

1817-024

SOUTHAMPTON COUNTY
CHANCERY PAPERS

ELLIS VS BYNUM'S ADM'R. vol 12
Ellis vs Bynum's admr val

1/1817

Other surnames: BRYANT,
Worrel, Harris, BLUNT
Worrell, Vaughan, DREWRY,
Williams, Johnston, Mabry,
BARNES

Northington Ellis

vs

Nathan Williams

adm. John Bynum

Bill in Chancery -

April 1808 Bill filed

First Answer -

Sept. Rule to Answer

October Rule to Answer

Feb 1809 decree nisi

April 1809 Plea filed

May 1814 plea with... of leave
to amend bill -

To the worshipping court of Southampton
sitting in chancery humbly complaining
sheweth unto your worships, your orator
Northampton Ellis. &c. &c. &c.

That your orator did in the
year 1803 sign a bond as security for
John Bynum ^{du?} to Thomas Vaughan
and Humphrey Drury the Executors of
Ann Vaughan ^{du?} for the sum of £22 ^{all in 2}

That in consequence of the death of the said
Bynum and his failure to pay the ^{2d} bond,
the obligees proceeded to recover judgment
against your complainant for the debt
Interest and cost of suit, which has
been since paid by your orator to amo^t
of twenty one pounds two shillings and
seven pence, as will appear by the records of
this court.

That Nathan Williams did
qualify as adm^r on the Estate of the
said Bynum, that your orator after
having paid and satisfied the judgment
recovered against him by the said Vaughan
&c as security for the said Bynum did move
the Court for judgment against the said
Williams as adm^r &c giving notice agreeable
to the act of Assembly prescribing a summary
mode for the recovery ^{of money} &c paid as security;
that having obtained judgment your
Orator issued his execution accordingly
which has been returned by the Sheriff

no property; the said administrators
having misapplied the Estate of the s.
Brynum, by paying debts of inferior
dignity - to wit. one due to Ben^d. W. John
ston of - £ on open acct. one
to £ also on open acct. for
which said debts should have
been postponed to your orators claims:-
that being of ~~superior~~ ^{inferior} dignity to them;
that the said adm^r. had notice of your
orators just demand, on the said Estate;
and that it was founded on a claim
which should have been paid prior to
open accounts, or simple contract debts.
Yet notwithstanding this, may it please
the Court, so it is, that the said Nathan
Williams adm^r. &c. in open violation of the
laws of the country, and contrary to justice
hath so wrongfully appropriated the assets
which came to his hands, that your orator
has not been able to get payment or a
reimbursement of the money so paid by
him as security for Brynum. - and is
without his remedy at common law,
the said adm^r. being now prepared by his
illegal application of the estate, to plead
the various pleas, of plene administravit,
- no assets ultra &c. Your orator there-
fore prays this court will make the s.
N. Williams defendant to this bill, and

that he may be compelled to answer
the allegations therein contained, on his
corporal oath; and say if he has not
paid such debts of inferior dignity to
your orators claim, - and that the
commonwealths subpoena may issue
vs him, in his character of adm^r. &c.
and further prays that this court will ord^r
and decree that the said Williams adm^r. &c.
pay to your orator the aforesaid sum of
£ 21. 2. 11. and Interest thereon; as also the
necessary costs expended in this suit. - and
grant him such other and further relief
as may be consistent with his just
demands, on the said Estate of John
Brynum dec^d. now in the hands of N. Williams
the adm^r. - or which has been by him
misapplied to improper purposes. - and
your orator shall ever pray &c. -

Northington Ellis or
Att^y for the comp^r

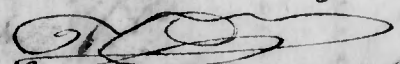

N. Ellis

N. Williams

ad. J. Bynum

& others -

Bill in Chy. -


For a discovery of
Assets. -

June 29th 1814 Bill filed

January 21st 1817

Dever for Olt.

To the worshipful Court of Southampton
County sitting in Chancery humbly com-
plaining sheweth unto your worships
your Orator, Nottingham Ellis Esr.

That your Orator did in the year
sign a bond as security for
Brynum to Thomas Vaughan Esr. &
Ann Vaughan du? for the sum

That in consequence of
death of the said John Brynum,
his failure to pay the said Bond, the
obligee proceeded to recover judgment
and obtained an Execution against
your complainant for the debt
Interest & Cost of Suit which has
been since paid by your Orator
to the amount of

as will appear by the records of this
Court. That Nathan Williams did
qualify as Administrator on the Est.
of the said John Brynum since
which the said adm. has so misappplied
the Estate of the said Brynum by
payment of debts of inferior dignity
to wit one due to Benj. W. John
for £ on open acct. one
to also on open acct. with
said debts should have been paid
to your Orator's claim, that being

of superior Dignity to them, that the Adm^r had notice of your orators Just Demand on the said Estate by motion in Court against him for the amount paid by your complainant & judgment rendered thereon for £21:2:11 - & \$2:54 - at March Court 1806 on which execution issued, and was by R. Mabley & Shiff, returned no property to be found, and which sd. Debt due to your complainant then established by a judgment in Court was evidently of higher Dignity than any other debt and should have been first paid.

Yet notwithstanding this, may it please the Court so it is, that the said N. William Adm^r hath so wrongfully appropriated the Assets which came to his hands that your orator has not been able to get payment, and is now without remedy at the common law - the said adm^r being prepared by his illegal application of the sd. Estate to plead the various pleas of plene Administravit, no Assets ultra &c. Your orator therefore prays that this court will make the said Nathan William Adm^r John Bynum Dec^d Britian Bryant next friend to the infant heir of John Bynum Dec^d Joseph, Richard & Robert Bynum - Collin M. Barnes Guardian to Legans

Bryant & Francis Bryant infant heir of Brij^r Bryant Dec^d who was jointly with Lewis Worrel, a Kivil Harris & Richard Blunt bound with the sd. Nathan William if he has a right to the Estate of the sd. Jna Bynum Dec^d dependants to this

Bill of Complaint and that the said William Adm^r may be compelled to answer the allegations herein contained, and on corporal oath to say if he has not paid such ^{debts} of inferior Dignity to your orators claim and to what amount Assets belonging to the Estate of Bynum came into his hands & applied in his administration thereon.

That the common writ of Subpoena may issue. And further your orator prays this court will grant him such other and further relief as may be consistent with his just Demand on the Estate of John Bynum Dec^d now in the hands of N. William the Adm^r or what has been by him misapplied to improper purposes, and that he may therefore be compelled to pay in that case your complainants Demand out of his proper goods & chattels, and for general relief.

For
Complainant
[Signature]

Byrum's adm^y
ad^y
Ellis } Plea

Nathan Williams adm^r John Bynum }
 ad^r } Chy.
 Nathaniel Ellis }

The defendant Nathan Williams by James Trzypant
 his attorney by protestation not confessing any
 part of the Complainant's bill to be true for
 his plea in this behalf sent from the complai-
 -nants own shewing the remedy if any the compl-
 -aintants hath must be in a Court of Common
 Law and not in a Court of Chancery wherefor
 he prayeth judgment of the Court whether the
 Complainant's bill can be entertained by a
 Court of Equity and if this defendant should
 be compelled to answer further the bill of
 the Complainant &c

James Trzypant Attorney for Def^t

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Ellis } Subpoena
in }
Chancery
William asmt.
Pro. Dignum -

21 June 1808

1808 April

Executed

Tho. Stanley Depty
of
Sam Calvert Shff

The Common Council of Virginia to the Sheriff of Campbell County
greeting, you are hereby commanded to summon Nathan Williams son
of John Pyburn dec^d to appear before the justices of our said
court on the third Monday in June next to answer a bill
in Chancery exhibited against him by Northington Ellis and
that he shall in no wise omit under the penalty of
£500. And have then there they were Wm Samuels
clerk of our said Court at the Court this 4th day of
April 1808 in the 32nd Year of the Comm^e

Berkeley d c
Jd

SSS S 191
W } Deere
Nico
SSSS I. A. MS

Feb'y to March 1809

Executed: March 11th 1809

Leans Caracoo

Opp of

Stam. Calvert Pk.

Hampton February court 1809

NORTHAMPTON v ELLIS — PLFFs

AGT vs

WILLIAM WILLIAMS admr.

JOHN BYNUM DECEASED. defl

} In
ch

This cause was this day heard on the bill of
the complainant On consideration whereupon it is decreed
and ordered that unless the defendant appears here on or
before March term next and answers the 1st bill that
the ^{1st bill} ~~bill~~ will be taken for confessed and a decree entered
up according to the prayer of 1st bill

Shello

Ellis }
 17 } Spd in
 Williams D. } Chy

To September 1814

Execute on all Except
 C. W. Banger's inhabitant
 of Newbury for
 Jacob Darden Shff
 Aug: 19th 1814

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF *Southampton* COUNTY, GREETING.

You are hereby commanded to summon *Nathan Williams adm^r of John Bynum dec^d.*
Peritt ain Bryant, next friends to the infant heirs of John Bynum dec^d. (To wit, Joseph Rich^d.
& Robert Bynum & Collin M. Barnes, guardians to Lucas & Francis Bryant infant heirs of Benjamin
Bryant who was jointly with Lewis McAnelly, David Banks & Rich^d Blunt, bound with said Williams in this estate
on S. Estate to appear before the *Justices* of our *county* Court of Southampton,
 at the courthouse, on the *third monday in September*
 next, to testify and the truth to speak on behalf of *answer a bill in chancery exhibited*
against him by Nottingham Ellis

in a certain matter of controversy now depending and undetermined in our said court,
 between

And this *they* shall in no wise omit, under the penalty of 100l.; ^{*each*} and have then
 there this writ.

Witness SAMUEL KELLO, Clerk of our said Court, at his office, the
2^d day of *August* 1814 and *39th*
 year of the commonwealth.

La Roche D.C.