

Grounds

Nevada borrowed from Utah's divorce law, but eliminated the no-fault clause. Nevada divorces followed the principle of fault, granting the divorce to the party with the least amount of fault.

NC1253/1/410, Hemphill, 1937. In a letter to a Philadelphia lawyer, George Bartlett explains the manner in which Nevada courts equate extreme cruelty to incompatibility and in its discretion may grant a decree to the party least in fault.

Original (Territorial Period)

- Impotency at the time of the marriage, continuing to the time of divorce;
- Adultery since the marriage, remaining unforgiven;
- Willful desertion by either party by the other, for the space of two years;
- Conviction of a felony or infamous crime;
- Habitual, gross drunkenness, contracted since marriage, of either party, which shall incapacitate such party from contributing his, or her share, to the support of the family;
- Extreme cruelty in either party (physical or mental);
- Neglect of the husband for the period of two years, to provide the common necessities of life when such neglect is not the result of poverty on the part of the husband, which he could avoid by ordinary industry.

After 1931 Law

- Impotency at the time of marriage continuing to the time of divorce;
- Adultery since the marriage, remaining unforgiven;
- Willful desertion, at any time, of either party by the other, for the period of one year;
- Conviction of felony or infamous crime;
- Habitual gross drunkenness contracted since marriage, of either party, which shall incapacitate such party from contributing his or her share to the support of the family;
- Extreme cruelty in either party (physical or mental);
- Neglect of the husband, for the period of one year, to provide the common necessities of life, when such neglect is not the result of poverty on the part of the husband which he could not avoid by ordinary industry;

- Insanity existing for two years prior to commencement of the action;
- When the husband and wife have lived separate and apart for three consecutive years without cohabitation the court may, in its discretion, grant an absolute decree of divorce at the suit of either party.

Insanity was the one ground for which the court required a significant amount of corroborating evidence. The defendant would be assigned a Guardian Ad Litem, in this case, a Reno lawyer who would protect the rights of the defendant, who was a ward of the state in which he or she lived and was institutionalized. Whereas little in the way of evidence was required for the other grounds, insanity required testimony from mental health professionals, usually a doctor familiar with the specific case, and/or the administrator of the mental hospital, as well as depositions from family members attesting to the defendant's insanity and the fact that the condition was incurable.

NC1253/1/22, Anderson, 1944, presents the documents and correspondence associated with an insanity case involving a male defendant who had been mentally disabled since a skull fracture and was an inmate of the Western State Hospital in Fort Steilacoom, Washington.

NC1253/1/641, Osborne, 1942. The Osborne case demonstrates how frighteningly easy it was to have someone committed before a major Supreme Court ruling in 1975. George Bartlett plays a major role in getting the patient released.

Extreme Cruelty was typically presented to be of a mental nature. Acceptable evidence of cruelty would show that the defendant had been unkind, indifferent, found fault, quarreled, stayed out nights, was neglectful, and other conduct that caused the plaintiff unhappiness and affected his/her happiness to such an extent as to make life together no longer possible.

NC1253/1/58, Barkalow, 1938, provides an explanation of extreme cruelty as practiced in Nevada divorce courts. George Bartlett further explains that while habitual drunkenness is also an acceptable ground for divorce, it is often dealt with under the extreme cruelty ground.

NC1253/1/160, Calhoun, 1925. Hoyt, Norcross, Cheney & Hoyt provide an explanation of how extreme cruelty under Nevada law was in essence incompatibility.

NC1253/1/788, Spiro, 1934. In a letter to a New York law firm, George Bartlett explains extreme cruelty and the way in which it is implemented in Nevada divorce courts.

Adultery was often included among the offenses of an extreme cruelty case. Adultery was, however, against the law in many states and was a ground for divorce in Nevada in its own right.

NC1253/1/194, Cole, 1925. The Cole case started with Plaintiff Armenia Cole claiming extreme cruelty against her husband James Cole. James filed a demurrer, however, objecting to the claim and filing his own of extreme cruelty against Armenia. As additional evidence, James provided lengthy transcripts and police reports pertaining to Mrs. Cole's arrest by the Washington D.C. Police Department Vice Squad for the crime of adultery.

Annulment

Annulment voided a marriage. The grounds for an annulment include such things as one party being under age, lack of approval of parents, and fraud.

NC1253/1/487, Kleist, 1918. The Kleist annulment was granted for fraud. The defendant in this case persuaded the eighteen year-old plaintiff to enter into a secret wedding. His reason for marrying was not for love and affection, but to be able to obtain money from his wife's wealthy father. Upon learning of the secret marriage, the father immediately understood what was happening and convinced his daughter to seek an annulment. In addition, World War I was going on and it was discovered that the defendant was a German citizen and was labeled an enemy alien. As such, the marriage also jeopardized the wife's citizenship (see also Expatriation Act of 1907 and the Married Women's Citizenship Act of 1922 (Cable Act).)

Grounds Included in the Decree

Over the years, through practice and law, aspects of Reno divorces were changed. One such change was the institution of private trials and the sealing of records. Another was the elimination of the grounds for divorce from the final decree.

NC1253/1/282, Emanuel, 1933. The New York attorney in this case questioned George Bartlett about the absence of the grounds for divorce in the final decree for one of his clients. Judge Bartlett explains that “a sort of delicacy of feeling by clients about it suggested our elimination of it generally.”

Evidence required (irreconcilable differences)

With the exception of the ground of insanity, the Nevada courts took a liberal stance on the amount of substantiating information required to be made in support of the ground for divorce, especially cruelty