

1872-156

SOUTHAMPTON COUNTY
CHANCERY PAPERS

HILL et al vs. WHITFIELD et al

7/1872

other surnames: Bryant,
Bernhart

Still

to } Stat. Rules

Whitfield. H

In Southampton County Court.

Samuel W. Hill & Henry S. Hill

against
George W. Whitfield, Richard S. Bryant & Morris Bernhart.

1871. Aug 2^d Summons issued

" " Rules Summons Ret^d Executed on Whitfield & Bryant. Bernhart not a resident. Bill filed. D. Wise v. Dfts Whitfield & Bryant.

" Sept. R. Bill taken for confessed as to Dfts. Whitfield & Bryant.

" " Ct. Leave to Dfts Whitfield & Bryant to answer within 30 days.

1872 July - Dismissed

61K

sh

Law

$$\begin{array}{r} 343 \\ \hline 76 \\ 419 \\ 100 \\ 16.00 \\ \hline // 21.19 \end{array}$$

Killy p. v
Same. w. Hill &

n } Bice
George Whitfield Tal:

1871 Aug. Rules

Smith Co. Ct.

+ Hice became twenty one year of age and then
in one half thereof Dec 27 Oct. 1869 when the said
Henry L. Hice became twenty one year of age.

To the Hon. J. W. Urquhart, Judge of the County
Court of Southampton - Virginia

Complaining shew unto the Court your.

Complainants Samue W. Hice and Henry L.
Hice -

Your Complainants respectfully rep-
resent to the Court and say, That one Everett J.
Hice, on the 15th day of March 1858, executed his
Bond to James Barnes, guardian of the orphans of Henry
H. Hice dec'd., for Four hundred and fifty two
dollars and eighty one cents, with Mason Hice
his security - That the said Bond has been paid
over to your Complainants, who were orphans of said
Henry H. Hice dec'd. who are now over twenty one
years of age, in settlement of the Balance due
them by their late guardian, on which Bond the
Interest should be compounded Dec 4th 1868, when said Samue W. +

That the said Everett J. Hice, in
order to secure the said Debt and others, executed
a Deed of Trust on the 12th day of June 1866
to Richard L. Bryant, the Trustee therein named,
conveying real estate -

That the said Richard L. Bryant as Trustee
as aforesaid, sold the Land of said Everett J.
Hice, under the authority of said Deed of Trust
and the said Land was purchased by one
Morris Bernhart, and for the purchase
money he the said Morris Bernhart paid
to said Richard L. Bryant, in cash, three
hundred dollars and executed two Bonds,

each for \$600; payable on their face "to Richard L. Bryant, Trustee to a Deed of Trust from Everett J. Hice recorded in the Clerk's office of the County Court of Southampton County Va. on the 12th day of June A.D. 1866" —

That one of said Bonds of \$600. executed by said Morris Bernhart, dated the 11th day of April 1870 & payable 1st day of January 1872 has been paid over to your Complainants in part payment of the said sum of \$452.81 due them by said E. J. Hice, leaving still due them by said Hice, and out of the sale of said Land the sum of \$132.15. as will appear by the statement filed herewith marked "A" with interest thereon from the 12th June 1866 till paid.

That the Bonds aforesaid, as executed by said Morris Bernhart, gave notice on their face that they were held by said Richard L. Bryant as Trustee as aforesaid, & not in his individual right —

That the said Richard L. Bryant in payment of his own debts ~~in payment~~, paid one of said Bonds of \$600, of said Morris Bernhart, to one George Whitfield, who now holds the same or did so hold the same up to a few days since — which said Bond of \$600. thus executed by Morris Bernhart to said Richard L. Bryant Trustee as aforesaid, & taken by said

George^W Whitfield, was taken by said Whitfield with notice that the same was not the property of said Richard L. Bryant, but was held by him for the Trust fund aforesaid and therefore the said payment and transfer of said Bond of \$600. of said Morris Bernhart to said Whitfield is, as to your Complainants null and void, and that the said Bond should be made liable to pay your Complainants their said demand, should be surrendered by the said Whitfield for that purpose which your Complainants pray may be done.

In consideration whereof and as this Court has jurisdiction to grant all adequate relief - And the said your Complainants pray that the said George^W Whitfield, Richard L. Bryant and Morris Bernhart may be made defendants hereto, and answer all the allegations herein on oath, and particularly that the said George^W Whitfield may answer, say whether the Bond of \$600 of Morris Bernhart aforesaid was received by him of said Richard L. Bryant & for what consideration, whether the said Bond is now in his possession or not or where the same is - That the said Richard L. Bryant Trustee as aforesaid may say whether he paid the said Bond of \$600 of Morris Bernhart to said George Whitfield & for what consideration,

and that he may be required to render
an account of his transactions as trustee
under the deed of Trust executed by
said Estate J. Hice aforesaid -

That said Morris Bernhart may not
pay the said Bond of \$600, thus paid
over to said Genl. Whitfield, unless so
ordered by this Court; and that all further
relief may be granted consistent with
equity &c.

Saml. W. Hice &
Henry L. Hice by

John R. Kilby, their atts.

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—GREETING:

We command you to summon

*George^W Whitfield, Richard L Bryant & Morris
Burnhart.*

if *they* be found within your bailiwick, to appear ^{*at the clerks Office*} before the ~~Judge~~ of our *County* —
Court of Southampton County, at the ^{*Rules to be holden for said Court*} ~~Court house~~, on the first ~~day of~~ *Monday in August* — ~~term~~
Instant — to answer a bill in chancery exhibited against them in our said Court by
Samuel W Still & Henry L Still

And have then there this writ. Witness, OSWIN WHITE, Clerk of our said Court, at the Court-
House, this *2^d* day of *August* 187*1*, in the *96th* year of the Com-
monwealth.

O. White cl

Executed by clerks George
Whitfield & Rich^d E Bryant a
copy of this summons on the 5th
day of August 1851. Over Bornstant
is now a resident of the county R. M. Barnes by for
W. W. Briggs shff

all W

to { Sum. Chy

Whitfield & B^y

1851 August 18th

Hill

No } D Trust

Hills Trust

filed as cr.
Filed with plffs bill.

Whereas Everett T. Hill did on the 15th day of March 1858 execute his bond to James Barnes Guardian for the orphans of Henry T. Hill for the payment of four hundred fifty two dollars & 81 cents due one day after date which bond at the request of him the said E. T. Hill Mason Hill became also bound for the payment of said sum of four hundred fifty two dollars & 81 cents by executing the said bond as surety for the said E. T. Hill, and also at a previous date of one or more year, the said Mason Hill at the request of him the said E. T. Hill became his surety to a bond at this time held and owned by Robert T. Barnes Guardian for Juliet Norrell and amounting to about three hundred dollars & also at a prior date at the request of said E. T. Hill the said Mason Hill became surety for the said E. T. Hill to a bond of about one hundred & three dollars payable to & owned by Benjamin Norrell. And Whereas the said E. T. Hill now desires to indemnify & save harmless the heirs to the estate of the said Mason Hill by his last Will & from all damage in consequence of her said Mason Hill having become so bound as surety of the said E. T. Hill. Now therefore this deed made this 16 day of May 1866, between the said E. T. Hill of the County of Southampton, State of Va. of the first part & Alexander Britt of Hertford County N.C. of the second part and James Barnes Executor to the last Will & of the said Mason Hill of the third part Witnesses, that the said E. T. Hill in consideration of the sum of one dollar to him paid by the said Alex. Britt, the receipt whereof is hereby acknowledged, and for the further consideration of the trust herein after set forth, has given, granted, bargained & sold & does by these presents give, grant, bargain, sell and convey with general warranty unto the said Alex. Britt his heirs and assigns, all that tract or parcel of land lying and being in the County of Southampton, State of Va. whereon the said E. T. Hill now lives and bounded by the lands belonging to the heirs of Henry Cook dec^d and the lands of Newet Johnson & others, containing three hundred and forty acres more or less, together with all and singular the rights, privileges improvements & appurtenances thereunto belonging. In trust for the following uses & purposes & none other - And also for the same use & purpose I convey to him the said Alex. Britt in trust my ^{present} growing crop of all kinds, One bay horse, five head of cattle, twenty five head of hogs & there increase, Cart & Wheels, farming utensils & all my interest in a debt due me from Louis Vick after payin for the land. In trust Nevertheless for the following use & purpose, & none other, that is to say, if the said E. T. Hill has Executors or Adm^r. shall at any time after a demand is made for either or all the ~~the~~ aforesaid bonds as specified in this trust shall

sale or refuse to pay the same so that payment thereof shall be required of the said James Barnes Executor of Mason Hill by the aforesaid creditors then so soon after such demand of payment shall be made as the said James Barnes Exr. shall require him the said Alex. Brett Trustee to do, he the said Alex. Brett shall proceed to sell upon the premises to the highest bidder for cash or otherwise all the property hereto conveyed after giving ten days notice in the County or Parish where the land lies and out of the proceeds of such sale he shall pay all the costs and charges attending the execution of this trust, then pay the ~~whole~~ entire amount that may then be due on any one or all three of the aforesaid bonds and if the said James Barnes Executor shall then have paid of the said sum or any part thereof on the bond or bonds above named in that event the said Alex. Brett out of the proceeds of the said sale shall pay to the said James Barnes Exr. all such sum or sums of money as he shall have paid in discharge of the said bond or bonds that he may have paid in consequence of Mason Hill having become so bound on the bonds aforesaid as surety of the said E. T. Hill & all balances if any he shall pay to the said E. T. Hill, his heirs executors or assigns -
On Witness whereof the parties to this deed have herunto set their hands and affixed their seals this 16th day of May 1866.

E. T. Hill (Seal)

James Barnes Exr. of } (Seal)
Mason Hill }

Southampton County, Virginia.

This day E. T. Hill and James Barnes personally appeared before me Edward Beaton one of the Justices of the Peace of said County and acknowledged this to be their act and deed - Given under my hand and Seal this 3rd day of June 1866

Edward Beaton JP (Seal)

Southampton County In the Clerks Office the 12th day of June 1866.
This Deed of Trust between E. T. Hill of the first part Alexander Brett of the second part & James Barnes Exr. of Mason Hill of the third part was received in this Office and with the certificate thereto annexed of the acknowledgment of the said Hill & Barnes before a Justice of the Peace admitted to record a stamp of the internal revenue of the United States of the amount of One dollar being affixed thereto to the said deed -

Teste E. R. Edwards Clk

At a Court held for the County of Southampton on the 21st December 1868
On the motion of James Barnes Richard L. Bryant is appointed trustee in the stead of Alexander Brett, who has since died, in a deed of trust executed by E. T. Hill on 16th May 1866. and recorded in the Clerks Office of Southampton County Court.

A Copy
Teste, O. White Clk

"A"

Filed with Bill
of Hill &c.
n

Bryant &c.

Bond of Emily J. Hill & Mason Hill
Int. from 16 March 1858 to 12 June 1866
"Compounded" — 8 years 2 m. 26 days

cr. by Morris Bernhardt's Bond

Int. from 12 June 1866 —————

~~452. 81~~

{ 279. 64

~~732. 15~~

600. 00

~~132. 15~~

Hill 10.

in } Co. bill W^p

Whitfield 10

To the Hon. J W Ughart, Judge of the County Court of Southampton
Virginia.

Complaining Sheweth unto your Court your Complainants
Samuel W Hill and Henry G Hill — Your complainants respectfully represent
to the Court and say that one Everett T Hill, on the 15th day of March 1858
executed his bond to James Barnes, guardian of the orphans of Henry W Hill dec^d
for four hundred and fifty two dollars and eighty one cents, with Mason Hill
his Security — That the said bond has been paid over to your Complainants, who
were orphans of the said Henry W Hill dec^d, who are now twenty one years of
age, in settlement of the balance due them by their late guardian — on which
bond the interest should be compounded till 4th April 1868, when said Sam^l
W Hill became twenty one years of age and then on one half thereof till 27th
Oct^r 1869 when the said Henry G Hill became twenty one years of age —
That the said Everett T Hill, in order to secure the said debt and others
executed a deed of trust on the 12th day of June 1866 to Richard L Bryant,
the trustee therein named conveying real estate —
That the said Richard L Bryant as trustee as aforesaid sold the land of the said
Everett T Hill under and by authority of said Deed of Trust and the said land
was purchased by one Morris Bernhart, and for the purchase money he the
said Morris Bernhart paid the said Richard L Bryant in cash, three
hundred dollars and executed two bonds each for \$600. payable on their
face "to Richard L Bryant trustee, to a Deed of Trust from Everett T Hill
recorded in the Clerk's Office of the County Court of Southampton County Va.
on the 12th day of June A D 1866" —

That one of said bonds of \$600 executed by said Morris Bernhart,
dated the 11th day of 1870 & payable 1st day of January 1872, has been paid
over to your Complainants in part payment of said sum of \$452.81 due them
by said E. T. Hill, leaving still due them by said Hill, and out of the sales
of said land the sum of \$132.15 as will appear by the statement filed herewith
Marked 'A' with interest thereon from the 12th day of June 1866 till paid —

That the bonds aforesaid, as executed by said Morris Bernhart gave notice on
their face that they were held by said Richard L Bryant as Trustee as

assigned and not in his individual right.

That the said Richard L Bryant in payment of his own debts paid one of said bonds of \$600 of said Morris Bernhart to one George W Whitfield who now holds the same or did so hold the same up to a few days since - which said bond of \$600 thus issued by Morris Bernhart to said Richard L Bryant Trustee as aforesaid & taken by said George W Whitfield, was taken by said Whitfield with notice that the same was not the property of Richard L Bryant, but was held by him for the trustee fund aforesaid and therefore the said payment and transfer of said bond of \$600 of said Morris Bernhart to said Whitfield is, as to your Complainants null & void, and that the said bond should be made liable to pay your Complainants their said demand & should be surrendered by the said Whitfield for that purpose & which your Complainants pray may be done.

In Consideration whereof and as this Court has jurisdiction to grant all adequate relief - To the end your Complainants pray that the said George W Whitfield, Richard L Bryant and Morris Bernhart may be made defendants hereto and answer all the allegations herein on oath, and particularly that the said George W Whitfield may answer & say whether the bond of \$600 of Morris Bernhart aforesaid was received by him of said Richard L Bryant & for what consideration, & whether the said bond is now in his possession or not or where the same is.

That the said Richard L Bryant Trustee as aforesaid may say whether he paid the said bond of \$600 of Morris Bernhart to said George Whitfield for what consideration and that he may be required to render an account of his Transactions as Trustee under the deed of Trust executed by said Everett T Hill aforesaid.

That said Morris Bernhart may not pay the said Bond of \$600, thus paid over to George W Whitfield, unless so ordered by this Court. And that all further relief may be granted consistent with equity & of

Samuel H Hill &
Henry S Hill by
John R Kilby their Attorney.

Exhibit "A"

Bond of Everett T Hill & Mason Hill

\$452.81

Dated from 16 March 1858 to 12 June 1866 "Compounded"

8 years 2 M 26 days

\$ 279.64

\$ 732.15

By Morris Bernhart's bond

600.00

132.15

Dated from 12 June 1866.

A Copy -
Teste,
O. White Clk

Hill's

to { copy bill &c

Bryant &c

To the Hon. J. W. Ughhart Judge of the County Court of Southampton
Virginia.

Complaining Shew unto the Court your Complainers Samuel W Hill
and Henry L Hill Your complainants respectfully represent to the Court and
say that one Everett I Hill on the 15th day of March 1858 executed his bond to James
Barnes guardian of the orphans of Henry A Hill dec^d for four hundred and fifty two dollars
and eighty one cents with Mason Hill his security. That the said bond has been paid over to
your Complainers, who were orphans of said Henry A Hill dec^d & who are now over twenty one
years of age in settlement of the balance due them by their late guardian on which bond
the interest should be compounded till 1st April 1868, when said Saml W Hill became
twenty one years of age, and then ^{on} one half thereof till 27th Oct. 1869, when the said
Henry L Hill became twenty one years of age.

That the said Everett I Hill in order to secure the said Debt and others, executed a
Deed of trust on the 12th day of June 1866 to Richard L Bryant the trustee therein
named, conveying real estate. That the said Richard L Bryant as trustee as
aforesaid sold the land of the said Everett I Hill under and by authority of said
Deed of trust and the said land was purchased by one Morris Bernhart, and for
the purchase money to the said Morris Bernhart paid to said Richard L Bryant
in cash three hundred dollars and executed two bonds each for \$600. payable on
their face to Richard L Bryant trustee to a Deed of trust from Everett I Hill
recorded in the Clerk's Office of the County Court of Southampton County Va. on the
12 day of June A D 1866.

That one of said bonds of \$600. executed by said Morris Bernhart,
dated the 11th day of April 1870 payable 1st day of January 1872 has been paid
over to your Complainers in part payment of the said sum of \$452.31 due them
by said E. I Hill leaving still due them by said Hill, and out of the sales of said
land the sum of \$132.15 as will appear by the statement filed herewith marked "A"
with interest thereon from the 12th June 1866, till paid.

That the bonds aforesaid, as executed by said Morris Bernhart, gave notice on
their face that they were held by said Richard L Bryant as trustee as aforesaid
and not in his individual right.

That said Richard L Bryant in payment of his own debts, paid one of said

bonds of \$600. of said Morris Bernhart to one George W Whitfield who now holds the same or did so hold the same up to a few days since which said bond of \$600 thus executed by Morris Bernhart to said Richard D Bryant Trustee as aforesaid, & taken by said George W Whitfield with notice that the same was not the property of said Richard D Bryant but was held by him for the trust fund aforesaid and therefore the said payment and transfer of said bond of \$600. of said Morris Bernhart to said Whitfield is, as to your Complainants null & void, and that the said bond should be made liable to pay your Complainants their said demand, should be surrendered by the said Whitfield for that purpose & which your Complainants pray may be done -

In Consideration whereof and as this Court has jurisdiction to grant all adequate relief To the end your Complainants pray that the said George W Whitfield Richard D Bryant and Morris Bernhart may be made defendants hereto and answer all the allegations herein on oath and particularly that the said George W Whitfield may answer and say whether the bond of \$600. of Morris Bernhart aforesaid was received by him of said Richard D Bryant for what consideration & whether the said bond is now in his possession or not or where the same is. That the said Richard D Bryant Trustee as aforesaid may say whether he paid the said bond of \$600. of Morris Bernhart to said George Whitfield for what consideration and that he may be required to render an account of his transactions as trustee under the deed of trust executed by said Everett T Hill aforesaid That said Morris Bernhart may not pay the said bond of \$600. thus paid over to said George W Whitfield unless so ordered by this Court; and that all further relief may be granted consistent with equity &c.

Sam^r W. Hill &
Henry E Hill by
John R Kelly their Attor.

Whereas Everett T Hill did on the 5th day of March 1858 execute his bond to James Barnes Guardian for the orphans of Henry T Hill for the payment of four hundred fifty two dollars & 81 cents due one day after date which bond at the request of him the said E T Hill Mason Hill became also bound for the payment of said sum of four hundred fifty two dollars & 81 cents by executing the said bond as surety for the said E T Hill, and also at a previous date of one or more years the said Mason Hill at the request of him the said E T Hill became his surety to a bond at this time held and owned by Robert E

Barnes Guardian to Juliet Worrell and amounting to about three hundred dollars, and also at a prior date at the request of said E T Hill the said Mason Hill became surety for the said E T Hill to a bond of about one hundred & three dollars payable to & owned by Benjamin Worrell. And whereas the said E T Hill now desires to indemnify & save harmless the heirs to the estate of the said Mason Hill by his last Will &c from all damages in consequence of her said Mason Hill having become so bound as surety of the said E T Hill. Now therefore this deed made this 16th day of May 1866, between the said E T Hill of the County of Southampton State of Va of the first part & Alexander Britt of Hertford County N.C. of the second part and James Barnes Executor to the last Will &c of the said Mason of the third part Witnesses, that the said E T Hill in consideration of the sum of One dollar to him paid by the said Alex Britt, the receipt whereof is hereby acknowledged and for the further consideration of the trust herein after set forth, has given, granted, bargained & sold & does by these presents give grant, bargain, sell and convey with general Warranty unto the said Alex Britt, his heirs and assigns, all that tract or parcel of land lying and being in the County of Southampton, State of Va wherein the said E T Hill now lives and bounded by the lands belonging to the heirs of Henry Cook dec^d and the lands of Nott Johnson & others containing three hundred and forty acres more or less together with all and singular the rights, privileges, improvements & appurtenances therunto belonging. In trust for the following purposes & none other - And also for the same use & purpose I convey to him the said Alex Britt in trust my present growing crop of all kinds. One bay horse, five head of Cattle, twenty five head of hogs & there increase. Cart & Wheels, farming utensils & all my interest in a debt due me from Louis Vick after paying for the land. In trust Nevertheless & for the following use and purpose & none other, that is to say, if the said E T Hill his Executors or Adm^r shall at any time after a demand is made for either or all the aforesaid bonds as specified in this trust shall fail or refuse to pay the same, so that payment thereof shall be required of the said James Barnes Executor of Mason Hill by the aforesaid Creditors then & soon after such default demand of payment shall be made as the said James Barnes Ex^r shall require him the said Alex Britt Trustee to do, he the said Alex Britt shall proceed to sell upon the premises to the highest bidder for Cash or otherwise all the property herein

conveyed after giving ten days notice in the County or Parish where the land lies and out of the proceeds of such Sale he shall pay all the Costs and Charges attending the execution of this trust, then pay the entire amount that may then be due on any one or all three of the aforesaid bonds, and if the said James Barnes Executor shall then have paid off the said sum or any part thereof on the bond or bonds above named, in that event the said Alex Britt, out of the proceeds of the said Sale shall pay to the said James Barnes Exor. all such sum or sums of money as he shall have paid in discharge of the said bond or bonds that he may have paid in consequence of Mason Hill having become so bound in the bonds aforesaid as Surety of the said E. J. Hill, & all balance, if any, he shall pay to the said E. J. Hill, his heirs, executors or assigns.

In Whereof the parties to this Deed have herunto set their hands and affixed these Seals this 16th day of May 1866

E. J. Hill (Seal)

James Barnes Exor. of (Seal)
Mason Hill }

Southampton County, Virginia

This day E. J. Hill and James Barnes personally appeared before me Edward Beaton one of the Justices of the Peace of said County and acknowledged this to be their act and deed. Given under my hand Seal this 3rd day of June 1866.

Edward Beaton J.P. (Seal)

Southampton County In the Clerks Office the 12th day of June 1866. This deed of trust between E. J. Hill of the first part Alexander Britt of the second part and James Barnes Exor. of Mason Hill of the third part was received in the Office and with the certificate thereto annexed of the acknowledgement of the said Hill & Barnes before a Justice of the Peace admitted to Record, a Stamp of the Internal Revenue of the United States of the amount of one dollar being affixed to the said deed

Teste L. R. Edwards Clk

At a Court held for the County of Southampton on the 21st December
1868

On the motion of James Barnes, Richard L Bryant is appointed
trustee in the Head of Alexander Brett who has since died, in a deed of trust
executed by E J Hill on 16th May 1866 and recorded in the Clerk's Office of
Southampton County Court.

A. C. J. J.

Jesté. O. White Cb

Board of Everett J Hill & Mason Hill

Int. from 16th March 1868 to 12th June 1866

"Compounded" 8 years. 2 Mo. 26 days.

& By Morris Bentharts bond

Int from 12th June 1866

£ 452. 81

} 279. 64

£ 732. 15

600. 00

£ 132. 15

Copies,

Jesté. O. White Cb