Hearing be held, with all parties convened;

C. That the body of Loraine Chitwood Nolen be removed from the Sandy Ridge Baptist Church and reburied in one of the lots purchased by Dillard Lawson Nolen at Franklin Memorial Park, Franklin County, Virginia.

And your Petitioner will forever pray, etc.

DILLARD LAWSON NOLEN

By

Counsel

Michaux Raine, III
Counsel for Petitioner
Raine & Perdue
245 S. Main Street
Rocky Mount, Virginia 24151
540-483-9269

V I R G I N I A :

IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN

IN RE: LORRAINE CHITWOOD NOLEN

MOTION FOR SANCTIONS

Chancery Petition No.
00-08-7271

FILED/FRANKLIN CO.
CLERK OF CIRCUIT COURT
ALICE S. BELL

00 MAR 16 P3:08

COMES NOW, the Defendant, Sandra Nolen Grisso, (hereinafter the "Defendant"), by counsel, and for her Motion for Sanctions against the Petitioner, Dillard Lawson Nolen, (hereinafter the "Petitioner"), filed pursuant to § 8.01-271.1 of the Code of Virginia of 1950, as amended (hereinafter "Virginia Code"), states as follows:

1. The Petitioner is the father of the Defendant.
2. Throughout his lifetime, the Petitioner has acted very hatefully toward the Defendant.
3. On May 4, 1998, the Petitioner exhibited his hatred of the Defendant by shooting at her with a firearm.
4. The Petitioner was subsequently convicted of the felony of shooting within an occupied building in violation of Virginia Code § 18.2-279. The Petitioner was sentenced by this Court by Order entered March 1, 1999, in Criminal Case No. 98 05 7520.
5. The Defendant's mother, Lorraine Chitwood Nolen, (hereinafter the "Decedent"), departed this life intestate on August 4, 1999. Immediately prior to her death, the Decedent had been residing with the Petitioner, her ex-husband, although the two had never remarried.

6. The Defendant was the sole heir of the Decedent, and as such, the Defendant inherited the personal property of the Decedent.

7. Because the Petitioner hates the Defendant, he refused to deliver the Decedent's property to the Defendant, forcing her to file civil suit against the Petitioner in order to recover the Decedent's property, Franklin County General District Court Civil Case No. V99002010.

8. During the course of the General District Court civil litigation, the Petitioner delivered some of the Decedent's property to the Defendant; however, he would not deliver the balance of the Decedent's property.

9. By Order entered by the Franklin County General District Court on or about December 3, 1999, the Defendant obtained a judgment against the Petitioner for some of the Decedent's personal property, or in the alternative, the sum of \$1,177.32. The Petitioner subsequently satisfied this judgment in full.

10. The Petitioner communicated, through relatives, that he was going to file suit against the Defendant in order to "get even" with her, clearly indicating his intent to use the legal system to carry out the improper motive of obtaining revenge against the Defendant for both his criminal conviction and the civil judgment obtained against him.

11. As set forth more particularly in the Demurrer filed contemporaneously herewith, the Petition filed on behalf of the Petitioner fails to state facts upon which the relief sought by the Petitioner against the Defendant can be granted.

12. As evidenced by the affidavits executed by three of the Decedent's sisters, attached hereto and made a part hereof, the Decedent is buried at Sandy Ridge Baptist Church along with her parents, one brother, and other members of the Chitwood family.

13. In light of the foregoing, the clear intent of the Petitioner in filing the Petition is to harass the Defendant and to cause the Defendant to incur unnecessary legal fees and expenses in defending herself.

14. The Defendant has incurred legal fees and expenses in defending herself against this vexatious Petition. An itemized statement of such fees and expenses will be provided at a hearing to be scheduled to consider this Motion for Sanctions.

WHEREFORE, the Defendant, Sandra Nolen Grisso, respectfully prays that the Petition be dismissed, and further requests that the Court schedule a hearing to consider her Motion for Sanctions and her Demurrer filed contemporaneously herewith, and that the Defendant be awarded attorney's fees and costs expended in this action pursuant to Virginia Code § 8.01-271.1.

Respectfully submitted,

SANDRA NOLEN GRISSO

By:


Counsel

William C. Leach (VSB #22924)
4358 Starkey Road SW Suite 5
Roanoke VA 24014 2804
(540) 776-8600
Counsel for Sandra Nolen Grisso

CERTIFICATE OF SERVICE

I hereby certify that I have served upon Michaux Raine, III, Esquire, 245 South Main Street, Rocky Mount VA 24151, Counsel for the Petitioner, a true and correct copy of the foregoing Motion for Sanctions by first-class mail, postage prepaid, this 16th day of March, 2000.


William C. Leach

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V I R G I N I A :

IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN

FILED/FRANKLIN CO.
CLERK OF CIRCUIT COURT
ALICE S. HALL

00 MAR 16 P 3:08

IN RE: LORRAINE CHITWOOD NOLEN

DEMURRER

Chancery Petition No.
00-08-7271

COMES NOW, the Defendant, Sandra Nolen Grisso, by counsel, and for her Demurrer to the Petition filed in this matter states that the Petition fails to state facts upon which relief can be granted in law or equity and ought not to be prosecuted on the following grounds:

1. The decision as to the place of burial of the Decedent, Lorraine Chitwood Nolen, (hereinafter the "Decedent"), lies primarily with the Decedent herself. In the absence of express written directions by the Decedent, the decision as to the Decedent's place of burial lies with the Decedent's personal representative, her spouse, if any, or her next of kin. Vol. 5C, *Michie's Jurisprudence*, Dead Bodies, §§ 1 and 2. The Petitioner, Dillard Lawson Nolen, (hereinafter the "Petitioner"), is not an heir of the Decedent, because the Petitioner and the Decedent were divorced and not remarried at the time of her death. § 64.1-1 and § 20-111 of the Code of Virginia of 1950, as amended (hereinafter "Virginia Code"). In addition, the Commonwealth of Virginia does not recognize "common law" marriages. Accordingly, the Petitioner lacks the standing to bring this Petition.

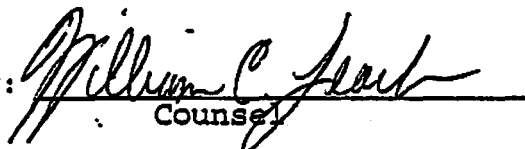
2. Even if the allegations contained in the Petition were true, the Petitioner could have encouraged the Decedent to designate her desired place of burial either in a will or in a written statement executed in accordance with Virginia Code § 54.1-2825. Therefore, the Petitioner possessed an adequate remedy at law that he chose not to exercise during the lifetime of the Decedent and has accordingly waived.

WHEREFORE, the Defendant, Sandra Nolen Grisso, having fully set forth her Demurrer to the Petition filed against her, respectfully prays that the Petition be dismissed, and further requests that the Court schedule a hearing to consider her Demurrer and the Motion for Sanctions filed contemporaneously herewith, and that the Defendant be awarded attorney's fees and costs expended in this action.

Respectfully submitted,

SANDRA NOLEN GRISSO

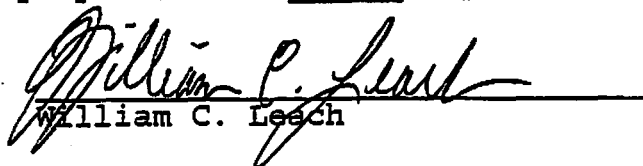
By:


Counsel

William C. Leach (VSB #22924)
4358 Starkey Road SW Suite 5
Roanoke VA 24014 2804
(540) 776-8600
Counsel for Sandra Nolen Grisso

CERTIFICATE OF SERVICE

I hereby certify that I have served upon Michaux Raine, III, Esquire, 245 South Main Street, Rocky Mount VA 24151, Counsel for the Petitioner, a true and correct copy of the foregoing Demurrer by first-class mail, postage prepaid, this 16th day of March, 2000.


William C. Leach

Grisso\Demurrer



WILLIAM N. ALFANDIER, II, JUDGE
ROCKY MOUNT, VIRGINIA 24151

JAMES F. INGRAM, JUDGE
DANVILLE, VIRGINIA 24041

CHARLES J. STRAUSS, JUDGE
CHATHAM, VIRGINIA 24621

B. A. DAVIS, II, RETIRED JUDGE
ROCKY MOUNT, VIRGINIA 24151

SAMUEL M. HAIRSTON, RETIRED JUDGE
CHATHAM, VIRGINIA 24621

Commonwealth of Virginia

TWENTY SECOND JUDICIAL CIRCUIT
CIRCUIT COURT OF DANVILLE
CIRCUIT COURT OF FRANKLIN COUNTY
CIRCUIT COURT OF PITTSYLVANIA COUNTY

P. O. BOX 601
ROCKY MOUNT, VA 24151
TEL: (540) 483-3075
FAX (540) 483-4605

June 27, 2000

Mr. William C. Leach, Esquire
4358 Starkey Road SW
Suite 5
Roanoke, Virginia 24014

Mr. Michaux Raine, III, Esquire
245 South Main Street
Rocky Mount, Virginia 24151

IN RE: Lorraine Chitwood Nolen

Gentlemen:

In this petition Lawson Nolen (Lawson) seeks to have the body of his ex-wife Lorraine Chitwood Nolen (Lorraine) exhumed from the Sandy Ridge Baptist Church cemetery and reinterred in Franklin Memorial Park, a local cemetery. Lorraine died on August 4, 1999. This petition was filed on January 7, 2000. This matter is now before the court on a demurrer filed by Lorraine's daughter, Sandra Nolen Grisso (Sandra), alleging that Lawson lacks standing to bring this petition and that Lawson had an adequate remedy at law which he failed to exercise during Lorraine's lifetime.

A demurrer tests the sufficiency of the pleading. For purposes of the demurrer, the court must take the facts alleged in the petition as being true. The Court cannot consider the affidavits filed with the Demurrer since these are not part of the pleading being tested.

Section 54.1-2825 of the Code of Virginia provides that a person may designate in a signed and notarized writing, an individual to make arrangements for her burial. Lorraine left no such signed and notarized writing.

The law as to this issue seems pretty well settled by the case of Goldman v. Mollen, 168 Va. 345 (1937). The Court stated that a decedent's place of burial rests

Page 2

Mr. William C. Leach, Esquire
Mr. Michaux Raine, III, Esquire

primarily with his personal representative, his widow or his next of kin; that there are no property rights in the bodies of the dead; and that the survivors have a right to the possession of the body and the right to make final disposition of the body. (p. 354). In this case, Sandra made the necessary arrangements for burial in the cemetery of Sandy Ridge Baptist Church. While Lawson is legally a stranger to Lorraine, in fact he is not. According to the pleading, Lawson and Lorraine were married. They divorced on August 17, 1993. They continued to live together as man and wife after the divorce until Lorraine died on August 4, 1999. It is alleged that they lived together for a total of forty-three years. Because of the relationship between Lawson and Lorraine, Lawson does have standing to bring this action.

While ordinarily the decision of the decedent's place of burial rests with the next of kin or personal representative, the Court in Goldman made it clear that:

".....it always has been, and will ever continue to be, the duty of courts to see to it that the expressed wish of one, as to his final resting place, shall, so far as it is possible, be carried out." (p.356)

Lawson being a proper party to maintain this action and the facts in the petition alleging that it was Lorraine's desire to be buried in Franklin Memorial Park, the demurrer is overruled. This action must be decided at a hearing at which each side has a full and fair opportunity to present the facts as to this issue.

Accordingly, this case will be set for trial immediately if either one or both of you so desire.

Mr. Raine will prepare an order in accordance with this decision, forward it to Mr. Leach for his endorsement so that it can be returned to me for entry no later than July 10, 2000.

If either of you will call Lori Cundiff of my office, she will set this matter for a hearing almost immediately. I can see no reason for this hearing to take more than an hour. However, if you need more time just let Ms. Cundiff know and I will give you more time.

Very truly yours,


William N. Alexander, II

V I R G I N I A :

IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN

IN RE: LORRAINE CHITWOOD NOLEN

Chancery Petition No.
00-08-7271

MOTION FOR RECONSIDERATION OF RULING DENYING DEMURRER/SANCTIONS

COMES NOW, the Defendant, Sandra Nolen Grisso, by counsel, prior to the entry of an Order incorporating the Court's ruling arising from a hearing held on June 23, 2000, and moves the Court for reconsideration of the Court's ruling denying her Demurrer and Motion for Sanctions, and in support thereof, states as follows:

1. The decision as to the place of burial of the Decedent Lorraine Chitwood Nolen, (hereinafter the "Decedent"), is a quasi-property right that lies primarily with the Decedent herself. In the absence of express written directions by the Decedent, the decision as to the Decedent's place of burial lies with the Decedent's personal representative, her spouse, if any, or her next of kin. Vol. 5C, *Michie's Jurisprudence*, Dead Bodies, §§ 1 and 2.

2. Supplementing its common law authority regarding a decedent's choice of burial site, the Commonwealth of Virginia provides by statute that an executor of a decedent's estate may make burial arrangements pursuant to § 64.1-136 of the Code of Virginia of 1950, as amended, (hereinafter "Virginia Code"), even

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prior to a formal qualification before the court occurs. The Virginia Code also authorizes a decedent to designate her desired place of burial in a written statement executed in accordance with Virginia Code § 54.1-2825. Neither of these statutory provisions is applicable to the case at bar.

3. Virginia Code § 20-111 extinguishes "all contingent rights of either consort in the real and personal property of the other then existing, or thereafter acquired,..." upon the entry of a decree of divorce. The broad description of property contained in Virginia Code § 20-111 would include quasi-property rights such as the right to make burial arrangements.

4. The Petitioner, as an ex-husband of the Decedent, is not a potential heir of the Decedent set forth in the course of descents contained in Virginia Code § 64.1-1. The Court recognizes that the Petitioner is "legally a stranger" to the Decedent, while holding "in fact he is not." Yet the Court's ruling allows the Petitioner to proceed with his Petition even though he is a legal stranger to the Decedent. Such a ruling is tantamount to a recognition of a "common law" marriage, which is not a legally recognized institution in the Commonwealth of Virginia.

5. The Court must look to the legal relationship between the Petitioner and the Decedent to determine whether or not the Petitioner has standing to file this Petition. The Petitioner is not a widower, spouse or relative of the Decedent; is neither an executor nor an administrator of the Decedent's estate; is not someone who has been designated in writing to make the burial decisions on behalf of the Decedent pursuant to Virginia Code

§ 54.1-2825; and is not in contractual privity with the Decedent or the Decedent's Estate. Absent the aforementioned legal relationships between the Petitioner and the Decedent, the Petitioner lacks the legal standing to bring this Petition.

6. The Court quotes *Goldman v. Mollen*, 168 Va. 345, 191 S.E. 627 (1937), for the proposition that "it is the duty of courts to see to it that the expressed wish of one, as to his final resting place, shall, so far as it is possible, be carried out." 168 Va. at 356. While this is an accurate statement of the law, the legal proposition cited is not dispositive of the legal standing issue raised in this case.

Goldman involved a dispute between the children of a decedent and Meyer Mollen, the chairman of the cemetery board for the cemetery in which the decedent had been buried. Mr. Goldman, pursuant to his expressed desire, had been buried in an orthodox Jewish cemetery. When Mrs. Goldman died twelve years later, pursuant to her expressed desire, she was buried in a reformed Jewish cemetery. During her lifetime and subsequent to her husband's death, Mrs. Goldman had expressed her desire that her husband's body be moved to a burial plot located next to hers in the reformed Jewish cemetery. The Goldman children brought suit against Mr. Mollen in order to compel the trustees of the orthodox Jewish cemetery to consent to the removal of Mr. Goldman's body to the reformed Jewish cemetery.

The Goldman children had raised the issue of whether Mr. Mollen was a "party in interest," i.e., whether Mr. Mollen had standing to object to the removal of Mr. Goldman's body from the orthodox Jewish cemetery. The Court first noted that the

Goldmans had failed to preserve this issue on appeal in their assignment of error. In dicta, the Court went on to state that "[p]lainly the trustees of a cemetery have a right to object to its dead being disturbed, and they have the right to be heard." 168 Va. at 345. While the Court did not explain the reasoning behind their conclusion, it is probable the Court based its decision upon the contractual relationship between the cemetery trustees and Mr. Goldman, the implications of religious law, and the probable duties imposed by statute on the cemetery trustees to maintain the integrity of the burial site.

The petitioning parties in *Goldman* were children of both Mr. Goldman and Mrs. Goldman. Thus, *Goldman* was a case involving a dispute between the "relatives" of the decedent. To the extent the *Goldman* Court discusses the legal standing issue, the Court implicitly requires that there be a legal relationship between the parties bringing suit to move a buried body, i.e., the contractual relationship between the cemetery trustees and the decedent.

The Petitioner has no contractual relationship with the trustees or other legal representatives of the Sandy Ridge Baptist Church, the owners of the burial site in which the Decedent is buried. Because the Petitioner in the case at bar has no contractual relationship with the Decedent or with the cemetery in which the Decedent is currently buried, the *Goldman* case does not provide legal authority to grant the Petitioner the legal standing for bringing this Petition.

7. Counsel for the Petitioner cited the allegations contained in paragraphs 7 and 8 of his Petition as being

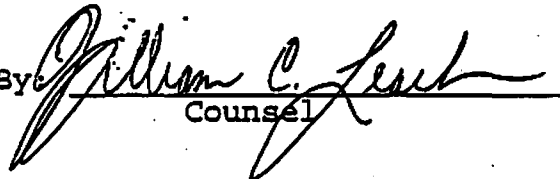
sufficient reason the Petition should withstand the Demurrer.

"One who asserts an unfounded claim to an interest in property does not thereby become entitled to be made a party to all legal proceedings affecting that property." Vol. 14A, *Michie's Jurisprudence, Parties*, § 10, citing *Raney v. Four Thirty Seven Land Co.*, 233 Va. 513, 357 S.E.2d 733 (1987). The Petitioner's assertion of the right to make a burial decision on behalf of the Decedent, or, in the alternative, to communicate on behalf of the Decedent her decision regarding burial arrangements, is legally unfounded. The Petitioner has cited no legal authority, either at common law or in the Virginia Code, that makes him anything other than a "legal stranger" to the Decedent in this proceeding.

8. In light of the foregoing, the Defendant moves the Court for reconsideration of the proposed Order denying her Demurrer and Motion for Sanctions.

Respectfully submitted,

SANDRA NOLEN GRISSO

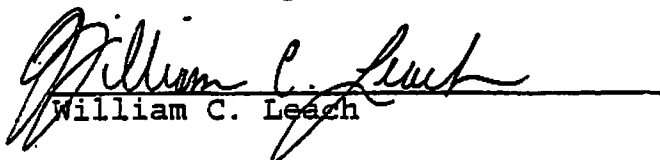
By 
Counsel

William C. Leach (VSB #22924)
4358 Starkey Road SW Suite 5
Roanoke VA 24014 2804
(540) 776-8600

Counsel for Sandra Nolen Grisso

CERTIFICATE OF SERVICE

I hereby certify that I have served upon Michaux Raine, III, Esquire, 245 South Main Street, Rocky Mount VA 24151, Counsel for the Petitioner, a true and correct copy of the foregoing Motion for Reconsideration of Ruling Denying Demurrer/Sanctions by first-class mail, postage prepaid, this 20th day of July, 2000.


William C. Leach

Grisso/Modification

VIRGINIA: BOOK 77 PAGE 251

IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN

IN RE: LORRAINE CHITWOOD NOLEN) ORDER AS TO DEMURRER
) AND SANCTIONS
) CH # 00-08-7271

On this the 23rd day of June, 2000, came the parties in person and by counsel and argued the Demurrer heretofore filed by the Respondent and the Court after considering the pleadings and argument of counsel and pursuant to its letter opinion and for other good cause shown, doth hereby,

ADJUDGED, ORDERED AND DECREED that the Demurrer filed in this cause be and the same hereby is overruled; and, it is further

ADJUDGED, ORDERED and DECREED that the Motion for Sanctions be dismissed; and, it further

ADJUDGED, ORDERED and DECREED that the Respondent shall file her responsive pleadings to this cause within fifteen (15) days from the date of entry of this Order.

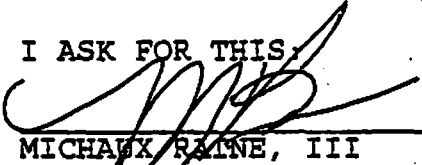
And this cause is continued. To all of which the Respondent by counsel objects, for the reasons set forth in the Demurrer, Motion for Sanctions and the Motion for Reconsideration of Ruling.

ENTER:

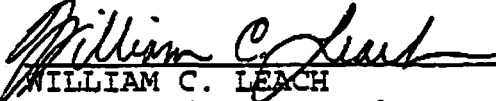
July 24th 2000
William M. McCreary
JUDGE

RAINE & PERDUE,
PLC
ATTORNEYS AT LAW
248 S. MAIN STREET
ROCKY MOUNT, VA 24151

I ASK FOR THIS:


MICHAEL R. RAINE, III
Counsel for Petitioner
Raine & Perdue
245 S. Main Street
Rocky Mount, Virginia 24151
540-483-9269

SEEN AND OBJECTED TO :


WILLIAM C. LEACH
Counsel for Respondent
4358 Starkey Road, SW, Suite 5
Roanoke, Virginia 24014
540-776-8600

V I R G I N I A :

IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN

IN RE: LORRAINE CHITWOOD NOLEN

ANSWER

Chancery Petition No.
00-08-7271

FILED/FRANKLIN CO.
CLERK OF CIRCUIT COURT
ALICE S. HALL

00 AUG-2 09:49

COMES NOW, the Defendant, Sandra Nolen Grisso, by counsel, without waiving her Demurrer and Motion for Sanctions, but specifically insisting upon the same for the reasons set forth in her Motion for Reconsideration of Ruling Denying Demurrer/ Sanctions, and for her Answer to the Petition filed in this matter states as follows:

1. The Defendant admits the allegations contained in paragraphs 1, 2 and 3 of the Petition.

2. The Defendant denies the allegations contained in paragraph 4 of the Petition, and points out that the Commonwealth of Virginia does not recognize a common law marriage.

3. The Defendant admits the allegations contained in paragraph 5 of the Petition.

4. In regard to the allegations contained in paragraph 6 of the Petition, the Defendant denies that the last time she saw her mother was in November, 1998, that the Defendant was estranged from her mother, and further denies that she is the sole heir of the Petitioner, because the Petitioner is still

alive and thus has no heirs. The Defendant admits she is the daughter of the Petitioner and that she is and has been estranged from him. The Defendant admits she is the daughter of and sole heir of the late Lorraine Chitwood Nolen.

5. The Defendant denies the allegations contained in paragraph 7 of the Petition.

6. The Defendant is without sufficient information to either admit or deny the allegations contained in paragraphs 8, 9 and 10 of the Petition and accordingly denies the same.

7. The Defendant denies the allegations contained in paragraph 11 of the Petition.

8. The Defendant admits that she made arrangements to have her mother buried at Sandy Ridge Baptist Church, Franklin County, Virginia, but the Defendant denies the remaining allegations contained in paragraph 12 of the Petition.

9. The Defendant denies any allegations not specifically admitted hereinabove.

WHEREFORE, the Defendant, Sandra Nolen Grisso, having fully set forth her Answer to the Petition filed against her, respectfully prays that the Petition be dismissed, and further requests that the Court reconsider her Demurrer and the Motion for Sanctions previously filed herein, and that the Defendant be awarded attorney's fees and costs expended in this action, at the Motion to Reconsider currently scheduled for August 16, 2000, at 8:00 a.m.

Respectfully submitted,

SANDRA NOLEN GRISSO

By: William C. Leach
Counsel

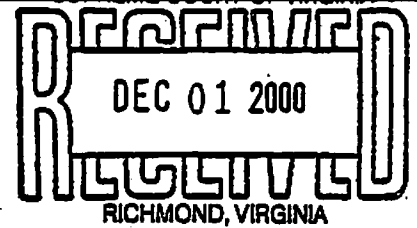
William C. Leach (VSB #22924)
4358 Starkey Road SW Suite 5
Roanoke VA 24014 2804
(540) 776-8600

Counsel for Sandra Nolen Grisso

CERTIFICATE OF SERVICE

I hereby certify that I have served upon Michaux Raine, III, Esquire, 245 South Main Street, Rocky Mount VA 24151, Counsel for the Petitioner, a true and correct copy of the foregoing Answer by first-class mail, postage prepaid, this 1st day of August, 2000.

William C. Leach
William C. Leach



VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN

* * * * *
IN RE: *
LORRAINE CHITWOOD *
* * * * *

JUDGE: HONORABLE W. N. ALEXANDER, II

DATE: AUGUST 30, 2000

TIME: 1:05 P.M.

LOCATION: FRANKLIN COUNTY COURTHOUSE
3RD FLOOR
ROANOKE, VIRGINIA

REPORTED BY: DAWN A. PIERCE, CSR, RPR,

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FILED/FRANKLIN CO.
CLERK OF CIRCUIT COURT
ADJCE S. HALL

*PO 11-11-2000
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5 THE COURT: All right. Mr. Leach and
6 Mr. Raine, seems to me the narrow issue in
7 this case is the desires of the decedent, is
8 really what we're talking about. Right,
9 Mr. Leach?

10 MR. RAINE: Yes.

11 MR. LEACH: Yes.

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THE COURT: All right. Can't you all stipulate a lot of these facts, for instance, the fact that they were divorced and that they separated, separated for a time, went back together, they lived together, they were living together at the time of the shooting incident and also they were living together after that and they were living together basically at the time of her death? I mean there is no question about any of these facts, is there?

MR. RAINE: No, I don't think so. And I didn't -- I didn't state that in opening statement by way of, quote, end quote, trying

1 to bias or prejudice. I was just -- this is
2 the first record we have had, and I was just
3 trying to set out some facts.

4 THE COURT: It ought to be clear on the
5 record that there is no question about it.

6 MR. RAINE: I have no problem.

7 MR. LEACH: Your Honor, we are willing
8 to stipulate to the facts summarized by the
9 court.

10 MR. RAINE: That is fine.

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Q You are James E. Chitwood?

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You are -- were -- are Lorraine Chitwood
Nolen's brother?

A Yes.

Q Is that correct?

A That's correct.

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Q Mr. -- Mr. Chitwood, did you in the last several months, and I'm not going to define several, but let's say in the last year, if you will, have conversations with Lorraine Chitwood Nolen regarding her burial?

A Yes, I did.

Q And Mr. Chitwood, when, if you will, tell the court, did those conversations take place? And I'm looking for a timeframe.

A Well, I will say probably along maybe September/October of '98, when she was coming back from Roanoke Memorial, and she wanted to she me where her burial plots was in Franklin Memorial Park. So we turned and went up in there. She showed me where they were at. She said that is where she would want to be buried because she would be pretty close to where I would be and a lot of my friends would be.

Q And you say that was in September or October, or maybe you said August, but I know

1 September, somewhere in that area of 1998; is that
2 correct?

3 A Somewhere in there, yes, sir.
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12 Q Did you later at any other time,
13 Mr. Chitwood, have any conversations with Lorraine
14 regarding her desires as to her burial place?

15 A Yes, we talked about it over there at
16 her home.

17 Q Can you give the court an idea as to
18 when you talked about it?

19 A Well, I'd say probably the last six
20 months she lived we talked about it right much
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Q And during that period of time, let's get back to the 90 days before her death, did she ever discuss with you where she wanted to be buried?

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A Yes. She always told me she wanted to be buried over at Franklin Memorial Park, where the lots was, markers and all, had everything fixed.

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Q Everything was fixed?

A Yes. Everything was paid for, she said.

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you." She said, "I want to be buried at Franklin Memorial where my plot is all ready. Everything is already done," she said.

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A My name is Geraldine Virginia Doshier.

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A Well, in January of 1997, I made a final deal with the Nolens to buy their mobile home. After that, I became quite friendly with Lorraine and we spoke on a daily basis on the phone. And we would visit several times a week going to town or going out to lunch or things like that.

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8 Mrs. Doshier, did you -- did Lorraine
9 Nolen ever discuss with you her, Lorraine Nolen's,
10 desires regarding her burial or place of burial and
11 what have you?

12 A Yes, she did.

13 Q And could you give the court a time --
14 an approximate timeframe when these discussions may
15 have taken place?

16 A The first time we had the discussion was
17 in October of 1998 at Lawson's mother's viewing or
18 memorial service at the Lynch Funeral Home. And
19 she asked me to walk up to the casket with her.
20 And when we got up there, she told me that they had
21 just made purchase of their lots and they would be
22 buried together in Franklin Memorial Park.

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5 And she asked me if I could stop there for a few
6 moments to go in and just take a look at their
7 plots. At that time I told her I couldn't because
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14 Q Did you at other times during -- and I
15 will say the last year or two years of her life,
16 discuss or have her discuss with you her desires
17 regarding her place of burial?

18 A Yes, yes. Several times we would get
19 into a discussion about where she was going to be
20 buried. And she asked me where I was going to be
21 buried and I told her it was supposed to be in
22 California, but I didn't want to pursue that. So
23 we discussed the situation that she had, that the
24 two of them would be in the Franklin park, and I
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1 Q Did she ever discuss Sandy Ridge Baptist
2 Church?

3 A I never heard of it. I never heard of
4 that at all. After the funeral, I did not -- I

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A Of my knowledge? The only thing I remember is when I was visiting with Lorraine in the hospital, her daughter came in with her sister, Lorraine's sister. And I heard the conversation between Sandy and her mother when she said that she hadn't seen her mother for nine-months. And Lorraine acknowledged the fact that it was nine-months.

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A Dillard Lawson Nolen.

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Q And 1995, you and Lorraine Chitwood were married; is that correct?

A '55.

Q '55, is that correct?

A Yes.

Q And Sandra Grisso is a child of that union; is that correct?

A Correct.

Q As I stated earlier, Mr. Nolen, you and Lorraine divorced in 1993?

A Yes, sir.

Q From 1993, basically -- Lorraine Chitwood Nolen died in August of 1999; is that correct?

A Right. Correct.

1 Q Basically, from 1993 until 1999, you and
2 Lorraine Chitwood, notwithstanding your divorce,
3 lived together as man and wife; is that correct?

4 A Yes.

5 Q You may have had some periods of time
6 that you did not live together, but I said
7 basically lived together.

8 A Right.

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13 Q Lawson, where did Lorraine want to be
14 buried?

15 A Franklin Memorial.

16 Q Did you and she discuss that?

17 A Yes.

18 Q Often or just when you purchased?

19 A Quite often after she got sick and in
20 between the time of buying them and whatever.

21 Q Mr. Nolen, in May of 1998, there was an
22 incident at your home --

23 A Yes, sir.

24 Q -- over on Dillard Lane.

25 A Right.

1 Q And as a result of that incident, you
2 were by order of this court directed to leave, not
3 to go back, not to visit, not to be there. Is that
4 correct?

5 A Not particularly this court. It was
6 Judge Melesco.

7 Q Well, it carried on to -- okay. It
8 carried on to this court also.

9 A It carried on to this court, yes, sir.

10 Q And that was from approximately May of
11 1998 until when?

12 A January 7th of '99.

13 Q And at that time, there was a hearing in
14 this court; is that correct?

15 A Yes, sir, sentencing. I had done been
16 convicted.

17 Q Sentencing in this court?

18 A Uh-huh.

19 Q And after that sentencing or at the time
20 of that sentencing, were you allowed to go back to
21 that home?

22 A Yes, sir.

23 Q And live?

24 A Yes, sir.

25 Q And who requested that you be allowed to

1 go back to that home and live?

2 A Well, I did, and she was -- Lorraine was
3 here and she requested it too.

4 Q And when you left court, within that day
5 or the next day or shortly thereafter, you did in
6 fact go back to the Dillard home and live; is that
7 correct?

8 A Correct.

9 Q And Lorraine lived there also until her
10 death; is that correct?

11 A Yes.

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16 Q Did Lorraine at any time, and let's go
17 from January of 1999, say to you anything regarding
18 her desire to be buried at any place other than
19 Franklin Memorial Park?

20 A No, sir.

21 Q Did -- from January of 1999 up until
22 August of '99 when she died, during that period of
23 time, did you and Lorraine at any time have any
24 discussions regarding your place of burial or her
25 place of burial?

1 A No. She said she wanted to be buried
2 over there. I tried to get her to write a will.
3 She never would. If she did, it wasn't found. I
4 tried to get her to make somebody power of
5 attorney. I told her, I said, "Sandra is liable to
6 bury you anywhere, even have you cremated." She
7 said Sandra wouldn't do that.

8 Q Did she at all times state that she
9 wanted to be buried at Franklin Memorial Park?

10 A Yes, sir.



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6 Q Well, you just indicated that you
7 entered into some sort of arrangement with Franklin
8 Memorial Park to purchase the burial plots. Is
9 that correct?

10 A Yes.

11 Q Was that a yes?

12 A Yeah.

13 Q Did you do that by phone, verbally, in
14 person?

15 A In person.

16 Q Did they have you sign anything?

17 A I would say they did.

18 Q Was Lorraine present with you when this
19 contract was entered into?

20 A Yes.

21 Q Did she sign anything?

22 A I don't think so. I believe the lots
23 are just in my name.
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Q Mr. Nolen, I am going to show you -- I believe it is the original of a deed from Franklin Memorial Park to you of lots No. -- of lot No. 60B, grave one and two in section four, Franklin Memorial Park.

Is that the deed you received from Franklin Memorial Park?

A Shirley Robinson and Ben --

Q No. Look at the top.

1 A -- Pinckard --

2 Q That is who notarized it.

3 Isn't that to you?

4 A That is the same one.

5 Q And this is a copy of a --

6 MR. RAINE: If it please the Court, I
7 would like to make this Petitioner's
8 Exhibit No. 1.

9 THE COURT: Let it be marked as
10 Mr. Nolen's No. 1, be admitted without
11 objection:

12 (Whereupon, Petitioner's Exhibit 1 was
13 marked for identification and admitted into
14 evidence.)

15 BY MR. RAINE:

16 Q Mr. Nolen, I would also like to show you
17 a carbon copy of a contract with Franklin Memorial
18 Park for a marker for you and Lorraine Chitwood.
19 And it says down here date of birth and so forth.

20 Is that a copy of --

21 A Yes, sir.

22 Q And attached to that with a staple is a
23 receipt for \$1269.67, payment in full for marker;
24 is that correct?

25 A Right. Right.

1 MR. RAINE: If it please the Court, I
2 would like to introduce this combined as
3 Petitioner's No. 2 --

4 THE COURT: All right.

5 MR. LEACH: No objection.

6 MR. RAINE: -- with the receipt.

7 THE COURT: The receipt and the carbon
8 copy we will mark as No. 2 and be admitted
9 without objection.

10 (Whereupon, Petitioner's Exhibit 2 was
11 marked for identification and admitted into
12 evidence.)

13 MR. LEACH: Your Honor, I would like to
14 ask a question regarding these.

15 MR. RAINE: Certainly.

16 THE COURT: All right.

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18 RECROSS-EXAMINATION

19 BY MR. LEACH:

20 Q In regard to Petitioner's Exhibit 1, the
21 deed and burial part, on the fourth line down, who
22 does it indicate that the plots were purchased by
23 or paid by?

24 A Dillon Lawson Nolen.

25 Q That is you; is that correct?

1 A That is right.

2 Q On the installment sales contract, the
3 attached receipt, Petitioner's Exhibit No. 2, at
4 the bottom it says, "I signed this contract on
5 February 2, 1998." Who's signature is that?

6 A Dillon Lawson Nolen.

7 Q And your wife hadn't signed that; is
8 that correct?

9 A She hadn't worked in 23 years. Where
10 would she get the money?

11 MR. RAINE: Mr. Nolen, answer the
12 question yes or no.

13 BY MR. LEACH:

14 Q And on the receipt that's attached to
15 that exhibit, the receipt indicates that the money
16 came from you as well; is that correct?

17 A Yes, sir.

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Q In regard to the issues that are before
the court today, where she wants to be buried, did
you have any conversations with Lorraine regarding
that?

A No.

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Q And where were those plans to be buried
at that time?

A Well, it was over at Franklin Memorial.

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Q Did she ever explicitly tell you where

1 she wanted to be buried?

2 A No.

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10 Q Immediately after the shooting, as was
11 testified to by your father, there was an order
12 entered directing that your father stay away from
13 you and Lorraine as well; is that correct?

14 A Yes.

15 Q What -- what did that end up doing as
16 far as the living arrangements for Lorraine? What
17 impact did that have?

18 A You mean after the shooting?

19 Q Yes.

20 A She was given custody of the house.

21 Q At Dillard Lane in Rocky Mount?

22 A Yes.

23 Q And did she live there by herself?

24 A Yes.

25 Q And what -- roughly, what period of time

1 did that living arrangement continue?

2 A By herself?

3 Q Uh-huh.

4 A I think it was like an eight or
5 nine-month period that she was there by herself.

6 Q Did she contact you before the
7 sentencing hearing in September of 1999 to talk to
8 you about a change in those living arrangements?

9 A Yes, she did.

10 Q What did she tell you?

11 A She called me one day at work and said
12 that she was afraid she was going to have to let my
13 father move back in. And I became very upset
14 because I knew that she was sick. And I just was
15 worried about her and I didn't want her, you know,
16 to allow that to happen. She said -- I said, Why?"
17 She said, "Well, I just can't make it on my own."
18 I said, "Well, mama, you have been making it on
19 your own for eight-months. Why is it different
20 now?" She said, "Well, the bills are piling up and
21 I'm just afraid. And I just can't make it on my
22 own."

23 Q So it was a financial fear, basically
24 unable to pay the bills?

25 A That was part of it.

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Q Sandy, in accordance with the judges instructions, I want to focus on time tables.

Your mom died in August of '99; is that correct?

A Yes.

Q There was some correspondence back and forth between myself, as your attorney, and Mr. Raine, as your dad's attorney?

A Yes.

Q Trying to resolve personal property issues?

1 A Yes.

2 Q And that didn't work out, so you had to
3 file suit?

4 A Right.

5 Q When did you file that suit,
6 approximately?

7 A I think it was September.

8 Q Of what year?

9 A '99.

10 Q And when did that suit get resolved?

11 A I think it was around December.

12 Q Of?

13 A Of that year.

14 Q 1999.

15 Without going into details and the
16 rules, you were able to recover some of the
17 property that you were seeking coverage, is that
18 correct?

19 A Yes.

20 Q Then this petition regarding burial was
21 filed -- the location of the burial arrangements
22 was filed in March of this year; is that correct?

23 A Yes.

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12 Q What did you do? Who did you contact to
13 try to find out what details or what arrangements
14 she made?

15 A Well, my husband and I went to the
16 funeral home. And since my mother had never told
17 me where she wanted to be buried, I asked the
18 funeral director, I said, "Did she tell you where
19 she wanted to be buried?" He says, "Well, let me
20 check my paperwork." And he looked at his
21 paperwork. And there was a place on there where
22 you could indicate where you want to be buried. He
23 said, "Well, that is odd. She didn't fill this
24 out." He said, "Your father did, but she didn't."
25 I mean I am distraught. I didn't know what to do
because I just assumed between her will, the

1 funeral home, whatnot, that she had told someone,

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16 THE COURT: Okay. Gentlemen,
17 Ms. Grisso, Mr. Nolen, I've tried to set out
18 the law I think as best I could. And I think
19 Mr. Raine and Mr. Leach already ferreted out
20 the law in this case, although I disagree with
21 Mr. Leach as far as the only way that a person
22 could let someone know where they wanted to be
23 buried is by a signed writing or statute.
24 There are other ways, and I think that is what
25 the court has to decide today.

1 It is unfortunate that we're here, of
2 course, because of Ms. Grisso being Lorraine
3 Nolen's daughter and Mr. Nolen being, of
4 course, her husband, and that Ms. Grisso and
5 Mr. Nolen, father and daughter don't get along
6 at all and haven't for some time, all with
7 good reason, no question about it, the only --
8 at least on Ms. Grisso's part. I don't know
9 what took place before that. Of course, the
10 shooting incident, I was the judge that heard
11 the shooting incident. Anyway that has all
12 passed, but it is unfortunate now. I have got
13 to make a decision.

14 The decision to be made is in the
15 court's view -- is the decision as to what
16 Lorraine Nolen wanted, not what Mr. Lawson
17 Nolen wants or what Ms. Sandra Grisso wants.
18 And that is a difficult decision, especially
19 going back. There is some suspicion on my
20 part, of course, Mr. Nolen waiting until the
21 other cases were brought before he did
22 anything about it, several months after she
23 was interred in the Sandy Ridge Baptist Church
24 cemetery. But even then, the question, still
25 it goes back to -- the court has to decide

1 what Lorraine Nolen wants.

2 The facts are these as I find them to
3 be: The first fact is that Lorraine Nolen had
4 not expressed her desire to be buried in the
5 Sandy Ridge Baptist Church cemetery to anyone.
6 She had expressed a desire not to be buried in
7 the Maple Grove cemetery. That is clear.

8 She did have discussions about her
9 burial. She had told Sandra, and I'm
10 satisfied this is a fact, and I find this to
11 be a fact, that she told Sandra, she told her
12 two sisters -- actually three sisters in
13 Martinsville that she did not want to be
14 buried beside Mr. Nolen, and that was shortly
15 after the shooting. The shooting, I think it
16 is agreed, took place in May of 1998, and this
17 conversation took place in June of 1998 or
18 summer of 1998. I think June was the correct
19 date, June of 1998, after the shooting
20 incident in which Mr. Nolen shot at -- in the
21 presence of Ms. Grisso. She made the
22 statement, and I'm satisfied that everyone has
23 told the truth. I don't have any question
24 about that. She made the statement she did
25 not want to be buried beside Lawson Nolen.

1 After that, that has never -- that has
2 never been contradicted, those words to those
3 three individuals that heard that statement.

4 Mr. Peanut Chitwood, Mr. James Chitwood,
5 brother of Mrs. Chitwood, of course,
6 testified. He has testified about
7 conversations he had. He stayed with her up
8 until almost her death. And he testified that
9 basically -- not basically, that she wanted to
10 be buried at Franklin Memorial Park.

11 And Ms. Doshier -- and I have to agree
12 with Mr. Raine, Ms. Doshier is the most
13 independent witness that testified and also
14 she is an extremely credible witness. I can
15 see no ax that this woman had to grind with
16 anybody, and none has been pointed out. She
17 testified as to exactly what happened. And
18 she was taken by Lorraine or asked to go by
19 Franklin Memorial Park and look at the burial
20 place that Lorraine would be buried in.
21 Ms. Doshier declined to do that because of the
22 recent death of her own daughter and didn't
23 want to go into the cemetery. That took
24 place, according to Ms. Doshier, in January of
25 '99 or December of 1998. That took place

1 after the conversation in March with the
2 sisters.

3 As far as what the standard of proof is,
4 I think the standard of proof in this case is
5 by the preponderance of the evidence. But
6 even if it were by a -- by clear -- a standard
7 of clear and convincing evidence, the evidence
8 in this case is again, as I stated, that
9 Lorraine at no time expressed a desire to be
10 buried at Sandy Ridge Baptist Church.

11 As far as Ms. Grisso is concerned, I am
12 satisfied that there was a time in which
13 Ms. Grisso didn't see her mother. And that is
14 based on what Ms. Doshier said and what
15 Ms. Hall, who very hesitantly and obviously
16 didn't want to testify about that, but I am
17 satisfied there was a period of time that
18 Ms. Grisso did not see Lorraine Nolen.

19 But from all of this evidence, and
20 basically based on the testimony of
21 Ms. Doshier as being the most critical
22 testimony in this whole case, I think
23 Lorraine's desire was to be buried at the
24 Franklin Memorial plot. And I can't fault
25 Ms. Grisso for doing what she did, but I think

1 the desire at this point, and this is looking
2 back, hindsight, but this is the case that
3 possibly if the parties could have
4 communicated in any way, this would not have
5 happened. But I am sure neither of these
6 parties, either Ms. Grisso or Mr. Nolen,
7 wanted to have any desire to speak for the
8 other.

9 I am going to grant the petition of
10 Mr. Nolen to remove Mrs. Nolen from the Sandy
11 Ridge Baptist Church to the Franklin Memorial
12 Park.

13 And Mr. Leach, if you want to appeal the
14 decision of the court, I, of course, will stay
15 any kind of action on this until such time as
16 you have been able to appeal the case.

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DEED

No. 5170

Franklin Memorial Park

Know All Men By These Presents,

That Franklin Memorial Park of the _____ County
of Franklin, State of Virginia, the Grantor for the consideration
of one dollar and other valuable consideration Dollars, (\$ 1.00),

Paid by Dillard Lawson Nolen

the Grantee _____, does GIVE, GRANT, BARGAIN, SELL AND CONVEY
unto the said Grantee _____, his _____ heirs and assigns, the use in fee simple
for sepulture only, of the following described tract of land, situated in the County of Franklin,
and State of Virginia, and being Lot No. 60-B, Graves No. 1-2
in Section 4 of FRANKLIN MEMORIAL PARK, as shown on a plat
filed in the office of the Clerk of the Circuit Court of Franklin County, Rocky Mount, Virginia.

TO HAVE AND TO HOLD the same unto the said Grantee _____,
his _____ heirs and assigns forever.

This conveyance is made subject however, to the right of FRANKLIN MEMORIAL PARK,
at all times to grade and improve said Section, and remove any trees, shrubbery, or structures
of any kind therefrom; furthermore no monument, tombstone, vault, marker, fence, coping, mounds,
or other structures of any kind may be erected, or any hedge, plants, trees or flowers be planted
on such Section, unless the same is expressly permitted by the rules and regulations of FRANKLIN
MEMORIAL PARK for said FRANKLIN MEMORIAL PARK, now existing or hereafter establish-
ed by the Board of Directors of FRANKLIN MEMORIAL PARK.

This conveyance is made subject, also to all of the rules and regulations now existing or hereafter
established by the Board of Directors for FRANKLIN MEMORIAL PARK, and any and all other
laws, ordinances, rules and regulations which may have been or may hereafter be enacted by any
public authority relating to the burial of the dead.

WITNESS the following signatures and seals, this 11th day of Feb., 19 98, m
FRANKLIN MEMORIAL PARK

By Ben L. Pinckard
President Chairman

Attest:

Secretary

STATE OF VIRGINIA
CITY OF ROCKY MOUNT { To wit:

I, Shirley M. Robertson, a Notary Public in and for the State and City
aforesaid, do hereby certify that Ben L. Pinckard, Chairman

ARK, and authorized agent or officer of, whose name is signed
g date of February 11, 19 98, have this day
in my State and City aforesaid and acknowledged the same.
s 11th day of February, 19 98.
May 31, 1998.

Shirley M. Robertson
Notary Public

DEED

FROM

Franklin Memorial Park
215 Franklin Street
Rocky Mount, Virginia

TO

Dillard Lawson Nolen

225 Dillard Ln.

Rocky Mount, Va. 24151

FOR

Lot No. 60-B

Graves No. 1-2

Block Garden of Meditation

Section Four

OF

Franklin
Memorial Park

INSTALLMENT SALES CONTRACT AND DISCLOSURE STATEMENT

Account # 557

Creditor (Seller Name and Address) Franklin Memorial Park P. O. Box 442, 215 Franklin St. Rocky Mount, VA 24151	(540) 483-7675	Buyer (and Co-Buyer) — Name, Address, Zip Code and Phone Dillard Lawson Nolen 489 4967 225 DILLARD LN. Rocky Mount, VA 24151
---	----------------	--

PARTIES: In this contract the words "I", "me", "my", "we" mean any person who signs this contract as Buyer, Co-Buyer, or Co-Signer. The words "you" and "your" mean the Seller of any assignee of the contract.

PURCHASE OF GOODS AND SERVICES: I acknowledge that this contract is being given in connection with the sales of goods and services as set out below. I further acknowledge that I was quoted a time price (the Total Sale Price disclosed below) and the lesser Cash Price disclosed below, and I have elected to purchase such goods and services.

PROMISE TO PAY: In addition to the cash down payment on line 3 below, I promise to pay you the "Total of Payments" disclosed below according to the payment schedule disclosed below.

ANNUAL PERCENTAGE RATE This is what my credit purchase will cost as a yearly rate _____ %	FINANCE CHARGE This is the dollar amount this credit purchase will cost me \$ _____ (E)	Amount Financed This is the amount of credit provided to me \$ _____ (D)	Total of Payments This is the total amount of credit provided to me \$ _____ (D + E)	Total Sale Price This is the total cost of my credit purchase including my down payment of \$ _____ (C) \$ _____ (C + D + E)
--	--	---	---	--

My payment schedule will be:

Number of Payments	Amount of Payment	When Payments Are Due
		Monthly Beginning 19

LATE CHARGE: If I don't pay any payment in full within 7 days of the day it is due, I will have to pay you a late charge of 5% of the payment.

PREPAYMENT: If I pay off early, I am entitled to a refund of part of the Finance Charge.

I should refer to my contract documents for any additional information about nonpayment, default, prepayment refunds, any required repayment in full before the scheduled date, and other matters pertaining to this credit purchase.

Seller reserves ownership of all items purchased in this Agreement until completion of all required payments by Buyer.

Merchandise below to be installed: GARDEN LOT NO. SITES

Items applied for: ☐ VETERAN ☐ DEVELOPED ☐ CHILDREN'S PROTECTION
☐ NON-VETERAN ☐ PRE-DEVELOPED

1. GARDEN LOT NO. SITES PRICE \$

33"x34"x90" Vaults PRICE \$

1 (36x10) Companion Base W/Vase PRICE \$ 1215.00

40x17 GRANITE Individual Base W/O Vase PRICE \$

24"x12" Matching Gov't. Memorial Individual Base W/O Vase PRICE \$

5. If this agreement includes the purchase of memorial(s), a memorial installation fee of PRICE \$

6. Mausoleum Crypt # Section # Tier # ☐ Pre-const. ☐ Const. PRICE \$

7. Niche # Section # Tier # ☐ Pre-const. ☐ Const. PRICE \$

8. Other PRICE \$

DILLARD LAWSON + SISTER LORRAINE CH. + wood TOTAL SALES PRICE \$ 1215.00

1937 - NOLEN 1934 - HOLY BIBLE

ITEMIZATION OF AMOUNT FINANCED

- Cash Price
- Insurance: Credit Life Insurance
- Cash Down Payment *Full in full by ck 353* PRICE \$ 1215.00
- Unpaid Balance of Cash Price (A plus B minus C) (This amount is to be financed) \$

Optional Credit Insurance. Credit life insurance and credit disability insurance are not required to obtain credit and will not be provided unless you sign for them and agree to pay the additional cost. If you want this insurance check the insurance desired and sign below. By signing here, you are stating that you are under age 65.

	Premium	Signature of Insured Party
Single credit Life Insurance	\$	Buyer wants credit Life Insurance Age
Joint Credit Life Insurance	\$	Buyers want joint Credit Life

UNDER THE CODE OF VIRGINIA SECTIONS 57-35.11-35.34 et. seq., YOU, THE CONSUMER, HAVE SPECIFIC RIGHTS WHEN PURCHASING A PRE-NEED BURIAL CONTRACT. IF YOU HAVE A PROBLEM, AND ARE UNABLE TO RESOLVE IT DIRECTLY WITH THE CEMETERY COMPANY, YOU MAY FILE A COMPLAINT BY CONTACTING:

DIVISION OF CONSUMER AFFAIRS
DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES
P. O. BOX 1163
RICHMOND, VA 23209
1-804-786-2042 OR 1-800-552-9963

PLAINTIFF'S EXHIBIT
NO. 2 11/21/80

BUYERS RIGHT TO CANCEL

If this agreement was solicited at a residence, and if I do not want the goods or services, I, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. The Notice of Cancellation form attached below on Buyer Copy (Copy # 4) is further explanation of this right.

IMPORTANT: I understand that there are important provisions on the back of my copy that I should read before I sign.

I signed this contract on 11/21/80 after all applicable blanks were filled in and I acknowledge receipt of a completed copy.
Representative [Signature] BUYER: Dillard Lawson Nolen

CO-BUYER: _____

Accepted on _____ day of _____, 19____ CO-SIGNER: _____

Franklin Memorial Park

By _____
NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

COPY 1

68

1992

TO BE FORWARDED TO THE

THE UNIVERSITY OF CHICAGO

Regulatory Total:

Amount Paid \$ 1269.67

Balance Due \$ 6.00

THE EFFICIENCY • LINE • AN ARMED PRODUCT

BOOK -77 PAGE 682

IN RE: LORRAINE CHITWOOD NOLEN) FINAL ORDER
) CH #00-08-7271

"the desire of Lorraine Chitwood Nolen, deceased, as to her place of burial".

The Petitioner proceeded to introduce evidence and rested, and the respondent moved to strike the Petitioner's evidence, which motion was overruled; and thereafter, the Respondent proceeded to introduce evidence. At the conclusion of all the evidence, counsel for both parties made final argument..

It appearing to the Court, that the ~~decedent,~~
Lorraine Chitwood Nolen, at no time expressed a desire to
be buried at Sandy Ridge Baptist Church, her present
place of internment; and it further appearing unto the
Court that the testimony of the Petitioners was more
convincing, in that they testified that the ~~decedent,~~
within two to three months prior to her death, made known
to them her desire to be buried at Franklin Memorial

1

SEP 13 P4:47

FILED/FRIEDMAN CO.
CLERK OF CIRCUIT COURT

ALICE S. HALL

9-14-2000
SLE
MR
WZ
✓
9-14-2000
✓ 9-19-2000

**RAINE & PERDUE,
PLC
ATTORNEYS AT LAW
243 S. MAIN STREET
ROCKY MOUNT, VA 24151**

Park, whereas, the Respondents witnesses offered no
 testimony as to the ~~decedent's~~ ^{decedent's,} Lorraine Chitwood Nolen,
 desired Site or location of her burial; and, it further
 appearing to the Court that the Petitioner's duly carried
 the requisite burden of proving ^{both by a preponderance of the evidence and by clear and convincing evidence} the ~~decedent's~~ ^{decedent's,} Lorraine
 Chitwood Nolen, desired burial place, and for other good
 cause shown, it is, therefore,

ADJUDGED, ORDERED and DECREED that the Petition
 of D. Lawson Nolen to have the body of Lorraine Chitwood
 Nolen disinterred from Sandy Ridge Baptist Church and
 reinterred at Franklin Memorial Park, be, and the same
 hereby is granted; and it is further,

ADJUDGED, ORDERED and DECREED that D. Lawson
 Nolen shall bear all expenses of disinterring the body of
 Lorraine Chitwood Nolen from Sandy Ridge Baptist Church
 and reintering the body of Lorraine Chitwood Nolen at
 Franklin Memorial Park.

It is further ORDERED, that the Petitioner, D.
 Lawson Nolen, shall take no action as to removing the
 body of Lorraine Chitwood Nolen from Sandy Ridge Baptist
 Church and reintering such body at Franklin Memorial
 Park until after thirty (30) days from the date of this
 Order have expired, and, thereafter, if an appeal is
 perfected.

To all of which the Respondent duly notes her
 objections and exceptions, attached hereto and made a part hereof.

And this cause shall be placed among the ended causes, properly indexed.

And the Clerk of this Court shall forward counsel for each of the parties hereto a certified copy of this Order.

ENTER:

9/10/2000

William W. Alexander
JUDGE

I ASK FOR THIS:

[Signature]
COUNSEL FOR PETITIONER
Michaux Raine, III, Esquire
Raine & Perdue, PLC
245 S. Main Street
Rocky Mount, VA 24151
540-483-9269

SEEN AND OBJECTED TO: FOR THE REASONS SET FORTH ON THE
ATTACHED OBJECTIONS:

William C. Leach
COUNSEL FOR RESPONDENT
William C. Leach, Esquire
4358 Starkey Road SW, Ste 5
Roanoke, Virginia 24014
540-776-8600

V I R G I N I A :

BOOK -77 PAGE 685

IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN

IN RE: LORRAINE CHITWOOD NOLEN

Chancery Petition No.
00-08-7271

DEFENDANT'S OBJECTIONS TO THE ENTRY OF THE FINAL ORDER

COMES NOW, the Defendant, Sandra Nolen Grisso, by counsel, and specifies her objections to the entry of the Final Order of this Court resolving the ore tenus hearing held on August 30, 2000, which Objections are to be attached as an addendum to the Final Order and made a part thereof, and which Objections are more particularly set forth as follows:

1. The Court's Order entered July 24, 2000, denying the Defendant's Demurrer and Motion for Sanctions is erroneous for the reasons set forth in the Defendant's Demurrer, Motion for Sanctions and Motion for Reconsideration of Ruling Denying Demurrer/Sanctions.

2. The Court erred in treating the Petitioner, and sometimes referring to the Petitioner, as the Decedent's husband, when in fact the Petitioner was the ex-husband of the Decedent.

3. When determining the Decedent's intent about her desired place of burial, the Court erred by applying the "preponderance of the evidence" standard in evaluating the evidence and testimony before it, when the Court should have

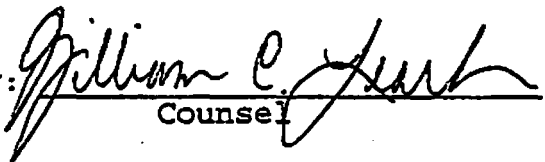
FILED
File No. 00-08-7271
Date 8/31/00 Time 4:47 P.M.
Circuit Court Clerk's Office
Franklin County, Va.
Alice S. Hall, Clerk

applied a "clear and convincing evidence" standard of proof in light of the lack of written evidence of the Decedent's intent.

4. The judgment of the Court was contrary to the evidence, irrespective of what standard of proof is to be applied, for the reasons stated by Defendant's counsel in closing argument; in particular, the evidence demonstrated that the Decedent had made conflicting statements about her desired place of burial, including a statement that she did not want to be buried next to the Petitioner. The evidence further supported the conclusion that the Decedent knowingly chose not to indicate her desired burial location in writing, but instead trusted the Defendant to make the decision about the Decedent's burial arrangements.

Respectfully submitted,

SANDRA NOLEN GRISSO

By: 
Counsel

William C. Leach (VSB #22924)
4358 Starkey Road SW Suite 5
Roanoke VA 24014 2804
(540) 776-8600
Counsel for Sandra Nolen Grisso

V I R G I N I A :

IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN

IN RE: LORRAINE CHITWOOD NOLEN

NOTICE OF APPEAL

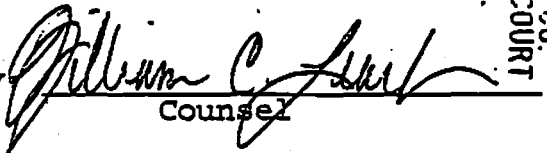
Chancery Petition No.
00-08-7271

The Defendant, Sandra Nolen Grisso, by counsel, hereby gives notice of appeal to the Virginia Supreme Court from the final judgment order of this Court entered on the 10th day of September, 2000, and further gives notice that a transcript of the trial and other incidents of the case will be filed and that a copy of the transcript has been ordered from Dawn Pierce of Pierce Reporting Company, P.O. Box 12145, Roanoke VA 24023, phone: (540) 344-5393, the court reporter who reported the case.

Respectfully submitted,

SANDRA NOLEN GRISSO

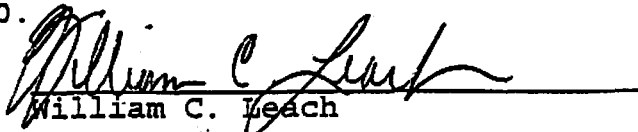
By


Counsel

William C. Leach (VSB #22924)
4358 Starkey Road SW Suite 5
Roanoke VA 24014 2804
Phone: (540) 776-8600
Fax: (540) 776-2800
Counsel for Sandra Nolen Grisso

CERTIFICATE OF SERVICE

I hereby certify that I have served upon Michaux Raine, III, Esquire, 245 South Main Street, Rocky Mount VA 24151, Counsel for Dillard Lawson Nolen, a true and correct copy of the foregoing Notice of Appeal by first-class mail, postage prepaid, this 19th day of September, 2000.


William C. Leach

FILED/FRANKLIN CO.
CLERK OF CIRCUIT COURT
ALICE S. HALL

00 SEP 20 19:27

ASSIGNMENT OF ERROR

The trial court erred in granting Plaintiff's petition to disinter the body of Decedent for the following reason:

1. Plaintiff lacked legal standing to bring the petition because, as the ex-husband of Decedent, he was a legal stranger to Decedent. (Error preserved in Defendant's objection to the entry of the Order as to Demurrer and Sanctions entered July 24, 2000, incorporating the reasoning set forth in Defendant's Demurrer, Motion for Sanctions, and Motion for Reconsideration of Ruling Denying Demurrer/Sanctions. Defendant's objection was renewed as the first objection to the entry of the Final Order entered September 10, 2000.)