1861-016 SOUTHAMPTON COUNTY CHANCERY PAPERS HUNDLEY et al vs. JOYNER et al s/1861

other SURNAMES, Rowe, Hundly, Carr

460.

Saunders
v 3 Bill, answer
Snipes & decree

1859 Nov. Decree filed.

1860 Oct Report.
" Dec. Decree filed &c
1861 Apl. Decree filed.
" May. Decree amended

Complainant
To the County Court of Southampton County.
November term 1859.

Humbly complaining sheweth unto your worships your complainants Margaret Hinsley, and Edmund Joyner & Nancy his wife, that Eley Joyner departed this life some years after having duly made and published his last will and testament which being entered in the Circuit Court of Southampton County was admitted to record there at a May term 1859, with an agreement between the Counsel for plaintiffs and defendants which was also admitted to record as a part of the said will. A copy of said will and agreement is herewith filed as an Exhibit. That by the said agreement, it was agreed that the real estate and negroes of which the said Eley Joyner died seized and possessed should be sold as soon as convenient, and the proceeds of sale be divided into four parts, and one part allotted to Margaret Hinsley, one part to Edmund Joyner & Nancy his wife, one part to Jerome E. & Wm F. Rowe, and the remaining part to Jane Joyner during her natural life, and at her death to the children of Jethro Joyner. That the said land & slaves cannot be divided in kind without a sale, and that the said land is not worth $300. per share. That Arrington Gardner qualified as the administrator with the will annexed of the said Eley Joyner dec'd. Your complainants desire a sale of the said land and negroes, and a division of the proceeds of sale amongst the parties entitled.

In tender consideration of the premises, and as much as your complainants are without remedy save in this honorable Court. It is prayed that Jane Joyner and Arrington Gardner as with the will annexed of Eley Joyner dec'd and Jerome E. and Wm F. Rowe be made parties defendants to this bill, and that they answer all the allegations thereof. That a guardian ad litem be assigned to the infant

defendants, Jason E. & Wm. F. Rowe to be shall answer for them - That upon which this decree a sale of the land and negroes of which Isley Joyner died seized and possessed and a division of the proceeds of said sale amongst the parties entitled thereto, and that your worships will decree such further and general relief as equity may dictate, and the nature of their case may require & they will ever pray

Cobb p.q.

The answer of Jason E. & Wm. F. Rowe by L.R. Edwards their guardian ad litem, to the foregoing bill

These defendants saving &, for answer to said bill, say that being infants they submit their interests to the care and protection of this honorable Court -

By W. W. Cobb atty.

Hinnicky &
v
Joyner &

This day this cause was docketed by consent of the Court and of the parties, and came on to be heard by like consent on the bill and exhibit thereunto filed and on the answers of Jane Joyner and Jason E. Rowe & Wm. F. Rowe by L. R. Edwards their guardian ad litem, and general replication thereto, and was argued by counsel on consideration whereof the Court doth adjudge, order and decree that Armistead Gardner who is appointed a Commissioner for the purpose, after having given at least twenty days public notice of the time and place of sale, and posted a notice of such sale at the Courthouse door of Southampton County on some Court day previous to said sale, sell to the highest bidder on the premises on a credit of twelve months except so much as may be necessary as to defray the expenses of this suit and said sale, which shall be for cash, and the Court orders that there shall be included a fee of $20. each to the Counsel for Plaintiffs and defendants) the land and negroes of which Isley Joyner died seized and possessed - That he take bonds from the purchasers with approved personal security bearing interest from their date, and that he return them to this Court with his report and that he retain the title to the said land until the purchase money is paid.
But the said Armistead Gardner shall not proceed to execute this decree until he shall execute bond in the Clerks office of this Court in the penalty of $5000, payable to the Commonwealth of Virginia, and conditioned for the faithful performance of his trust under this decree

Hunsley
v.
Joynt

Action of Assumpsit
Jarmer admr of
Exley Joynes dec'd

The answer of Wm Tandy Worthington and Wife
Wife answered of Ruby Payne dec'd to a bill
of complaint exhibited against him & others
by Margaret Kennedy & others -

This defendant saving & for answer
to the said bill says that he has no
objection to the decree prayed for & prays
to be hence dismissed &c

By & & Cobb Atty

Jane Ingris acct
to
Peter Hunt

The Answer of Jane Seymour to a Bill filed against her & others, in Court Court of Co. Hampton, by Hendley & als.

This respondent saving & excepting &c. for answer to so much of said Bill as it is material for her to answer, answering, says that the facts & statements in complainants bill, she believes to be true and that the willingly comes in the prayer of said complainants, for the sake of the purpose in said bill mentioned & hereby claims privilege to be dismissed &c.

Jane Seymour

by N. Whitehead her Solicitor

Hawley

v. } Copy Decree

Rowe P

Southampton County Court. November Term 1859.

Margaret Hundley & Edwards Joyner & Nancy his wife Pffs

against

Jason E & Wm J. Rowe by L R Edwards their guardian ad litem &c Dfts

In Chancery

This day this cause was docketed by consent of the Court and of the parties, and came on to be heard by like consent on the bill and exhibit therewith filed, and on the answers of Jane Joyner and Jason E Rowe & Wm J Rowe by L R Edwards their guardian ad litem, and general replication thereto and was argued by Counsel. On Consideration whereof the Court doth adjudge, order and decree that Arrington Gardner who is appointed a Commissioner for the purpose, after having given at least twenty days public notice of the time and place of sale and posted a notice of such sale at the Court house door of Southampton County on some Court day previous to said sale, sell to the highest bidder on the premises on a credit of twelve months (except so much as may be necessary to defray the expenses of this decree and said sale, which shall be for cash, and the Court orders that there shall be included a fee of $20 each to the Counsel for plaintiffs and defendants) the land and negroes of which Eley Joyner died seized and possessed. That he take bonds from the purchasers with approved personal security, bearing interest from their date and that he return them to this Court with his report and that he retain the title to the land until the purchase money is paid.

But the said Arrington Gardner shall not proceed to execute this decree until he shall execute bond in the Clerks Office of this Court in the penalty of $5 000. payable to the Commonwealth of Virginia and conditioned for the faithful performance of his trust under this decree

Cost - $5.00 pd

A Copy

L R Edwards

Teste L R Edwards CC

Hundley &c

v Deree

Joyner &c

1860 December 6th

Hundley &c
vs
Bowe &others

This day this cause came on again to be heard on the papers formerly read and was argued by Counsel - On consideration whereof the court doth adjudge order and decree that Arrington Gardner be appointed a special Commissioner to collect the bonds deposited in the Clerks office in this cause (which bonds the clerk of this Court is directed to hand over to him) to wit: bonds vs Wm W Briggs &c for $950 - one vs Jeremiah E Joyner &c for $720 - ~~one vs Jeremiah E Joyner~~ and one vs Charles M Joyner for $1100 - ~~and to collect the money and report to the court. He is directed after he has collected the money, he is directed after paying all expenses of said sale to pay over the balance to the Justices entitled thereto~~ and that the said Arrington Gardner is not to execute this decree until he shall give bond in the Clerks office in the penalty of $4000 - conditioned faithfully to perform his trust under this decree

Handley &
v 3 decm
Joyner &

1861 April Term

Hundley
v 3 decree
Joyner

This cause came on this day to be again heard on the papers formerly read and on the report of Commissioner Arrington Gardner made in pursuance of a decree rendered in this cause at December term 1861, to which report no exceptions have been filed, and the court confirming the same doth adjudge, order and decree that Arrington Gardner Commissioner as aforesaid out of the amount collected by him under the decree of December term last, pay to Margaret Hundley the sum of $758.44, to Jeremiah E. Joyner the sum of $758.44, to Jason and Wm T. Rowe the sum of $758.44, and to Solomon Carr and Jane his formerly Jane Joyner the sum of $758.44; but the said Solomon Carr shall not receive the amount directed to be paid to him under this decree until he shall execute with good security bond in the Clerk's office of this payable to the Commonwealth of Virginia and Court in the penalty of $1000 Conditioned that the said sum of $758.44 Reversion interest directed to be paid to him under this decree shall be paid and forthcoming to Josephine and Jethro Joyner the children of Jethro Joyner at the death of the wife of the said Solomon Carr, who before her intermarriage with him was Jane Joyner.

Hundley &
vs
Joyner & } Decree —

1861 May Term

Hundley &
&
Joyner &c } Decree

This cause this day came on again to be heard on the papers formerly read and was argued by counsel - And it being suggested that the decree entered in this cause at the April term 1861 was erroneous. The court doth adjudge that the same be set aside, and the cause now coming on to be heard on the papers formerly read and on the report of Commissioner Arrington Gardner made in pursuance of a decree entered in this cause at the December term 1861. To which report there is no exceptions, and the court confirming the same doth adjudge order and decree that Arrington Gardner Commissioner as aforesaid out of the amount collected by him under the decree of December term last, pay to Margaret Hundley the sum of $733.44. to Jeremiah E Joyner the sum of $733.44. to Jason & Wm H Rawls the sum of $733.44 and to Solomon Carr and Jane his wife formerly Jane Joyner the sum of $733.44, but the said Solomon Carr shall not receive the amount directed to be paid to him under this decree, until he shall execute bond with good security in the Clerks office of this Court, payable to the Commonwealth of Va in the penalty of $1000.00, conditioned that

That the said sum of $733.44 without interest directed to be paid to him under this decree, shall be paid and forthcoming to Josephine and Jethro Joyner the children of Jethro Joyner at the death of the wife of the said Solomon Carr, who before her intermarriage with him was Jane Joyner

Know all Men by these Presents, That We Arrington Gardner James Hundley

are held firmly bound unto the Commonwealth of Virginia, in the just and full sum of Four thousand Dollars, current money of Virginia, to the payment whereof well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 17 day of December A. D., 18 60.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound Arrington Gardner as Commissioner appointed by a decree of the County Court of Southampton pronounced at December Term 1860 in the suit of Hundley &c against Joyner

shall faithfully discharge the duties of his said office or trust, according to law, then the above obligation to be void or else to remain in full force and virtue.

Signed, Sealed and delivered in the presence of the Court.

Arrington Gardner {SEAL}

James Hundley {SEAL}

{SEAL}

{SEAL}

Know all Men by these Presents, That We Irrington Gardner & Jesse B Vick

are held firmly bound unto the Commonwealth of Virginia, in the just and full sum of Five Thousand Dollars, current money of Virginia, to the payment whereof well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 19 day of Dec A. D., 18 59

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound Irrington Gardner as Commissioner appointed by a decree of the County Court of Southampton County entered at the November Term 1859 in a suit in Chancery therein depending between Margaret Hundley & Edwards Joyner & Elizabeth Peffs & Jason E. & Wm. F. Rowe by P. Peffs

shall faithfully discharge the duties of his said office or trust, according to law, then the above obligation to be void or else to remain in full force and virtue.

Signed, Sealed and delivered in the presence of the Court.

Irrington Gardner {SEAL}

Jesse B Vick {SEAL}

{SEAL}

{SEAL}

December 26th 1859 Recd of Arrington Gardner Comm.
to sell the negroes of Eli Joyner Decd the sum of one
hundred and sixty five dollars for a negro woman
Levisey Esperce to the estate

Jeremiah E Joyner

Hunoley &
v
Rowe & others

In obedience to a decree of the County Court of Southampton County rendered at Nov. term 1859 in the above suit in chancery therein depending, the undersigned appointed a Commissioner for the purpose after giving more than twenty days public notice of the time and place of sale sold on the premises on a credit of twelve months the land and slaves of which Eley Joyner died seized and possessed on the 26th day of December 1859 — The account below will show the purchasers and the amount the land & slaves sold for —

Tract of land bought by	Charles M. Joyner	at	$1215.00
Negro man Lewis	" "	Wm H. Briggs	" $1050.00
" " " Joseph	" "	Jeremiah E. Joyner	" 800.00
Total amount of sale of land & negroes			$3065.00

Expenses

To paid Jeremiah E. Joyner for keeping negro woman Lewis & who was old	$165.00
To Commissions	84.00
" paid Attorney's fee	40.00
" " Clerk's fee	5.00
" " Crier	1.00
	$295.00
Nett amount of sale	$2770.00

Your Commissioner reports that he took bonds from the purchasers with security for the above amount of $2770. which are herewith returned, and retained the titles to the land until the purchase money is paid — Respectfully submitted. A. Gardner Com

Hundley
v
Rowe &c

Report of Commissioner

1860 Oct 6th

1860 December 17 Received & the clerk the within report & filed with
the report.
Commissioner Gardner

Hundley &c
vs
Gaynes &c } Report-

1861 April 15

Handley &c
vs
Joyner

Report

In obedience to a decree of the County Court in this cause made at ~~this~~ December Term 1860, the undersigned Commissioner summoned at the Lands of the Clerk of this Court the several Bonds filed in this cause, and proceeded to collect the same, and reports the following sums as collected. To wit: the amount of one bond & interest vs W W Briggs &c $1023.78, the amount of one bond & interest vs C M Joyner $1170.58, the amount of another vs J E Joyner including costs of suit $777.73, making the whole amount collected $2972.09, and after deducting the costs of suit on the bond vs J E Joyner, and the costs of this decree, the Commissioner reports that the balance in his hands subject to the order of this Court is $2933.76. all of which will more fully appear by the following statement

Amount collected of W W Briggs		$1023.78
" " " C M Joyner		1170.58
" " " J E Joyner		777.73
To paid Atty's fee for suit on J E Joyner's bond	$11.50	11.50
" " Clerk & Sheriff's fees on same	4.33	
" " Attorney	20.00	
" " Clerk's fees	2.50	
Amount now in hand	2933.76	
	$2972.09.	$2972.09

All of which is respectfully submitted
Arrington Gardner Comr

Rec'd of Arrington Gardner Comp'y the sum of
twenty dollars per Account to be paid me, by name
of Nov. Co't of Hamp'shire Co. for services in said
to effect a sale of the Lands & Negros of Eli Grimes dec'd

R. H. Shepley

Eli Joyners

Will.

884

In the Name of God Amen.

I Eli Joyner of the County of Southampton and State of Virginia being old and in feeble health, but of Sound mind and Memory thanks be to God, for the Same. I do now think proper to make this paper writing manner and form as follows.

Item 1st: My Will and desire first is that all my Just debts Shall be paid by my Executor.

Item 2nd: I give and bequeath unto my daughter in Law Jane Joyner Widdow of Jethero Joyner, One fourth part of My Chattle Estate, at my death; to her and her heirs forever. I also ~~loan~~ unto my Daughter in Law Jane Joyner, all my Negroes and Land, during her Single life, at her Marriage, My will and desire is that my Land and Negroes Shall be Sold, and One fourth part of the proceeds of said ~~Sale~~ to be given to my daughter in Law Jane Joyner, Should she die and not Marry, then I wish the Said Negroes and Land to be Sold and one fourth part of the proceeds of ~~the~~ Said Sale to be given to the Children or Child of Jane Joyner, to them and their heirs forever.

Item 3: I give and bequeath unto my daughter Margarett Hendley Wife of Leroy Hendley, One fourth part of my Chattle Estate, at my death and one fourth part of my Negroes and Land at the Marriage or death of my daughter in Law Jane Joyner, to her and her heirs forever.

Item 4th

I give and bequeath unto my daughter Nancy Joyner Wife of Edward Joyner, One fourth part of my Chattle Estate, at my death also One fourth part of the proceeds of Sale of my Negroes and Land, at the Marriage or death of my daughter in Law Jane Joyner, to her and her heirs forever.

Item 5th:

I give and bequeath unto my two Grandsons (Viz) Jason E. and William F. Rogers, One fourth part of my Chattle Estate, at my death, also one fourth part of the proceeds of Sale, of my Land and Negroes, at the marriage or death of my daughter in Law Jane Joyner: to them and their heirs forever.

Lastly I do hereby nominate Constitute and appoint my Son in law Leroy Handley my whole and Sole Executor, to this my last will and Testament, Thereby revoking all other Wills heretofore made by me, in Witness whereof I the said Eli Joyner have hereunto set my hand and affixed my Seal this twenty fourth day of July 1855.

Eli Joyner (Seal)

Signed, Sealed and delivered
in the presence of
Jeremiah Joyner
Josephus Turner
Irvin Griffin

At a Court held for the County of Southampton on the 4th day of May 1859

Jane Joyner — Plaintiff

against

Jason E and W. R. Rowe Josephus Joyner & Isethro Joyner infants by L. R. Edwards their guardian ad litem and Margaret Handley and Edward Joyner and Nancy his wife — Defendants

Writ of motion to admit a writing bearing date the 24th day of July 1855 purporting to be the last will and Testament of Eli Joyner dec'd to probat.

This day came the parties by their attorneys and thereupon came a jury to wit. James Cook, Wm. I. Cobb, John Beckon, James F. Jones, George W. Lawrence, Mansfield Hines, Wm. H. Nicholson, Jarlton W. Scott, Westley Broadshaw Isethro Charles, Coleman Hines, and Jos W. Hart, who being elected by lot, tried and Sworn the truth to speak upon the issue made up in this Cause at the May term 1856 of this Court. to wit, whether or no, the said Eli Joyner died testate or intestate, and whether the paper writing bearing date the 24th day of July 1855, purporting to be the last will and testament of said Joyner, be the last will and Testament of the said Eli Joyner, upon their oath returned a Verdict in the following, words and figures. "We the Jury find that the testator Eli Joyner died testate and that the paper writing bearing date the 24th July 1855 purporting to be the last will and Testament of the said Eli Joyner, is the last will and testament of the said Eli Joyner."

Whereupon it is Considered by the Court that the said paper Writing bearing date the 24th day of July 1855 be established and the same is Ordered to be recorded as the true last will and Testament of the said Eli Joyner dec'd, and by Consent of parties it is ordered that the propounder Jane Joyner and the Contestants each pay their own Costs.

And Consent of parties the paper Marked A, filed in the Case and in the following words and figures. "Whereas a Suit is now pending in the Circuit Court of Southampton County with regard to the probat of the will of Eli Joyner dec'd in which Jane Joyner is the propounder and Margaret Handley, Edward Joyner, and Nancy his wife & Jason E & Wm R. Rowe grand Children of the testator are Contestants. And whereas the parties being desirous of ending said Controversy being members of the same family and to save further Costs of litigation &c have by and through the undersigned their several Counsel Settled and compromised the said Controversy upon the following terms and Conditions. Viz. First that the jury by the advice of and Consent of said Counsel shall declare the said paper writing" bearing date 24th July 1855 to be the last ~~will~~ and testament of Eli Joyner dec'd 2d that the said Jane Joyner shall receive from the representative of the said Eli Joyner dec'd the Sum of three hundred and twenty dollars out of the ~~hires and~~ rents of Negroes and lands of said deceased in lieu of her life interest in said Negroes and land, and that the said land and negroes be Sold as Soon as may be Convenient and the proceeds of Same be divided into four parts, one of which parts shall be allotted to Jane Joyner during her life, and at her death to the Children of Isethro Joyner: One part thereof to be allotted to Margaret Handley, One part to Edward Joyner and Nancy his wife, and the ~~other part~~ remaining part to Jason E and Wm R. Rowe. And the Chattle estate money ~~&c &c~~ be divided also into four parts, one of which parts will be paid over to Jane Joyner, One part to Margaret Handley, One part to Edward Joyner, and Nancy his wife and the remaining part to Jason E & Wm R. Rowe. And as to the Costs of the said Suit it is further agreed that the said propounder Jane Joyner shall pay her Costs, and the Contestants their Costs, and this shall be entered of record and be forever binding on the parties. Witness our hands and Seals this 4th day of May 1859.

Robt N. Whitfield Counsel for Jane Joyner and Children of Isethro Joyner. Wm W. Cobb & E. W. Maspenburg Counsel for Margaret Handley

and Others Contestants," is Ordered to be Spread upon the record in this Case".

And Levi Hundley the Executor named in the said last Will and Testament being dead, on the Motion of Irvington Gardner who made Oath and together with John W. Davis and Jeremiah E. Joyner his Securities, (who justified on Oath as to their Sufficiency) entered into and acknowledged a bond in the penalty of ten Thousand Dollars, Conditioned according to law, Certificate is granted the said Irvington Gardner for obtaining letters of administration on the said decedents Estate, With his will aforesaid annexed in due forme.

Teste

L. R. Edwards Clk

A Copy

Teste. L R Edwards Clk

Know all men by these presents that we Solomon Carr, Hardwick F. Powell of Isle of Wight County
are held and firmly bound unto the Commonwealth of Virginia in the just and
full sum of One thousand dollars to the payment whereof well and truly to be made
we bind ourselves our heirs Executors and administrators jointly and severally
firmly by these presents. Sealed with our seals and dated this 20 day of
May 1861

The Condition of the above obligation is such that whereas in a suit in
Chancery depending in the County Court of Northumpton County between Margaret
Hundley and Edwards Joyner and Nancy his wife plaintiffs and Jason E.
and Wm F. Rowe &c. Defendants it was on the 20th day of May —
1861 adjudged, ordered and decreed among other things that Arrington
Gardner Commissioner &c. out of the amount collected by him under the decree
of December Term last pay to Solomon Carr and Jane his wife formerly Jane
Joyner the sum of Seven hundred Thirty three dollars forty four cents.
But that the said Solomon Carr should not receive the amount directed
to be paid to him under that said decree until he should execute bond
with good security in the Clerks Office of the said Court in the penalty of
One thousand dollars conditioned that the said sum of Seven hundred
Thirty three dollars forty four cents. without interest directed to be paid him
under the said decree shall be paid and forthcoming to Josephine & Jethro
Joyner the children of Jethro Joyner at the death of the wife of the said Solomon
Carr, who before her marriage with him was Jane Joyner. Now if the said
Solomon Carr shall have the said sum of Seven hundred and thirty three
dollars forty four cents ——— paid and forthcoming to Josephine
& Jethro Joyner the children of Jethro Joyner at the death of the wife of the
said Solomon Carr who before her intermarriage with him was Jane Joyner
then the above obligation to be void or else to remain in full force and virtue.

Solomon his Carr mark (Seal)

Hardwick F. her Powell mark (Seal)

Teste

Josiah P. Gay

Southampton County Clerks Office May 20. 1861

This bond was acknowledged by the obligor therein before me in my Office. And Martindell F. Powell the security therein made oath that his estate after the payment of all his just debts is worth the sum of One thousand dollars the penalty of the within bond.

LR Edwards Clk