

1842-004 SOUTHAMPTON COUNTY
CHANCERY PAPERS

POLLY GARDNER, ~~By~~ VS. JAMES GARDNER

10/1842

Other surnames: Parker,
Laurence, Johnson, Rawls

~~17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.~~

Gardner by H^c

in 2 Papers

Gardner

1837 Nov. Sp^a. ret.^d Ex.^d bill filed H^c

1838. March - Set for hearing on bill
H^c

Apr. Cont^d

Dec. Cont^d

1839 Apr. Cont^d

1840.

Oct. C. Leave to amend bill.

R. Remanded bill. Sp^a. H^c

1841

Jan. Sp^a. Executed.

Mar. Set for hearing H^c

Apr. Cont^d

Oct. Bill Sp^a. H^c

1842

Apr. Rule nisi & set.

Oct. Rule made absolute &c.

Dumped at H^c levels H^c

Lethe ——— $\$ 10.55$
Sift ——— 1.94
Cat ——— 75

 $\$ 12.24$

Polly Gardner

W. $\frac{3}{4}$ Bile &c

James W. Gardner.

Wm
Hodges.

Wm

No. 10000 Sup. Co.

To the Honorable Richard H. Baker, Judge
of the Circuit Superior Court of Law and
Chancery for the County of Southampton:

Humbly complaining, sheweth unto your
Honor your Oratrix Polly Gardner, a female Court
suing by Hardy Rawls, her next friend, that some
twelve or fifteen years ago she intermarried with
a certain James W. Gardner, of the County of South
ampton, who very soon thereafter received from
the estate of her mother, by virtue of the right of
your Oratrix, two or three likely young negroes,
which he converted into money and invested in the
purchase of the farm whereon he now lives. And
she further shews that during the period of a
few years after her intermarriage as aforesaid,
she lived in comparative peace and harmony
with her husband; but after that period he com-
menced a very improper and reprehensible in-
tercourse with certain females of loose habits, whom
he subsequently settled on his plantation, within
a few hundred yards of his dwelling house, and
by whom he has had several children. And your
Oratrix further shews that from the time of his
cohabitation with these women, and by reason
directly of the influence they ~~have~~ exercised
over ~~these~~ him, her said husband has pursued
towards her a regular and systematic course of
ill treatment and abuse; so much so, indeed,
that about five years ago she was compelled,
by his brutal and intolerable conduct, to aban-
don his house and seek the protection of her friends;
but standing towards ^{him} in the relation of a wife, as

she did, and feeling every disposition to be re-
conciled to him, she was induced by his promises
of better treatment in future to return and to
endeavor, by the officious discharge of her conjugal
duties, to produce that quiet and harmony
which should ever subsist between man and
wife. Your Petitioner represents, however, that instead
of fulfilling his promises, her husband, soon after
her return, resumed the course of conduct he had
formerly pursued towards her: ^{since that period} he frequently in-
flicted beatings upon her without having any other
reason therefor than the gratification of his unbridled
passions; he ^{has} deprived her and her children of even
the necessary means of subsistence except a small
and very insufficient pittance which he provided
for them in the shape of a daily allowance; he
has, ~~as some authorities have stated~~ virtually
abandoned his rightful home and his family,
and has taken up his residence with the female,
before mentioned, and lived with them in open
and notorious incontinence; and as if to add
insult to his many injuries, he has falsely and
vilely charged your Petitioner with attempts to
poison and bewitch him, and won't because,
most false of all, with carrying on a secret and
illegitimate intercourse with a certain man
in the neighborhood. These injuries, your Petitioner
^{has borne} ~~has borne~~ for years, and believes she her fortitude would
have enabled her to bear them longer if they had
not been greatly increased in their severity; but as
if exasperated with ^{her} ~~the~~ meanness and patience
under the inflictions of his cruelty, he has, within
the last two months, beaten her so barbarously

and inhumanly as to disable her from leaving
her bed for some weeks; and when she had just
recovered sufficient strength to walk, she was, ^{tried} ~~was~~ by
his renewed threats, and his constant abuse, to
make her escape in the night and fly for ref-
uge to the home of a neighbor. In confirmation
of what is here asserted, your Petitioner represents
that her husband has been bound in a penalty
of five hundred dollars ~~for~~ to keep the peace for
twelve months, and is now in prison ~~confinement~~
under a charge of felony growing out of his con-
duct towards ^{her on the occasion} ~~with~~ ~~her~~ ~~last~~ ~~affairs~~.
She further represents that she has six helpless
children, all of whom like herself are ~~destitute~~
~~destitute~~ destitute of a home to shelter them, ma-
terials to clothe them, ~~and~~ and of the means
of subsistence, and are dependent entirely upon
the charity and benevolence of a few friends;
 whilst her husband is in a condition amply cal-
culated to support them as well as herself with
decency and comfort. In tender consideration
whereof, and forasmuch as your Petitioner is with-
out remedy in the premises, except by the asis-
tance of a Court of Equity where matters of this
kind are properly cognizable, she prays, that the
said James W. Gardner may be made a party
repleto, and that your Honor will decree a separ-
ate maintenance out of his Estate for your Peti-
trix, as well as a sufficiency for the support
of her children, and also such other and further
~~and other~~ relief in the premises as may be right-
ful and proper. May it please the

Wm. D. Hodges, P. G.
C

Southampton County to wit: This day Polly Gard-
ner appeared before the undersigned, a justice
for the said county, and made oath that the
facts contained in the annexed bill are true
and correct to the best of her knowledge and
belief - Octo. 31st 1837.

Josee Parker (J.P.)

Gardner
or Amended Bill

Gardner

1840 Decemb. Rules.

To the Hon. Richard H. Baker Judge of the Circuit
Sup. Court of Law & Chancery for the County of South-
ampton:

Humbly complaining, sheweth unto yr. Honor
yr. Orator Palling Gardner a free covert, being by
Hardy Knolls her next friend, (by amendment to
her Bill hereto filed) that some twelve or fifteen
years ago, she intermarried with a certain James
W. Gardner of the County of Southampton, who
very soon thereafter received from the estate of her
mother, by virtue of the right of yr. Orator, two or three
likely young negroes which he converted into money
and invested in the purchase of a farm where-
on he now lives. And she further shews that dur-
ing the period of a few years after her marriage
as aforesaid, she lived in comparative peace and
harmony with her husband, but after that
period he commenced a very improper and repre-
hensible course with certain females of loose
habits, whom he subsequently settled on his planta-
tions, within a few hundred yards of his dwell-
ing house, and by whom he has had several
children. And yr. Orator further shews that from the
time of his connexion with these women, and by rea-
son doubtless of the influence they exercise over
him, her said husband has pursued towards her
a regular and systematic course of insult &

and ill treatment, so much so indeed, that about five years ago, she was compelled by his brutal and intolerable conduct, to abandon his house and seek the protection of her friends: but standing towards him in the relation of a wife, as she did and feeling every disposition to be reconciled to him she was induced by his promises of better treatment in future to return and to endeavour, by the appearance of discharge of her conjugal duties to produce that quiet and harmony that should even subsist between man and wife. Your letter represents however that instead of fulfilling his promises, he has since her return, resumed the course of conduct he had formerly pursued towards her. Since that period he has frequently inflicted beatings upon her, without having any other reason therefor than the gratification of his own passions - He has deprived her and her children of even the necessary means of subsistence, except a small and very insufficient pittance which he provided for them in the shape of a daily allowance - he has virtually abandoned his rightful home and his family, and has taken up his residence with the females before mentioned, and lived with them in open and notorious cohabitation; and as if to add insult to his many injuries he has falsely and vilely charged your Orator with attempts to poison and bewitch him

and worse if possible, because most foul and false of all, with carrying on a secret and illegitimate intercourse with a certain man in the neighbourhood. These injuries your Orator has borne for years, and believes she could have borne longer, if they had not been greatly increased in their severity: but as if exasperated with her weakness and patience under the inflictions of his cruelty he has within the last few months beaten her so brutally and barbarously, as to disable her from leaving her bed for some weeks, and when she had just recovered sufficient strength to walk, she was forced by his renewed threats, and his constant abuse to make her escape in the night and fly for refuge to a neighbour. In confirmation of what is here asserted your Orator represents that her husband has been bound in a penalty of \$500. to keep the peace for twelve months, and is now in prison under a charge of felony growing out of his conduct on that occasion, last April. Your Orator would further show that in this (see Amended Bill) that her husband was convicted of felony on the charge, above preferred against him, and sentenced to the Penitentiary for the term of years - that during that time she was supported by a decree of the Circuit Sup. Ct. of this County granting her alimony for herself and children out of her husband's estate - and that now her husband having served out the time for

which he was returned to the penitentiary under
the charge of felony aforeaid, has returned to the country
and resumed his former bad practices, living in
open adultery with lewd women, and leaving his
bratins and ~~the~~ her children in dependent upon
the charity of others - Your bratins would further show
that she has six helpless children entirely dependent
as she is herself upon the charity of others, whilst
her husband is in a situation amply calculated to
support them as well as herself with decency & comfort.

In tender consideration whereof, and for as much as
your bratins is without remedy save by the intervention
of a Court of Equity, where matters of this kind are
alone cognizable, she prays that James W. Gardner
may be made defendant hereunto, and full and perfect
answers make to all the allegations in her Bill
set forth - And as she has no hope of ever being
able to live with him again, that your Honor
would decree her a divorce à mensa et thoro
with a separate maintenance for herself and chil-
dren out of his estate, and alimony during the
pendency of this suit - and also that your Honor
would restrain the said James W. Gardner from
wasting, or otherwise disposing of his estate
until the decision of this suit, and grant such
further and general relief as the nature of
the case may require - May it please you

James S. French
129

Gardner

21. 3 Dec 1891

Gardner

Gardner
21.
Gardner } decree -

This cause came on this day to be heard, on the application of the plaintiff for alimony during the pendency of the suit and the ex parte affidavits filed with the file, and was argued by Counsel; on consideration whereof the Court doth adjudge, order and decree that the plaintiff receive of the defendant, to be paid to her by Henry Newell her next friend the sum of thirty dollars quarterly, during the pendency of this suit, ~~and the said sum~~ to commence from the 10th day of November 1837, and the further sum of twenty dollars to be paid ~~when~~ as a relief from her present wants and necessities -

Notes for Lewis

To be entered

R. H. B.

Mary Gardner a feme covert-suing by Hardy Rawls
her next friend Plff

vs. $\frac{3}{4}$

James W. Gardner Def

This day, this cause came on to be again
heard on the application of the Plff for
Alimony during the pendency of this
suit, and the ex parte affidavits filed with
the Bill, as well also, as the additional ex
parte affidavits filed since, and was
argued by counsel, on consideration where
of, the Court doth adjudge order and de-
-cree, that the Plaintiff recover of the Defen-
-dant, to be paid to Hardy Rawls her next
friend the sum of \$25 quarterly until the
further order of the Court commencing on the first
day of November 1841 and the further sum of
\$25 to be paid in like manner as a relief
from her present wants and necessities -

Gardner

to

} Copy Deed

Gardner

The within named
James W Gardner
refused to pay the
within amount
of \$100.00
for the within ship

Southampton Circuit Court November 2^d 1841

Polly Gardner suing by Hardy Rawls her next friend

Against

Samuel W Gardner

Plff

Def

This day this Cause came on to be again heard on the application of the plaintiff for alimony during the pendency of this suit, and the ex parte affidavits filed with the bill as well also as the additional ex parte affidavits filed since and was argued by Counsel - On consideration whereof the Court doth adjudge order and decree that the plaintiff recover of the defendant to be paid to Hardy Rawls her next friend the sum of twenty five dollars quarterly until the further order of the Court commencing on the first day of November 1841 and the further sum of twenty five dollars to be paid in like manner as a relief from her present wants and necessities -

Attest

Teste

L R Edwards Clk

Gardner

N 3

Gardner

order at Appl.
court 1842.

To be returned

River

Gardner

vs. $\frac{3}{3}$

Gardner

On motion of the Plaintiff Polly
Gardner ^{suing by Hardy Baboly her next friend} by ~~counsel~~ the Court doth order
that the Defendant James W. Gardner
do appear before this Court, on the
first day of the next term thereof, and
show cause if any he can, why an
attachment should not be issued
forth against him for his contempt
in failing to perform the decree pro-
nounced in this cause against
him on the 2^d day of November
1861-

Gardner by J^p

v. } Copy. Dierce

Gardner

Exhibited

Wapfenburg L^y
of W L Everitt.

Southampton Circuit Superior Court. April 8th 1842.

Polly Gardner by Hardy Rawls her next friend
against
James W Gardner

Plff } In Chancery
Dft }

On the motion of the plaintiff Polly Gardner being by Hardy Rawls her next friend the Court doth order that the defendant James W Gardner do appear before this Court on the first day of the next Term thereof, and shew cause, if any he can, why an attachment should not be sued forth against him for his contumacy in failing to perform the decree pronounced in this cause against him on the 2^d day of November 1841.

Attest

Teste. L R Edwards Clerk

Gardner by J.
in 3 Sp.

Gardner
To November Rules 1837.

Hodges-

Executed by being a
true copy
Wm. Belwell depy J
Benjamin Griffin depy

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon

James W. Gardner

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in *November* next, to answer a Bill in Chancery exhibited against *him* in the said Court by *Polly Gardner* by *Hardy Rawls* her next friend

And unless *he* shall answer the said Bill within four months thereafter, the Court will take the same for confessed, and decree accordingly. And this *he* shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the *25th* day of *October* 183*7*, in the *62^d* year of the Commonwealth.

L R Edwards Clk

[One Copy to be delivered each Defendant.]

U.S.C.

Gardner by J.C.
v. { Sp. in Chy. }

Gardner

1841 January Rules.

Executed by delivering
a true copy.

December. 23/1840

J. P. Drury dep. J.
Shamoo Bullock dep. J.

23 Dec.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *James W. Gardner*

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in *January* next, to answer a Bill in Chancery exhibited against *him* in the said Court by

Polly Gardner a feme covert Suing by Hardy Rawls her next friend

And unless *he* shall answer the said Bill within ^{*two*} ~~four~~ months thereafter, the Court will take the same for confessed, and decree accordingly. And this *he* shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the *7th* day of *December* 18*80*, in the *65th* year of the Commonwealth.

L. R. Edwards Clk

[One Copy to be delivered each Defendant.]

Gardner by &

to { aff^r.

Gardner

filed November 1st 1841

Wenthampton County to wit

This day personally appeared
before me H. J. Smith a Justice of the Peace
from the aforesaid County Henry Rawls and
John Parker & made oath that they are
well acquainted with the estate now
held and owned by Jas. W. Gardner and
verily believe it is worth twelve hundred
dollars containing of about one hundred
acres of Land &c. and that the annual
profits of said Est. is about two hundred
dollars. He further says that Gardner is
living as they believe in open adultery with
Willey Bratcher and neglects his wife and
contributes nothing whatever to her wants
& support and that of his children
who are in a very deplorable & suffering
condition.

GIVEN under my hand &c. this
30th day of Oct. 1841

H. J. Smith J.P.

An order may be entered directing that the
def.^t shall pay to the next friend of the ^{city} for her maintenance, quarterly, the sum of
\$30, pending this suit, to commence on the
tenth day of Nov^r 1837 until the further order
of the court, and the further sum of \$20
to be paid when required as a relief from
her present wants & necessities.

Baker.

Gardner
W. Baff.
Gardner

Santhampton County, to wit:

Eph Parker this day appeared before me and made affidavit that in his opinion James W. Gardner, the defendant in the suit of Polly Gardner vs. James W. Gardner, was properly real and personal, to the value of about twelve hundred dollars. Given under my hand this 31st day of October 1837. Jm^{ts} B. Davis JP

Santhampton County, to wit:

Willis W. Lawrence and Goodman Johnson this day appeared before me, a justice of the peace for the said County, and made affidavit that they are ~~well~~ neighbors of James W. Gardner and are well acquainted with his circumstances and condition in life, and that they believe him to own property to the value of about twelve hundred dollars; and further that Polly Gardner, ~~his~~ the wife of the said James W. Gardner, has six very young children who are not in a condition to help them or in any way to support themselves.

Octo. 31st 1837. Jm^{ts} B. Davis JP

For failing to perform the decree entered against the said James W
Gardner on the 2^d day of November 1841 in a suit in chancery depend-
ing between Polly Gardner by Hardy Rawls her next friend against
the said James W Gardner

L R Edwards Clk

Gardner by X

W. } Atty.

Gardner

Executed
at Massena
by
W L Everett

The Commonwealth of Virginia. To the Sheriff of Southampton County
Greeting. We command you attach James M. Gardner so that you have his
body before the Judge of our Circuit Superior Court of Law & Chancery for the
said County at the Courthouse thereof on Monday the 31st. day of October Instant
to answer us as well of a certain contempt by him to us offered as it is said, as
upon those things which to him shall then and there be objected: and further
to do and receive what our said Court shall in that part consider - and
this you shall in no wise omit. And have them there this do with -
Witness Litalton R Edwards Clerk of our said Court at the Court house
the 29th. day of October 1842 in the 17th. year of the Commonwealth.
L R Edwards Clk