

1847-006

SOUTHAMPTON COUNTY
CHANCERY PAPERS

BRITT and Wife VS. TURNER and Wife et al

5/1847

other SURNAMES: Darden,
James, Gurley, Butts, Williams,
Ireland

~~28~~ 17

Brill & wife

v. } Papers.

Turner & wife & ad

1847 May Dismissed

Britt knife

W. } Stat. Rules

Turner

Jesse S. Britt and Narcissa his wife who before her intermarriage with the said Britt was Narcissa Darden, both of whom are infants under the age of twenty one years by John Waddell their next friend-
against.

John C. Turner and his wife Nancy, Samuel T. James, John M. Gurley and Edwards Dulls.

1845 December 8: Subpoena & deorum nisi issued.

1846 January Rules. Subpoena &c returned executed. Bill filed.

" February " Answer of John C. Turner filed & Gen. Rep. thereto.

" March " Set for hearing as to Dft. Narcissa Turner, Samuel T. James, John M. Gurley & Edwards Dulls.

" April " Set for hearing as to Dft. John C. Turner.

" Nov. T. Leave for Dft. Turner to amend his answer, Death of Dft. James

1847 March R- ^{per suggested} amended answer filed & Gen. Rep. thereto.

1847 March 22: Dec. pro. issued to revive in name Jacob Barnes & heirs of Samuel T. James

" Apr. 26: Cause set for hearing on amended answer &c.

May Dismissed

Britto wife

i } Bill & Exhibits

Turner &c

1846 January Rules

(P. 15)

To the Hon. Judge of the Circ. Superior Court of Law & Chancery
for the County of Southampton - In chancery sitting,
Humbly complaining, shew unto your Honor, your complainants
Jesse T. Britt and Charissa his wife who before his intermar-
riage with the said Britt was Charissa Darden, both of whom are
infants under the age of twenty one years by John Macdill
their next friend. That in the year 1838, Matthias Williams
of the County aforesaid died having previously executed and pub-
lished his last will and testament, in which after directing the
payment of his just debts, and making a conditional bequest to
Harvey Lurman wife of John C. Lurman, both of the County
aforesaid, he gave the balance of his estate of every kind to your
petnal complainant, and appointed the said John C. Lurman
his executor, who subsequently qualified with Sarah T. James
John M. Gurley and Edwards Britts securities to his exec-
utorial bond, all of which will appear from copies of the
will and bond herewith filed and prayed to be taken as parts
of this bill - Your complainants state that the said Lurman
Exor: as aforesaid, has long since settled the estate of his tes-
tator and in April 1845, returned an account of his
transactions as executor, herewith filed (marked C) showing a balance
on the 31st Decr: 1843 of \$561.79 - That your complainants have
frequently requested the said Lurman to pay over to them, who are
entitled to receive it under the will aforesaid, the said balance
of \$561.79, which he has refused to do, but he has invariably refused and still
refuses, which is contrary to equity and justice

Your complainants are advised that the said Lurman, out of the
above balance found due the estate of said Williams, claims a
right to receive the sum of \$400 - under the second item in the
will, which contains a legacy to Harvey Lurman wife of said Lurman
of \$400 - on condition that she would take into her family
your female complainant, at the death of the testator, and
support and raise her, free from charge until her marriage
or attaining the age of twenty one years - Your complainants
are advised that the said Lurman has no claims whatever to

to receive that amount - that the legacy was bequeathed by the testator on conditions, which have never been complied with - that soon after the death of the testator, the said William your female complainant was taken into the family of her aunt, who supported and raised her until her marriage, and they charge that your female complainant was never taken into the family of the said Nancy Turner and John C. Turner, that they nor either of them ever contributed in any manner whatever to her support and maintenance at any time, that she was raised at the expense and trouble of her aunt exclusively, and that neither the said John C. Turner nor Nancy Turner his wife, ever manifested the slightest interest or concern about her, in any manner or at any time - Your complainants, therefore submit to your Honor, that the said Turner has no claim to the sum of \$400 out of the estate of the said William.

In further consideration of all which and for as much as your complainants are without remedy except in a court of Chancery, they pray that John C. Turner and his wife Nancy, Sarah J. James, John M. Gurley and Edward Butts be made defendants to this bill, that they answer the premises, that the said John C. Turner state whether he or Nancy his wife, ever supported and raised your female complainant, according to the conditions of the will of said Matthias William - that the said John C. Turner render an account of his transactions as Executor of the said Matthias William before a Commissioner of this Court, of which the account here with filed and marked A, may be taken as the basis, and that your Honor will decree to your complainants whatever balance may be found due them on, and such other and general relief as it may be just and proper for them to receive from the facts of their case and they will as in duty bound ever pray &c.

Ridley Goodenough
Atty. for Comps

Turner &
etc { answer
Booth & wife

1846 February 18th

The answer of John S. Turner to a bill of complaint
submitted against him and Nancy his wife Saml.
S. Turner John Mc Gully and Edward Butts in the
circuit superior court of law and chancery for the
county of Southampton by Jope T. North and Narcipa
his wife by John Waddell their next friend

To the Honable Richard G. Baker judge of
the circuit superior court of law and chancery for the
county of Southampton in chancery sitting

This defendant for answer
to the said bill or to as much thereof as she is
advised it is material for him to answer answering
says that Matthias Williams did die having first
published his last will and Testament appointing
this defendant his executor who qualified on the said
Williams estate having first given bond and security
according to law this defendant admits it to be true
that in April last she did return an account of
his administration on the said Williams estate showing
a balance in December 31st 1843 of \$561.79 due the
estate but this defendant further says that he claims
\$400.00 of that balance in right of his wife Nancy
Turner that amount having been left her in the will
of Matthias Williams as a legacy provided she would
take Narcipa Darden and raise her without charge
until her marriage or arriving at the age of twenty
one year and that he is willing and has offered to pay
the balance of \$161.79 to the complainants this
defendant is advised that the said legacy would not
be void in law though his wife Nancy had never
have supported or ever been willing to support
the said Narcipa Darden But this defendant says
that it is untrue that he and his wife Nancy never
manifested any disposition to comply with the conditions
of the said Matthias Williams will that the said
Narcipa Darden at the time of Matthias Williams death
was staying with her aunt Mrs Barnes in N. Carolina
that soon after the said Williams death this defendant
wife Nancy Turner went to Mrs Barnes in order
to carry Narcipa Darden home with her to live free
or charge that Mrs Barnes refused to give her up saying
that neither Mrs Turner nor any one else should
carry her from her house this defendant being a
friend of Matthias Williams and anxious to carry out
his request in regard to this child (for she was

a reputed child of Matthias Williams) consulted eminent
counsel as to what steps he should take to get her
into the custody of himself and wife and he was told
by his lawyer that he had done his duty and could
do no more not being her guardian he had no
control over her conduct and could not force her
to live with his wife unless she was willing to
do so this defendant says that he has been always
ready to comply with conditions of the will and
it has ^{been} through no fault of his own or wife's but
wholly through that of the complainant Narcissa
Wright who ^{was} Darden that they have not been complied
with and having fully answered Gray's issues to
be dismissed with his costs &c

Jos C Turner

Parker & Chandler p. 1

Southampton County to wit

This day personally appeared before
a justice of the peace for the county aforesaid
John C Turner who made oath that the facts stated
in the above answer on his own knowledge are
true and those stated by others he believes to be
true given under my hand this 16th day of
January 1845.

G. A. Westmoreland J.D.

[Faint, mostly illegible handwritten text, possibly bleed-through from the reverse side of the page.]

Turner is wife of
 ads } amended return
 Booth is wife

1847 March Rules

The amended answer of John C. Tanner to a bill of complaint exhibited against him and Nancy his wife James T. James John McFadyen and Edward B. Butts in the circuit superior court of Law and chancery for the county of Southampton by Jesse T. Britt and Narcissa his wife by John Waddell their next friend

To the Honorable Richard H. Baker judge of the circuit superior court of Law and chancery for Southampton county in chancery sitting

This defendant by the leave of This court for that purpose had and obtained to amend his answer to the said bill of complaint for answer to the said bill or as much thereof as he is advised it is material for him to answer answering says that he admits that Matthias Williams died having first duly made his last will and testament appointing This defendant his executor who qualified on the said Williams' estate having first given bond and security according to law and This defendant states further that he afterwards ~~was~~ qualified in the county court of Southampton as the guardian of Narcissa Darden as will more fully appear by a certificate of his qualification herewith filed and prayed to be taken as a part of This bill and This defendant submits whether it is not necessary that he should be charged ^{and sued} as guardian and not as executor since he loses his commission as guardian

This defendant admits it to be true that he

did in April 1845 return an account of his administration on the said Williams' estate showing a balance in December 31st 1843 of \$561.⁷⁹ due the estate but this defendant states that he claims \$200.⁰⁰ of that balance in right of his wife Nancy Turner that amount having been left her in the said Williams' will as a legacy provided she would take Narcissa Darden and raise her without charge until her marriage or her arriving at the age of twenty one years and he is willing and has offered to pay the balance of \$361.⁷⁹ to the complainants. But this defendant says that it is untrue that he and his wife never manifested any disposition to comply with the conditions of Matthias Williams' will that the said Narcissa Darden at the time of Matthias Williams' death was staying with her aunt Mrs Barnes in North Carolina that soon after the said Williams' death this defendant's wife Nancy went to Mrs Barnes in order to carry Narcissa Darden home with her to live free of charge that Mrs Barnes refused to give her up saying that neither Mrs Turner or any one else should carry her from her house this defendant being a friend of Matthias Williams and anxious to carry out his request in regard to this child (for she was his reputed child) consulted eminent counsel as to what steps he should take to get her into his and wife care and he was told that he could ^{not} force her to live with him against her inclination that he had done all that he could do this defendant says that he has always been ready to comply with the conditions of the will and that it has been through no fault of his own or wife but wholly through that of the complainant

Narcissa Darden that they have not been performed and having fully answered prayers hence to be dismissed with his costs &c

N. Parker & Standish

Southampton County to wit

This day personally appeared before me a justice of the peace for the ^{above} said county John C. Turner who made oath that the facts stated in the above answer on his own knowledge are true and those stated by others he believes to be true given under my hand this 16th day of February 1847.

J. A. M. Newcom

Britt & Co

to } Affidavit

Turner & Co

1840 Nov 11th

Brill & wife

u { affidavit
Turner & wife

This day personally appeared before me a justice of the peace for the county of Southampton, John C. Turner one of the defendants in a suit in chancery now pending in the circuit superior court of Law and chancery for Southampton county under the style of ~~Brill & wife~~ as Turner & wife and made oath that through want of knowledge at the time he omitted to state in his answer facts and circumstances that are material to his defence such as in the opinion ^{of his counsel} if stated will make a material attestation in his case given under my hand this 11 day of Nov 1846.

M. M. Selner J.S.

North York

in Spanish -

Turner & Co

1846 January Rules

Executed on Saml. C. T.

James and Edward Butts

William A. M. D. S.

Executed on John C. M.
 + wife John M. G. S.
 B. B. G. S. Deputy of
 General B. H. M. S.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon

*John C Turner and his wife Nancy
Samuel T James. John M Gurley and Edwards Butts*

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 *them* in the said Court by *Joseph T Drift and Narcissa his wife who before her intermarriage with the said Drift was Narcissa Darden.*

And unless *they* shall answer the said Bill within ^{*two*} ~~four~~ months thereafter, the Court will take the same for confessed, and decree accordingly. And this *they* 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 *8th* day of

December

1845, in the

70

year of the Commonwealth.

L R Edwards Clk

[One Copy to be delivered each Defendant.]

Messrs John Waddell, Joseph Britt and wife

Please take
notice that on the 14th day of March 1846 between
the hours of sunrise and sunset of that day at
the the house of Jacob Barrett in the county of
Southampton Esq shall proceed to take the deposition
of Mary Ann Standa to be read as evidence in a
suit depending in the circuit superior court of New
and chancery for the county of Southampton in
which you are plaintiffs and you are defendants

John C. Tamm & wife

Scott & wife

to } Deposition

Turner & wife &c

handed in March 21. 1846

The deposition of Margaret Ireland taken at the house of Jacob Barnett in the county of Southampton between the hours of sunrise and sunset the 14th of March 1846 Jursworn to notice duly given to be read as evidence in a suit now depending in the circuit superior court of law and chancery for the county of Southampton in which J. P. Britt & Narcissa his wife by John Maddill their next friend are plaintiffs and John C. Turner & wife are defendants the said deponent having been first duly sworn on the holy Evangelists of St. Matthew for deposit and says as follows

That directly after the death of Matthias Williams she went with Mrs Turner the wife of John C. Turner to Samuel Barnes in Westford County N. C. and that Mrs Turner explained to Samuel Barnes and his wife the object of her visit that Matthias had died at John C. Turners and left a will and in that will and said in that will it was his desire that Nancy Turner the wife of John C. Turner should take Narcissa Darden in her family and raise her until she was of such an age and that Mrs Turner went prepared to fetch her away agreeable to the last request of the said Matthias Williams Mrs Barnes got into a passion and refused to give her up to Mrs Turner and said she would not give her up even to Matthias if he were then living

Margaret Ireland

The foregoing deposition was taken before me at the time and place above mentioned and sworn to in witness whereof I have hereunto set my hand this ^{14th} day of March 1846

Jacob Barnett J. P.

Britt & Wife

π } Sci. Ex.

Turner & Wife & Co

1847 May Term

Executed

Cap. H. Seabrook

22 Nov 1847

The Commonwealth of Virginia. To the Coroner of Southampton
County. Greeting. Whereas in a Suit in Chancery lately depending in our
Circuit Superior Court of Law and Chancery for Southampton County between
Joseph I Britt and Narcissa his wife who before her intermarriage with
the said Britt was Narcissa Darden both of whom are infants under the
age of twenty one years by John Waddell their next friend Plaintiffs
and John C Turner and his wife Nancy, Samuel T James & others
defendants sundry proceedings were had as appears from the records
and files of the said Court but before final decree was rendered therein
the said Samuel T James departed this life intestate as it is said and
his estate has been by an order of the County Court of Southampton committed
to the hands of Jacob Barnes the Sheriff of the said County for administra-
tion and the plaintiffs having supplicated us for a proper remedy in this
behalf, and we being willing that what is right and just should be done.
Therefore we command you that you make known to the said Jacob
Barnes Sheriff as aforesaid and as such administrator of the said
Samuel T James dec^d. that he be before the Judge of our said Circuit
Superior Court of Law and Chancery at the Courthouse on the first
day of the next Term to shew if any thing for himself he have or can
say why the said Suit should not be proceeded in to a final decree
against him in his character aforesaid and be in all things in the
same plight and condition as it was at the time of the decease of the
said Samuel T James and further to do and receive what our said
Court shall in that part consider. And have there there this record
Witness Gittlen R. Edwards Clerk of our said Court at the Court-
house this 22^d day of March 1847 in the 7th year of the Common-
wealth

L. R. Edwards Clk

Mathias Williams? Will

Drill knife

• { Exhibit with Will

Turner Gurfed Gab

In The Name of God Amen I Mathias Williams of the County of
Southampton Parish of St. Peter being weak in body but of sound mind
and Memory do make and ordain this my last will and Testament in
Manner and form following to wit: first and principally I bequeath
my soul to almighty God who gave it me and for my worldly goods
I profess I dispose of them as follows Viz
Item 1st My will is that all my estate both real and personal be sold
on a credit to the highest bidder and the money arising from such
sale pay my burial Expenses and all my just debts and the balance
I dispose of as follows.

Item 2^d I give and bequeath unto Mrs. Nancy Turner wife of John
C. Turner the sum of four hundred dollars provided that she will
take & raise Narcissa Darden daughter of Edith Darden without
charging her any bond until she marries or arrives to the age of twenty
one years but in case that Mrs. Turner should die before that
time my wish is that John C. Turner still to keep the aforesaid
Narcissa Darden in his family.

Item 3^d My further will and desire is that the before named
Narcissa Darden be my whole soul heir to the balance of my estate
of whatsoever kind there may be to her and her heirs forever but in
case that Narcissa Darden should die without lawfull issue I
then leave her portion of my estate to my Niece Eliza Carr to
her and her heirs forever. Lastly I do constitute and appoint my
friend John C. Turner Executor to this my last will and
Testament Making void all former will made by me. My
further wish is at my death for John C. Turner to take the entire
charge of my affairs. In Testimony whereof I do hereunto set my
hand and affix my seal this 24th day of September in the
year of our lord one thousand eight hundred and thirty eight
Signed sealed and acknowledged

In presence of
Selah Ellsworth
Madhary V. ch
Mark

Mathias Williams

Jamie Turner

At a Court held for the County of Southampton on the 15th day

of October 1838 This Last will and Testament of Matthias
Williams deceased was proved by the oath of Pelah Ellsworth Matthew
Vick and James Turner the witnesses thereto and ordered to be
Recorded and on the Motion of John C Turner the Executor
therein named who made oath and together with Samuel J. James
John M Gurley and Edwards Bull his securities entered into and
acknowledged a bond in the penalty of Three Thousand dollars
conditioned as the law directs Certificate is granted him for
obtaining a probate of the said will in due form

Test J. R. Edwards Clk

Attest

Test J. R. Edwards Clk

Matthias Williams

Will

Attest

Mathias Williams

Will

A Copy

Executors bond

Brett & wife

to. } Exhibit with Bell

Turner & wife & son

KNOW ALL MEN BY THESE PRESENTS, That we *John C. Turner, Saml. T. James, Edwards Butts & John M. Gurley* —
are held and firmly bound unto *Jesse Barker, Saml. Drury, Nathl. J. Williams & Thomas Ridley Jr*
gentlemen justices of the ~~Peace for the County~~ ^{Court} of Southampton ^{County} now sitting, in the sum of *three thousand* dollars; to the payment whereof, well and truly to be made unto the said justices and their successors, we bind ourselves, and each of us, our, and each of our heirs, executors and administrators, jointly and severally, firmly by these presents: sealed with our seals, and dated this *15* day of *October* 18*38*.

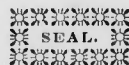
The condition of the above obligation is ~~such~~, That if the said *John C. Turner* — Executor of *the last will and Testament of Nathaniel Williams* deceased, do make a true and perfect inventory of all, and singular the goods, chattels and credits of the said deceased *together with an inventory of the real estate within this Commonwealth, which by the said will may be subject to his authority* and which have or shall come ~~into~~ the hands, possession or knowledge of *him* the said *John C. Turner* — or into the hands or possession of any other person or persons, for *him* and the same so made, do exhibit to the ~~County~~ ^{County} Court of Southampton, at such time as *he* shall be thereto required by the said Court, and the same goods, chattels and credits *and real estate* do well and truly administer according to Law, and make a just and true account of *his* actings and doings therein, when thereunto required by the said Court, and further, do well and truly pay and deliver all the legacies contained and specified in the said Will, as far as the said goods, chattels and credits *and real estate* will extend, according to the value thereof, and as the Law shall charge ~~him~~ ^{him} — then this obligation to be void, or else to remain in full force.

Signed, Sealed and ~~delivered~~ ^{acknowledged} in presence of the ~~in open~~ Court.

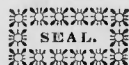
John C. Turner



Saml. T. James



John M. Gurley



Edw. Butts



Attesty = Jesse



L. R. Edwards

Account of Mantias
Williams Esq

Adpy

With wife

s. } Exh't with bill

Turner Esq

John C. Furness Esq. vs. account with the estate of Nathaniel Williams decd.

1838			Off ^r	Cr ^d	Int ^y
Nov ^r	2	By amount of sales this day		\$1337 81	
		Cash found in the house		5 30	
		" B. & Vicks acct ^s paid		2 00	
		" E. Harrison acct ^s paid		2 48	
		" A. Moore do		1 30	
		" Arthur Magill acct ^s paid		6 00	
		" Joseph Brill do do		1 47	
Nov ^r	19	To paid William Dwyer Bond.	\$574 38	1376 36	
		" paid John C. Furness for board attendance, ad. for 35 days during Williams illness	3	50 00	
		To paid Taxes & interest for 1837		6 54	
		" " Taxes & tickets this year		5 54	
		" " Robert Williams account		3 00	
		" " Anthony Brown do		2 00	
		" " John M. Givley do		13 00	
		" " Richard Johnson do		2 00	
		" " William Dwyer debt bill		1 00	
		To Commissions on \$1376. 36/100		68 83	832 19
Dec ^r	31	By Balance due estate		\$334 37	
1839		By Cash Received for sale of land		130 00	
		To paid Enavett Cobb account	\$ 1 00	704 37	
		" " Clerks tickets	1 25		
		" " W. Pope Const Costs on warrants	3 40		
		" paid Pope's myricks bond	24 79		
		" " James W. Williams bond	9 79		
		" " Enavett Cobb account	26 30		
		" " A. Reddicks Note	45 82		
		" " J. M. Faircloth account	15 87		
		To Commissions on \$150.	7 50	155 92	
Dec ^r	31	By Balance due estate		\$568 43	
		By interest on \$534 37 for 1839.			33. 26
		Amounts brought forward		\$568 43	33. 26

1840	To paid Henry Barnes account	5 38		
"	" John Mordant's Medical bill	15 50		
"	" L. H. Worthington acc	2 50		
"	" Jonathan Griffin do	4 00		
"	" Anthony Brown do	2 50		
"	" Henry Barnes do	5 37		
"	" Nicholson & Sparks account	13 50		
"	" Anthony Brown's bill	2 37		
"	" Isaac Williams Bond	20 30	71 42	
Dec 31	By Balance due the estate		\$ 497 03	
1841	By interest on \$568.45 for 1840			34.10
To	paid A. Ruddick's account	\$ 7 48		
"	" Wm. Owens do	5 00		
"	" H. Moore Comd. judgment	2 64		
"	" Augustus Claiborne attorney fees	3 00		
"	" A. Ruddick's account	14 31		
"	" E. D. Butts account	1 00	36 43	
Dec 31	By Balance due the estate		\$ 440 60	
1842	By interest on \$497.03 for 1841			39.82
To	paid Robert Ridley attorney fees	5 00		
"	" Charles Litchy	1 38		
"	" Edmund Cutler account	38		
"	" John Hart do	8 00	14 16	
Dec 31	By Balance due estate		\$ 435 74	
1843	By interest on \$440.60 for 1842			36.43
To	paid Walter Myrick acc	3 16		
"	" Walter Myrick Bond	11 15	13 31	
Dec 31	Balance due estate		\$ 412 63	
	Interest on \$435.74		147 16 35.35	
			147 16	
	Whole amount due the estate		\$ 561 79	
	with interest on \$412.63 paid through from 31 st of December 1843			
	all paid			
	Commission for \$4.00 charged			
	to the executor			
	Respectfully submitted			
	Wm. B. Shands Comr.			

At a Court held for the County of Southampton on the 21st day of April 1845 This Account of John C. Barnes Executorial proceedings on the estate of Matthias Williams dec^d was returned and ordered to be on file for acceptance. And at a Court held for the County aforesaid on the 19 day of May 1845 The said account having been on file and no exceptions being filed was confirmed and ordered to be Recorded

John L. Edwards. Ck

Attest

John L. Edwards

John L. Edwards

Bill & wife

2 3 Notes

Turner

Turner for an acc^t
to ascertain the amt
of St. Darden's board
from the period of
the Testator's death
to her marriage, &
in the mean time
the testimony referred
to in the counsel's
note may be taken

R. H. B.

Continued to be served
v James adm.
R. B.

Bratt & wife &

i

Lummoother

Notes by Pltffs Counsel -

The only important facts in the case ~~are~~ ^{are} fully admitted in the answer - to wit: That the defendants Lummoother wife did not comply with the condition in the will upon which his wife was to receive the legacy of \$400 - that they did not in fact receive the female plaintiff into their family - that they never appropriated any thing whatever for her support and maintenance; and that the legacy bequeathed to Lummoother wife is a conditional legacy. The above facts, except the last named, were fully proven in depositions taken by the pltffs, which are not filed in the papers in consequence of having been taken in an informal manner. If the court should be of opinion that the plaintiffs are not entitled to the whole of the legacy of \$400, bequeathed to Lummoother wife, we suppose, they are certainly entitled to receive out of it; annually, an amount equal to the support and maintenance of the female plaintiff from the death of the testator Williams until her marriage. In that event an account will be necessary. In the other event the pltffs are willing to receive the ex. parte act. of the Exor: filed in the papers and take a decree for the balance -

Goodwin atty