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Work

4-8-1767

Provincial Case File No. 13058, New Hampshire Stare Archives - Petition of Anna Foss

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Province of N^o So the Hon^{ble} the Justices of his
New Hampshire Majesty's Super Court of Judicature
holden at Portsm^o the 5th Day of April 1767

The Humble Petition of Anna the Wife of
Zachariah Toss of Portsmouth aforesaid Inholder, sheweth

That her said Husband ^{has} by a long Course of Usage
and unkind treatment of her in so many Instances (a Particular
detail of which would be tedious) ~~that she has been~~ ^{has} Obliged for the
Preservation of her health & safety to leave him & to throw her
Self on the Mercy of any acquaintance & friend for Present Sup-
port rather than sustain such Injurious Treatment any longer

That she is conscious of no just Offence given him nor any
neglect of duty to him to give any ground or Colour for ^{his} ill
usage & behavior to her but ^{it} seems to arise from unhappy un-
steadiness of Temper & ungovern'd Passions & Irregularity for
almost in the same breath with which he expresses the great-
est tenderness he will express the most cruel & malevolent things
w^o of her without any apparent Cause so that ~~she~~ he would not
suffer her to enjoy any Peace but he has often bid her, she was
at last necessitated to leave his house — That she cannot trust
to any proposal of Reconciliation & return having had ^{long} Experience
^{that} ~~he~~ paid no regard to ~~his~~ most solemn Promises of a kinder con-
duct and upon his whole management in this regard she thinks
it no unjust reflection to ^{say} that he is Subject to fits of distraction
or entertains such Malignity of heart as renders her Safety too
Precarious for her Comfort Wherefore she prays that she may by
^{order} of this Hon^{ble} Court be protected in her retreat & separation & those
who entertain her with her necessary apparel & the fruits of her Labour
against ^{the} ^{disturbance} ~~his~~ Inults, Claims & Demands of her said Husband
and

also that he may be ~~be~~ Obliged To Provide for and
allow her ~~her~~ necessary Alimony & Support and ~~and~~ also
Deliver her other order her bed & necessary bedding
and She shall ever pray &c — Anna Toss

M^{rs} Anna Telfer's
Petition read
& Ordered to Lay for
Consideration

Feb 17 67

Province of } GEORGE the Third, by the Grace of GOD,
New-Hampshire. } of Great-Britain, France and Ireland,
KING, Defender of the Faith, &c.

To the Sheriff of Our Province of of New-Hampshire, his
Under Sheriff, or Deputy, Greeting.

WE Command you that you summon ~~John Adams~~ John
Adams of Portsmouth within our Province of New-
Hampshire ~~Shopkeeper~~ Shopkeeper
(If he may be found in your Precinct) to appear before our Justices of Our Inferior Court
of Common Pleas, to be holden at Portsmouth, within and for our said Province of New-
Hampshire, on the first Thursday next following the first Tuesday of September ~~next~~
next, then and there in our said Court to answer to ~~Lechariah Topp~~ Lechariah Topp of said

Portsmouth Innholder in an Action of Trespass ~~for~~
~~For that~~ ANNA the wife of the Plat from
the family and Company of him the Plat had departed and
had absented herself from the Plat, against his will ~~and~~ Consent
afterwards Viz. on the 4th Day of May A.D. 1767 at said
Portsmouth did seize the said ANNA his wife in
the family of the said John Adams and then & there required
the said John to deliver to the Plat the wife of him the Plat
and the Plat his wife aforesaid then & there endeavoured and
would have taken and carried away the said John not only
refused to deliver to the Plat his said Wife and would not permit
him the Plat to take and carry away his said Wife But also
the said John with force and Arms there the wife of him
the Plat then & always after ~~hitherto~~ hitherto hath detained and
kept, whereby, the Plat the Company, Comfort and Service
of his said Wife for all the Time aforesaid hath lost and
been deprived of and other Injuncties the said John then &
there to the Plat did against the Peace and

To the Damage of the said ~~Lechariah~~ Lechariah (as he says)

the Sum of Two hundred — Pounds, which shall then and there be made
to appear, with other due Damages; and have you there this Writ, with your Doings there-
in. Witness Daniel Warner, Esq; at Portsmouth, the 9th Day of August in
the Eighth Year of Our Reign. Annoque Domini. 1768

J. Warner

and th 11 th 6 8 Lawford and to the within
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Thos Packer of the

tho the the Richard of the

Pickering for the Plat

Sept 11 - 1744

Province of George the third by the Grace of God
 New Hamp^{sh} of Great Britain France and Ireland
 King defender of the Faith &c
 To the Sheriff of our Province of New Hamp^{sh}
 his under Sheriff or Deputy greeting
 We command you that you Summon John
 Adams of Portsmouth within our Province of New
 Hampshire Shopkeeper (if he may be found in your
 Precinct) to appear before our Justices of our Inferior
 Court of common Pleas next to be holden at
 Portsmouth within and for our said Province of
 New Hampshire on the first Thursday next following
 the first Tuesday in September next then & there in
 our said Court to answer unto Zachariah Tapp of
 said Portsmouth Innholder in an Action of Trespass for
 that Anna the Wife of the Plat from the Family
 and Company of him the Plat had departed and
 had absented herself from the Plat against his
 will and consent, and the Plat there afterwards
 viz on the first Day of May AD 1767 at said
 Portsmouth did find the said Anna his Wife in
 the Family of the said John Adams & then & there
 required the said John to deliver to the Plat the Wife
 of him the Plat and the Plat his Wife aforesaid then
 and there endeavoured & would have taken & carried
 away the said John not only refused to deliver to
 the Plat his said Wife and would not permit him
 the Plat to take & carry away his said Wife but
 also the said John with Force and Arms there
 the

The Wife of him the Pla' then and always after
hereto hath detained & kept whereby the Pla' the
Company Comfort & Service of his said Wife for all
the Time aforesaid hath lost and been deprived of
and other enormities the said John then & there
to the Pla' did against the Peace and to the Damage
of the said Zachariah as he says the Sum of
two hundred Pounds which shall then & there be
made to appear with other due Damages and
have you there this Writ with your doings therein
Witness Daniel Warner Esq at Portsmouth the
ninth Day of August in the 8th Year of our Reign
Anneque Domini 1768 J. Wentworth Cl

A true Copy attested J. Wentworth Cl

Copy examined

by Geo. King Cl

Incomer of
New Hamp^{sh} August 11th 1768 Pursuant to the
within Precept I have summoned the within
named John Adams to appear & answerable
to the Tenor thereof by reading the same to him

The' Parker Sheriff

and the said John comes & defends where he
and for Plea says he is not guilty and thereof
puts himself on the Country

W. Parker

And the Pla' likewise to John Puckering

Copy examined

by Geo. King Cl

Puckering for the Pla'

to wit with

Hepzibeth Card of Lawful Age Testify & Saye that in
 the begining of January 1766. She the Deponent lived in the
 house of m^r Zachariah Toss of Portsmouth in the Province
 of New Hampshire, where at a certain time, m^r Toss
 was very Unwell, & Lette in the night after they were in
 bed, she the Deponent heard a great noise, upon which
 she went into the bedroom where m^r Toss lay and found
 that m^r Toss had found his Wife out of bed where the Dep^t
 saw her in the Entry Way in her Shift, when m^r Toss
 said her husband had used her very ill, and at the same
 time this Dep^t heard, s^r m^r Toss call his said Wife a
 Damned bitch, allshore, & a drunkard, and many other hard
 names, the Dep^t says that she lived in the said Toss his
 house more than six months during which time he
 gave his said Wife most cruel and abusive Treatment
 both in word and deed, the Dep^t also says that m^r Toss
 his bad Treatment of his said Wife was continual, —
 that she had no peace with him night nor day —
 This Dep^t says in the begining of April 1766 she was
 at the house of m^r John Adams in said Portsmouth
 when & where she heard s^r m^r Adams Devere his mother
 said m^r Toss to Return home and live with her husband
 and the Dep^t Declared & says from her personal and
 certain knowledge that the said John Adams not waye
 controuled or guided his said mother in her conduct,
 nor did he restrain or hinder her from going home to m^r
 Toss his Family.

Boston the 3rd Day of December 1766.

Josh. W^m Hodgens.

Hepzibeth ^{her} Card
_{mark}

A True Copy att. A. Nantworth 1766

Suffolke. Boston December 9th 1768. Personally appeared
before me the Subscriber one of his majestys Justices of the
Peace for said County of Suffolke the above named Hepriths
Card & being carefully Examined & duly cautioned made
Solemn Oath to the Truth of the above and Within written
Declaration by her subscribed, to be used in a Cause Depending
and to be tryed at the Inferiour Court of Law non pleads to
be held at Portsmouth in the Province of New Hampshire
on the first Thursday next following the first Tuesday in
~~January~~ in December Instant, between Zachariah Top of
said Portsmouth Pla^{nt} of John Adams of Portsmouth of said
Def^{ts}. The said Lrd Heprith Card being and living
more than thirty miles from said Portsmouth the place of
Tryal, the Adverse Party Viz^t the said Zach^{ary} Top being &
Living more than twenty miles distant from said
~~Portsmouth~~ Boston the place of Caption was not notified
nor present, Taken at the Request of the Def^{ts} Adams and
Sealed up by William Woodard

John Pickering Attorney to Zach^{ary} Top, Except to this
Deposition because the Def^{ts} was Inhabitant of the
Province of New Hampshire, When the said Action was
Commenced, because Ie hear say and Foreign to the
Issue
J. Pickering
True Copy att: W. Wentworth Secy

Hepribah Card of lawful Age testifies
 and says that in the beginning of January 1766
 she the Deponent lived in the House of Mr
 Zachariah Toss of Portsmouth in the Province of
 New Hampshire where at a certain Time Mr.
 Toss was very unwell and late in the Night
 after they were in Bed she the Deponent heard a
 great Noise upon which she went into the
 Bedroom where Mr. Toss lay and found that
 Mr. Toss had turn'd his Wife out of Bed where
 the Deponent saw her in the Entry-way in her
 Shift when Mr. Toss said her Husband had used
 her very ill and at the same ^{time} the Deponent heard
 Mr. Toss call her said Wife a damned Bitch a
 Whore and a Drunkard and many other bad
 Names The Dep't says that she lived in the said
 Toss his House more than six Months during
 which Time he gave her said Wife most cruel &
 abusive Treatment both in Word and Deed - The
 Deponent also says that Mr. Toss his bad
 Treatment of his Wife was continual that she had
 no Peace with him Night nor Day This Dep't
 says in the beginning of April 1766 she was at
 the House of Mr. John Adams in said Portsmouth
 when and where she heard said Mr. Adams desire
 his Mother said Mr. Toss to return home and
 live with her Husband and the Dep't declares &
 says from her personal & certain Knowledge that
 the said John Adams no ways controul'd or
 guided

guided his said Mother in her Conduct, nor did
restrain or hinder her from going home to Mr
Toss his Family

Boston the 3^d Day of December 1768

Josh^{ua} W. Stoddard

Heprubah ^{her} Card
March

A true Copy All' Attestworth Clr
Copy examined by Geo: King Clr

Suffolk Co Boston December 3^d 1768 personally
appeared before me the Subscriber one of his
Majestys Justices of the Peace for said County
of Suffolk the above named Heprubah Card and
being carefully examined & duly cautioned made
solemn Oath to the Truth of the above & within
written Declaration by her subscribed to be used in
a Cause depending & to be tried at the Inferior
Court of common Pleas to be held at Portsmouth
in the Province of New Hampshire on the first
Thursday next following the first Tuesday in
December inst. between Zachariah Toss of said
Portsmouth Pla^e and John Adams of Portsmouth
aforesaid Def^t. The said Heprubah Card being
and living more than thirty Miles from said
Portsmouth the Place of trial the adverse Party
viz^t the said Zachariah Toss being & living more
than twenty Miles distant from said Boston
the Place of caption was not notified nor present
taken at the request of the Def^t Adams and
sealed

Sealed up by

William Stoddard

John Pickering Attorney to Zachariah Toss
excepts to this Deposition because the Dependent
was Inhabitant of the Province of New Hampshire
when the said Action was commenced because
his hearsay and foreign to the issue

J Pickering
A true Copy Attest H^c Wentworth Cl
Copy examined

by Geo: Thingle

13058

I Joanna Joss of lawful age Testify and say that
 my father & his wife Mr Joss have Quarell'd
 severall times that Mrs Joss was always full as high and
 some times higher then he that I never knew & my
 father to lift up his hand against her but she has
 against him sundry times I see her take a Chear and put the
 Sags of their Chear against his Stomach and Puffe him and
 said you old Dog I will Knead whipe you and ^{hit} him that he has
 ben Drunk I have seen her take a Towel and Strike him
 a Cross the Face

Joanna Joss

Sup^{or} Court June 21th 1769 by Adjournment
 The above Deposition was sworn to in Court At Geo. Shingle

PROVINCE OF
 NEW HAMPSHIRE.

To Daniel Deane Esq & George Gamis
 Justices of the Peace for the County
 of Portsmouth

Sarah Judditer Mary Sainsbury
 all of Portsmouth & Thomas Law of York in the County
 of York

YOU are hereby Required to make your Appearance before
 the Justices of His Majesty's Superiour Court of Judicature
 at Portsmouth ~~the~~ ~~of~~
 new sitting to give Evidence of what you
 know relating to an Action ~~or Plea~~ ~~of~~
 there to be heard and tried betwixt

John Adams Plaintiff & Tack^l Joss Def^t

Hereof fail not, as you will answer your Default under the Pains and
 Penalties of the Law in that Behalf made and provided.

Dated at Portsmouth the 19th Day of
 Sept. in the 9th Year of his
 Majesty's Reign, Annoque Domini. 1769
 Geo. Shingle

to the Plaintiff against our Peace & contrary to Law to the Damage of the said Samuel Gilman junr Samuel Tolson & John Ward Gilman as they say the Sum of Twenty pounds

At which said Inferior Court of common Pleas first mentioned Judgment was rendered that the Def^{ts} should recover against the Plat^o Cost of Court

From which Judgment the said Gilman Tolson and Gilman appealed to this Court when & where the Appeal was entered and the Parties being fully heard by their Council learned in the Law the Case was committed to the Jury's view according to Law to try the issue who make return of their Verdict thereon upon Oath and say the Jury find for the Appellees Cost of Courts

It is therefore considered that the former Judgment be & hereby is affirmed and that the said John Rice David Fogg & Biley Gilman recover against the said Samuel Gilman junr Samuel Tolson & John Ward Gilman Cost of Courts taxed at the sum of Seven pounds fifteen Shillings & eleven pence

John & Adams
John M. J.
Nathl Batcheller
Geo Wentworth
Wm French
Nathan Marston
Jon^r Trichey
Nathl French
Jr Thompson
Thos Marston
Ab^l Clark
Jos Godfrey
Micaiah Wilson
Henry Thresher
Execution issued
July 18 1769
August 1769
return satisfied

Zachariah Loss of Portsmouth in the Province of New Hampshire Inholder Appellant against John Adams of said Portsmouth Shopkeeper Appellee from the Judgment of the inferior Court of common Pleas held at Portsmouth in & for the Province aforesaid on the first Thursday next following the first Tuesday in December 1768 in an Action of Trespass commenced by the said Zachariah against the said John at the Inferior Court of Common Pleas held at Portsmouth in & for the Province aforesaid on the first Thursday next following the first Tuesday in September 1768 but prosecuted at the Inferior Court of common Pleas first mentioned in the following Words viz

"In an Action of Trespass for that Anna ~~Wife~~ the
Wife of the Pla. from the Family & Company of him
the Pla. had departed and had absented herself from
the Pla. against his Will and Consent, and the Pla.
there afterwards vizt on the first Day of May AD 1767 at
said Portsmouth did find the said Anna his Wife in the
Family of the said John Adams and then and there
required the said John to deliver to the Pla. the Wife
of him the Pla. and the Pla. his Wife assented that if
there endeavoured & would have taken and carried away
the said John not only refused to deliver to the Pla. his
said Wife and would not permit him the Pla. to take
& carry away his said Wife but also the said John with
force and arms there the Wife of him the Pla. then and
always after hath detained & kept whereby the
Pla. the Company Comfort and Service of his said Wife
for all the Time aforesaid hath lost & been deprived of
and other enormities the said John then & there to the
Pla. did against the Peace and to the Damage of the
said Zachariah as he says the Sum of Two hundred
Pounds"

At which said Inferior Court of common Pleas just
mentioned Judgment was rendered that the Def. should
recover against the Pla. Cost of Court.

From which Judgment, the said Zachariah appealed
to this Court when and where the Appeal was entered &
the Parties being fully heard by their Counsel learned
in the Law the Case was committed to the Jury sworn
according to Law to try the Issue who make return of
their Verdict thereon upon Oath and say the Jury find
for the Appellant the Sum of Five pounds lawful Money
Damage & Cost of Court.

It is therefore considered that the former Judgment be & hereby
is reversed and that the said Zachariah Esq. recover against
the said John Adams Five pounds Lawful Money Damage
& Cost of Court, taxed at the Sum of Seven Shillings
Sixpence.

said Province of New Hampshire at Portsmouth
on the first Tuesday of August next to show cause
if any he have wheresoever the said Thomas Jortleyn
ought not to have his execution against him the
said Jonathan Moulton for his Debt or Damage &
Costs aforesaid and further to do & receive that which
in said Court shall then consider

The Plaintiff appearing by his Attorney and the Def^t
being solemnly called did not appear but made default

It is therefore considered that the said Thomas
Jortleyn recover against the said Jonathan Moulton
Thirty three Pounds three Shillings & seven pence
Damage & Costs of Courts taxed at the Sum of Three
Pounds fifteen Shillings

John Adams of Portsmouth in the Province of New Hampshire
Shopkeeper Plaintiff against Zachariah Nash of said Portsmouth
Innholder Def^t in an Action of
recovery of an Action of trespass commenced at the inferior
Court of common Pleas held at said Portsmouth in and for
said Province on the first Thursday next following the first
Tuesday in Sept 1768 but prosecuted at the inferior
Court of common Pleas held at said Portsmouth on the first
Thursday next following the first Tuesday in December
1768 by the said Zachariah against the said John in
the following Words vizt in an Action of Trespass for that
Anna the Wife of the Pla from the Family & Company of
him the Pla had departed and had absented herself from
the Pla against his Will & consent And the Pla there
afterwards vizt on the first Day of May 1767 at said
Portsmouth did find the said Anna his Wife in the
Family of the said John Adams and then and there
required the said John to deliver to the Pla the Wife
of him the Pla and the Pla his Wife aforesaid Men &
there endeavoured and would have taken & carried away
the said John not only refused to deliver to the Pla
his said Wife and would not permit him the Pla

Adams s. Tasp
J. Nash
The Marden
J. Burnam
Julius Felher
J. Wingate
J. Bean
John Hall
Isaac Gilman
Job Clements
Ab. Brown
Moses Bartley
Valentine Matthew
Execution of
Oct. 14. 1769 -
July 1770
remains satisfied

to take Yeany away his said Wife but also the said John with four Yeany Men the Wife of him the Pla^t. then and always after hitherto hath detained & kept whereby the Pla^t the Company Comfort & Service of his said Wife for all the Time aforesaid hath lost & been deprived of And other enormities the said John then and there to the Pla^t did against the Peace and to the Damage of the said Zachariah as he says the Sum of two hundred Pounds

At which said Inferior Court of common Pleas Judgment was rendered that the Def^s should recover against the Pla^t Cost of Court

From which Judgment the said Zachariah appealed to the then next Superior Court of Judicature when and where the Appeal was entered & Judgment was rendered that the former Judgment should be and thereby was reversed and that the said Zachariah Tops should recover against the said John Adams Five Pounds lawful Money Damage & Cost of Courts

Which ~~said~~ Judgment of our said Superior Court of Judicature the said John ^{Adams} says is wrong & erroneous and ought to be reversed & ought to have been for his Costs and that he is damaged thereby in the Sum of Thirty Pounds wherefore for reversing the said Judgment of our said Superior Court of Judicature & for recovering back the Damages & Cost aforesaid & also his Cost the said John Adams brings this Suit

And the said Zachariah comes & defends where he and says that the said Judgment is in nothing erroneous and of this puts himself on the Country upon which issue the Parties being fully heard by their Council learned in the Law the Case was committed to the Jury sworn according to Law to try the issue who make return of their Verdict thereon upon Oath & say the Jury find for the Pla^t reversal of the former Judgment, restitution of the Sum paid to wit twelve Pounds eleven Shillings

Shillings & six Pence & Costs of Courts

It is therefore considered that the said John Adams recover against the said Zachariah Tapp Twelve Pounds eleven Shillings & six Pence damage & Costs of Courts taxed at the sum of Six Pounds one Shilling & seven Pence

Jacob Sanborn of Epsom in the Province of New Hampshire Husbandman Appellant against Benjamin Sheppard of said Epsom Esq Appellee from the Judgment of the inferior Court of common Pleas held at Portsmouth in & for the Province aforesaid on the 1st Thursday next following the first Tuesday in June 1769 in an Action of the Case then and there commenced & prosecuted by the said Sanborn against the said Sheppard in the following Words to wit "In an Action of the Case for that whereas the said Benjamin on the 17th Day of April 1762 at Nottingham in said Province by a note of that Date by him signed for value received promised the Pla^t to pay him Three thousand Pounds old Tenor of the value of one hundred & fifty Pounds lawful Money on demand yet the said Benjamin Sheppard has not paid the same though often requested but neglects it And for that whereas the said Benjamin afterwards on the twentieth Day of February A^D 1769 at Portsmouth aforesaid owing the Pla^t another Sum of one eighty four Pounds thirteen Shillings and three Pence lawful Money according to the annexed Account, and to ballance the same he the said Benjamin then & there in consideration thereof promised the Pla^t to pay him that same last mentioned Sum on demand yet the said Benjamin has not paid the same tho often requested but still neglects it to the Damage of the said Sanborn as he says the Sum of Four hundred Pounds"

Sanborn v Sheppard
J^r M^r M^r H^r
Nath^l Tolson
J^r Blanchard
Joseph Whipple
Thos Marden
J^r Burnard
Valentine Matthews
Jos^{ph} Wingale
Zachary Sanborn
John Hall
Israel Gilman
Wentworth Pickering
M^r Brown

At which said inferior Court of Common Pleas