

1898-03

Southampton County Chancery.

Barnes, Thomas H. et al vs Smith's Legatee^{et al}

Plaintiffs want direction as to
how to execute will, since several
defendants live overseas in Germany.

Pretlow, Samuel B. (Executor)

Town of Franklin

Valter, Ann

Peller, Theresia

Unverdorban, Magdalin

Smith's Executors.
vs. Bill & Ex.

Smith's Legatus.

1897 1st. Mary Ruler Fred

L. A. Gay, L. G.

have been

Prize McMahon

To, the Honorable Robert R. Prentiss, Judge of the Circuit Court of Southampton County.

Complaining, your Orators, Thomas H. Barnes and Samuel B. Pretlow, Executors of the last will and testament of Charles Smith, deceased, showeth unto the Court the following case: That at the July term of the County Court 1896, for the said County, they qualified as executors of the said last will and testament of the said Charles Smith deceased, which will or a copy thereof, together with the order of probate and qualification is filed herewith as apart of this bill, marked "A2"

That some portions of the said will are not, in their meaning, entirely clear to your Orators, and especially that portion constituting the Seventh clause thereof, which reads as follows: I give to the town or Corporation of Franklin five hundred dollars, in trust, and I hereby direct that the interest on the same be used for the benefit of the poor of said town or corporation.

Your Complainants are unadvised as to the true intent and meaning of the said last mentioned clause, not only as to the parties to whom the same should be paid, but especially as to the object of the bequest, and the legality of the same, and whether it is of that definite nature which will justify you Complainants in paying the same, and therefore, as is their right, have sought to be directed by this honorable Court as to the proper course to pursue.

Your Orators would also state that the residuary legatees in the said will, are residents of Germany, and they would like to be instructed and directed as to whom they shall pay these shares of the estate to, and what kind of procedure they shall adopt in the premises. The said distributees being Ann Valter, Theresia Peller and Magdalin Unverdorhan.

In tender consideration whereof, and for as much as your

your complainants are without adequate remedy, save in a Court of equity, they pray that Town of Franklin, a Corporation, Ann Valter, Theresia Peller and Magdelin Unverdorban, the three last named natural persons being residents of the Empire of Germany, may be made parties defendants to this bill, and required to answer the same; that the will of the said decedent, Charles Smith, may be construed and its legal effect be ascertained; that your Complainants may be directed in the execution of the said will, and especially as to the Seventh clause thereof; that all such enquiries may be made, decrees and orders entered, and such further general and special relief granted as the nature of the case may require or to equity may seem meet. Notice is hereby given that the Court will be asked to allow a reasonable fee to plaintiff's Counsel conducting this cause. And your Complainants will ever pray &c. May it please the Court.

Prince & Moore
Counsel for Plaintiff

Ernest M. Johnson Esq.

Executed April 19th 1897
by delivering a copy of
this document to the
Borough of Mayor of the
Town of Franklin
Jas. J. Williams
Mayor

1897. 1st May Term
J. J. Williams

James C. Williams
J. J. Williams
J. J. Williams

Smiths Executors

vs.

Town of Franklin et al.

In ch.

1897. 1st May Rules

dis. let.

Executed April 19th 1897
by delivering a copy of
this summons to the
Vaughan Jr. Mayor of the
Town of Franklin.

J. W. Williams
Sheriff

Primer & M. L. Moore p. y.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON

Loison of Franklin a Corporation.
V. Walter, Theresia Peck and Magdalen Howardson.

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for the said Court on the *1st* Monday in *May* next, to answer a Bill in Chancery exhibited against *them* in our said Court by *Thomas H. Barnes Esq. Samuel B. Foulow Executors of Charles Smith deceased.*

And this *they* shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, *L. A. Gay* T. M. HOWARD, Clerk of our said Court, at the Courthouse, this *12th* day of

April, 1897, in the *17th* year of the Commonwealth.

TESTE:

L. A. Gay, C. C.

Smiths Executors
vs. } Or. publication.
Town of Franklin et al.

1897. April 12th Filed
L. A. King G. G.

Filed, Saturday April 12th
1897, before C. S. Court.

Virginia:

In the Clerk's Office of the Circuit Court of Southampton County, April 12th. 1897.

Thomas H. Bamez and Samuel B. Pulleton
Executors of Charles Smith dec'd

Plaintiffs

versus.

Town of Franklin a Corporation, Ann
Vatter & Theresia Peller & Magdalen
Unversdorban

Defendants

In Chancery

The object of this suit is to have the Will of the late Charles Smith dec'd, construed, and especially that clause therein which reads as follows: "Seventhly, I give to the Town or Corporation of Franklin five hundred dollars, in trust, and I hereby direct that the interest on the same be used for the benefit of the poor of said Town or Corporation" And affidavit having been made and filed that Ann Vatter & Theresia Peller & Magdalen Unversdorban three of the defendants to this suit, are now residents of this Commonwealth, the said Ann Vatter & Theresia Peller & Magdalen Unversdorban are required to appear within fifteen days after due publication of this order, in the Clerk's Office of our said Court at rules to be had therefor and do what is necessary to protect their interest, and it is ordered that a copy of this order be forthwith published once a week for four successive weeks, in the ^{Water} Beach, Banner, a news paper printed and published in the town of Franklin, County of Southampton Va, and be posted as the law directs, Pinner & McCombs P.T. Test: L. A. Carr C. C.

Weekly
One Year, \$1.00.

—OFFICE OF—

R. I. LEARY,

—Publisher of—

Weekly
Six Months, 50c.

THE **BLACKWATER COURIER,**

Lock-Box No. 42.

FRANKLIN, VA.

Office: Main St.

—{ THE COURIER is the cheapest and best advertising medium in the State of Virginia. }—

Franklin, Va., *May*.....7th.....1897

Mr L. G. Gay

When due, please
collect the enclosed bill, & pay
to Mrs W. K. Schell of Gustland
three dollars & seventy five cents
of the amount, and oblige
your friend.

Yours truly,

R. I. Leary,

\$37⁵/₁₀₀ for Mrs Schell

MONTHLY STATEMENT.

Franklin, Va., May 19th 1897

M. Price & McLean P.O.

Courtland. Va.

To BLACKWATER COURIER Dr.,

R. I. LEARY, Pub.

Main Street, Franklin, Virginia.

BILL WHEN PRESENTED IS DUE.

Weekly
Six Months. 50c.

COURIER,

Office: Main St.

the State of Virginia. }—

May 19th 1897

1897

TO ADVERTIZING:

DAYS

MONTHS

YEAR

LOCAL

READER

DISPLAY

Cart Notice

\$4.00

This is correct will
Mr. Pettow please pay
Price of Lemon P.P.

An examination of the above is solicited at your earliest convenience. If found to be correct please remit in settlement by Money Order or Check.

is to certify that

notice hereto

and. has been

ished in the

newspaper in a

paper

ished in

since. to for

succession

in.

Leary Pub.

in. at for Simpston Co. Tenn.

of the foregoing order

Court-house on Saturday
Rand County

preceding the 1st day of the April Term of the County Court for
Given under my hand this 4th day of May 1897.
L. A. Day C. C.

Weekly
Six Months, 50c.

THE BLACKWATER COURIER,

Lock-Box No. 42.

FRANKLIN, VA.

Office: Main St.

— THE COURIER is the cheapest and best advertising medium in the State of Virginia. —

Franklin, Va., May 19th 1897

IN CHANCERY
The object of this suit is to have the will of the late Charles Smith, deceased, construed, and especially that clause therein which reads as follows: "Seventy-five I give to the town or corporation of Franklin five hundred dollars, in trust, and I hereby direct that the interest on the same be used for the benefit of the poor of said town or corporation."

And affidavit having been made and filed that Ann Valtor and Theresia Peller and Magdalena Unverdorban, three of the defendants in this suit, are and each of them is a resident of the County of Southampton, Virginia, the said Ann Valtor and Theresia Peller and Magdalena Unverdorban are required to appear within fifteen days after the publication of this order, in the Clerk's Office of our said Court at rules to be holden therefor and do what is necessary to protect their interest and it is ordered that a copy of this order be forthwith published once a week for four successive weeks, in the BLACKWATER COURIER, a newspaper printed and published in the town of Franklin, County of Southampton Va., and be posted as the law directs.

A copy,
Teste: L. A. GAY, C. C.
Price & McLemore, P. M.

This is to certify that the notice hereto attached has been published in the Blackwater Courier a weekly paper published in Franklin, Va. for four successive weeks.

R. Henry Pugh

of the Cir. Ct. for Southampton Co. Va.

a copy of the foregoing order

of publication at the front door of the Court-house on Saturday preceding the 1st day of the April Term of the County Court for as given under my hand this 4th day of May 1897.
L. A. Gay C. C.

+++++
Weekly
Six Months, 50c.
+++++

THE FRANKLIN COURIER,

Lock-Box No. 42.

FRANKLIN, VA.

Office: Main St.

—{ THE COURIER is the cheapest and best advertising medium in the State of Virginia. }—

Franklin, Va., May 19th 1897

Notice of this offer.

VIRGINIA

In the Clerk's Office of the Circuit Court of Southampton County, April 18th, 1897.

Thomas H. Barnes
and
Sam'l B. Pretlow
Executors of Chas.
Smith deceased.

Plain-
iffs.

Verant.
Town of Franklin a corpo-
ration Ann Valler and
Theresa Peller and Mag-
dalen Unverdorban.

Defen-
dants.

IN CHANCERY

The object of this suit is to have the will of the late Charles Smith, deceased, construed, and especially that clause therein which reads as follows: "Seventhly, I give to the town or corporation of Franklin five hundred dollars, in trust, and I hereby direct that the interest on the same be used for the benefit of the poor of said town or corporation."

And affidavit having been made and filed that Ann Valler and Theresa Peller and Magdalen Unverdorban are the persons named in this will.

This is to certify that the notice herein attached has been published in the Blackswater Courier a weekly paper published in Franklin, Va. for four successive weeks.

R. Sherry Pub^r

Virginia: In the Clerk's office of the Cir. Ct. for Southampton Co. Test.
This is to certify that I posted a copy of the foregoing order of Publication at the front door of the Court-house on Saturday preceding the 1st day of the April Term of the County Court for as
Given under my hand this 4th day of May 1897.
L. A. Gay C. C.

Smiths Exors

vs. { Trintus Certificate & acct.

Town of Franklin et als.

1897. May 4th. Filed.

L. A. Gay Jr.

Smiths Executors

vs. } Statement of Rules,

Smiths Legatus

Thomas H. Barnes & Samuel D. Fretton
Executors of Charles Smith decd. } Plaintiffs
vs.

Town of Franklin a Corporation. }
Ann Vail, Phoebe Fuller and } Defendants
Magdalen Unwerdorn

1897. 12th, April. Process issued to 1st. May Rules.

Attorneys affidavit filed.

Order publication issued.

1897. 1st. May Rules. Process returned & executed.

Bills & Exhibits filed.

Decree nisi vs the defendants.

1897. 2nd. May Rules. Bills taken for confessed
and Cause set for hearing

Smith's. Exoris
vs. } Decree
Smith's Legatus

Enter Sept. 30th 1897
Robert R. Prentiss

Entd. Page 184,

Thomas H. Barnes & Samuel B. Putton }
Executors of Charles Smith decd } Plaintiffs
vs.

Town of Franklin a Corporation, }
Ann Valtz, Theresia Peller and } Defendants,
Magdalen Unverdorban }

This day this cause in which the plaintiffs have proceeded, in the mode prescribed by law against aboves defendants, against Ann Valtz, Theresia Peller, and Magdalen Unverdorban, non resident parties defendants, which has regularly matured at rules as to the Town of Franklin, came to be heard upon the bill and exhibits filed, and bill taken for confessed as to all of the defendants, and was adjourned by Council.

On consideration whereof the Court doth adjudge, order and decree that the seventh clause of the Will of said Charles Smith, decd, is sufficiently clear in its meaning and definite in its objects and purposes, and the said executors are hereby authorized and empowered to pay over the said sum of Five Hundred Dollars therein bequeathed, to such officer of the said Town of Franklin, as the Council of the said Town in regular meeting may direct, to be held in trust

by said Corporation with authority to apply
the interest arising from the said fund for
the benefit and towards the support of those
poor people residing in the said Town who
shall be legally ascertained to be unable to
maintain themselves, or the families of such
persons, (the family also being unable to main-
tain itself) and a receipt from such officer
as the Council may designate to receive
said sum shall be sufficient to protect
the plaintiffs against any and all demands,
either from the residuary devisees or
legatees, or from the said Town or Corpor-
ation of Franklin,

A Copy,

Teste: L. A. Gay Jr.

Smiths Exors

vs. } Statement of costs

Smiths Legatus

Sum. 25, Copies 39, receipts 18, atty. 10 = .72

Docket 18, Rules 1.00, Entering return 35 = 1.53

fil. fees 15, D. Exp. 15, Copy 24, 30. = .60

Affidavit of non-residence 15, fil. same 15 = .30

Copy Or. Prob. for printer 20, D. 10 post 20 = .40

fil. Or. Prob. 20, fil. certificate of Printer 15 = .35

Decease & copy 72, Tax Court &c. 40 = 1.12

fil. away papers 25, Income Court 1.25 1.50

Paid Oct. 30th. 1897. L. A. Gay

to list C \$ 6.72

Shff. .50

Law &c. 16.50

\$ 23.72

Fee of Black & white Camion for printing Or. Prob. 4.00

\$ 27.72

Total: L. A. Gay to, to

Recd. Jan'y. 16/98, of J. L. W. L. Moore. spice Cur. Four dollars
for order publication in case Smith's Exor vs Smith's
devises -

Nuttie K. Sebell,
By W. J. Sebell.

Smith's Exors
to Deer
Smith's Deer.

Extr.
1898. April 6th.
Robert R. Prentiss

Ent d - 207 -

Smiths' Executors,

vs.

Smiths' Legatees.

This day this cause came on again to be heard upon the paper formerly read, and was argued by Counsel. On consideration whereof, ~~the Court~~ and it appearing to the Court from the receipt of the town of Franklin, that said Chas. Smith's Executors have duly paid over the legacy of \$500. to the said town as provided by the will of said decedent, doth adjudge order and decree that this cause be removed from the docket.

Smith's Exrs.
v. 3 Receipts
Smith's Heirs.

File in chancery papers

Recd Nov. 13. 1897. of Thos W Barnes and
A.B. Putnam, Executors of Chas Smith, died, Five
Hundred dollars, the same being amount
in full of Bequest of said Charles Smith to the
town of Franklin for the benefit
of the poor of said town. I having been the
Officer directed by the Council of the town
of Franklin, at a regular meeting of the Council
held October 11th 1897, to receive it.

W. J. Pace Recorder
Town of Franklin

At a regular meeting of the Council of the town
of Franklin, held in the Mayor's Office, Monday
night, October 11th 1897.

On motion, W. J. Pace, Recorder, was appointed
to receive the \$500.⁰⁰ of the Executors of Charles
Smith, died and report the same to the Council.

A. B. Putnam

J. P. Gay Acting Mayor

W. J. Pace, Recorder

Sealed town
officers

Original in the hands of A. B. Putnam,
Adm'r Chas Smith decd -

J. L. Brown
Atty.

Smith's Executors
versus. (all names)

Smith's Legatres.

This day this cause in which the Plaintiffs have proceeded, in the mode prescribed by law against absent defendants, against Am Walter, Thorsa Teller and Magdalen Woodward, non resident parties defendants, which has regularly matured at rules at the Town of Franklin, came on to be heard upon the bill and exhibits filed, and bill taken for confessed as to the said defendants, and was argued by Counsel.

On consideration whereof the Court doth adjudge, order and decree that the seventh clause of the will of said Chas. Smith, decd. is sufficiently clear in its meaning and definite in its objects and purposes, and the said Executors are hereby authorized and empowered to pay over the said sum of Five Hundred Dollars therein bequeathed to such officer of the said town of Franklin, as the Council of the said town in regular meeting may direct, to be held in trust by ~~said officer~~ ^{said corporation} and his successors in office, with authority to apply the interest arising from the said fund for the benefit and toward the support of those poor people residing in the said town, who ~~may be~~ ^{shall be} legally ascertained to be ~~unable to maintain themselves, or the families of such persons, (the family also being unable to maintain itself)~~ and a receipt from such officer as the Council may designate to receive said sum, shall be sufficient for which

the plaintiffs against any and all demands, si-
ther, from the residuary devisees or legatees, or
from the said town or Corporation of Franklin.

Smith's Exrs.

vs. Moore

Smith's Legators

~~~~~

Entered Sep. 30th 1897.

Robert D. Hewitt

Entered Page 184

CLERK'S RECEIPT.

No. 49

SUITS.

Plaintiff *Sanistis Executors*

Defendant *Town of Franklin et al.*

Date *April 12th 1897*

Amount of tax, - - - - \$ *1.50*

~~Common law~~

Chancery

Received (date)

*L. A. Gay* Clerk.

*Debithe Executors*

vs. } *Account Affidavit*

*Town of Franklin et al.*

1897. April 12. L. filed

L. A. Gay L. L.

Virginia: In the Clerk's Office of the Circuit Court  
of Southampton County, the 12th day of April, 1897.

This day personally appeared before me, L. A. Gay,  
Clerk of the Circuit Court of Southampton County,  
J. B. Prince attorney for Thomas H. Barnes by Samuel B.  
Pellow, Executors of Chas. Smith decd, and made oath  
that Ann Valters by Theresia Peller by Magdalen Unwer-  
dorban three of the defendants in the Chancery Suit of  
Smith's Executors vs. Town of Franklin & al., are  
non residents of this Commonwealth.

GIVEN under my hand this 12th day of April 1897.

L. A. Gay C. C.

Smith's Executors  
vs. } Copy of Qualification  
of Executors  
Smith's Legatee

Ex. "A"

In Southampton County Court July Term 1896.

The Last Will and Testament of Charles Smith, <sup>decd.</sup> ~~was~~ <sup>which</sup> ~~was~~ <sup>partly</sup> proved in this Court on the 1st. day of the present Term, by the oath of M. H. Moore and continuing for further proof, was this day ~~again~~ <sup>fully</sup> proved by the oath of Paul B. Williams, another subscribing witness thereto and ordered to be recorded as and for the last Will and Testament of the said Charles Smith, decd. And on motion of Tho: H. Barnes and Saml. B. Prellow, the Executors therein named, who made oath according to law, and together with J. D. Prellow and J. I. Holland as their securities, who justified on oath as to their sufficiency, entered into and acknowledged a bond in the penalty of Fifteen Thousand Dollars - Conditioned as the Law directs, which bond is ordered to be recorded. Certificate is granted the said Thomas H. Barnes and Saml. B. Prellow for obtaining a probate of the said Will in due form.

And on motion of said Executors, J. P. Gay, L. B. Vaughan, W. H. L. Goodman and A. M. Browning are appointed appraisers - who being duly qualified, will appraise the estate of said decedent and return the same under their hands as the Law directs.

Attest. J. F. McLenore &c