

1903-16

Southampton County Chancery - Jones, Susanna (etals) vs Nicholson, M. A.
(Exec. X)

declare judgement null &
void & complainants recover
money paid on account.

Denson, Nettie
Laine, Laura
Branch, Ann
Wellons, Olla
" , J. F.
Felts, J. E.
Travis, B. E.
Felts, W. H.
Wellons, W. B.
Travis, Ann Eliz.

Jones
H. 3 Bill &c

Nicholsen Ex IX

1900. 2nd Oct. Friend

L. A. May 66

Genl. Schreier Jr. S. J.

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

In Chancery:

Humbly complaining shew unto your Honor your complainants,
Susanna Jones, Nettie Denson, ~~Robert Denson~~, Laura Laine ~~###~~
~~Charles Denson~~, Ann Branch, Olla Wellons, J. F. Wellons,
J. E. Felts, B. E. Travis, W. H. Felts, W. B. Wellons, heirs at law, and
Ann Eliza Travis, widow, of George T. Travis, deceased, that on the
18th day of April 1900, they authorized and empowered John N. ~~###~~
Sebrell Jr., as their attorney in fact, to make sale of the real
estate of which George T. Travis died seized and possessed. That
pursuant to said authority and power of attorney the said John
N. Sebrell Jr., made sale of the said real estate to one J. C. Barrett
by public auction. That upon investigating the title to said land
it was ascertained that there was docketed on the Judgment
Docket in the Clerks Office of the County Court of said County,
what purported to be a judgment against said G. T. Travis, and Ann
Eliza Travis, his wife, in favor of C. W. Nicholson for the sum of
\$76.89 with interest thereon from the 2nd day of January 1890
till paid and \$1.50 costs. That said J. C. Barrett demanded that the
same should be satisfied before he be required to pay for the ~~##~~
land in order that he might get a title free from encumbrance.
That said John N. Sebrell Jr., attorney in fact for your com-
plainants, believing the said judgment et be valid and being
ignorant of the facts hereinafter to be stated, paid to M. A.
Nicholson, Executrix of said C. W. Nicholson, deceased, the sum of
\$171.00 in satisfaction of the said alleged judgment. Your
complainants were absolutely ignorant that any such judgment
was docketed in the said Clerks Office.

The said judgment was granted on a warrant issued by R. A.
Bristow, a Justice of the Peace for said County of Southampton,
on the 22nd day of July 1892, and the return of the officer who ~~#~~
purports to have executed it is in the following words: "Executed

CONGRUENT CONUS ALBERTUS

TO HONORABLE BORIS B. YELTSIN, Prime of the Russian State of

1980年1月1日
 1980年1月1日

In tender consideration whereof and inasmuch as your complainants are without remedy in the premises except in a Court of equity where all such matters are done and properly cognizable, to the end that justice may be done, they pray that the said M.A. Nicholson, Executrix of C.W. Nicholson, deceased, may be made party defendant to this bill and be required to answer the same though answer under oath is waived, that proper process issue, that the judgment abovemention be declared void and invalid, and be annulled and cancelled; that your complainants may recover the money paid out on account thereof, that proper orders and decrees may be entered and proper enquiries directed and taken, and that such other further general and special relief may be granted your complainant as the nature of his case may require or to equity shall seem meet. And your complainants will ever pray etc. May it please the Court etc.

Proct. Phryg. D. 99

Jones et al.
 vs. Dierce
 Nicholas Ex^{or}

Enter this Oct 3, 1900
 Robert R. Huntis

My consent:
 Geo. J. Smith, atty for
 plaintiffs.
 Wm. Shands atty for
 defendant

12 Entered 327

N.A. Nicholson executor of O.W. Nicholson, deceased.

vs.

and Eliza Travis,

J.E. Wellons, J.E. Peifer, R.E. Travis, W.H. Peifer, W.B. Wellons and

Susanna Jones, Nettie Danson, Laura Laine, and Branch, Olin Wellons,

Susanna Jones, Nettie Denson, Laura Laine, Ann Branch, Olla Wellens,
J.F. Wellens,, J.E. Felts, B.E. Travis, W.H. Felts, W.B. Wellens and
Ann Eliza Travis,

Vs.

M.A. Nicholson executrix of C.W. Nicholson, deceased.

By consent of parties in ~~the~~ term entered of record it
ordered that this cause be put upon the docket, and that it be
submitted to the Judge of this Court for decree and decision
in vacation as might be made therein in term.

Handwritten notes:
Left margin: 7 will, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
Right margin: 100, 99, 98, 97, 96, 95, 94, 93, 92, 91, 90, 89, 88, 87, 86, 85, 84, 83, 82, 81, 80, 79, 78, 77, 76, 75, 74, 73, 72, 71, 70, 69, 68, 67, 66, 65, 64, 63, 62, 61, 60, 59, 58, 57, 56, 55, 54, 53, 52, 51, 50, 49, 48, 47, 46, 45, 44, 43, 42, 41, 40, 39, 38, 37, 36, 35, 34, 33, 32, 31, 30, 29, 28, 27, 26, 25, 24, 23, 22, 21, 20, 19, 18, 17, 16, 15, 14, 13, 12, 11, 10, 9, 8, 7, 6, 5, 4, 3, 2, 1.

I hereby acknowledge service of the
within summons. W. A. Nicholson litig. of
C. H. Nicholson dec'd
by W. Shands her atty

Jones Chas.
vs. } Sp. In chy.

Nicholson's Ex'ors.

1900. 1st day Oct. Term
lair. ct.

J. N. Sebrall p. q.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County--Greeting:

We command you to summon M. A. Nicholson Executive of
L. M. Nicholson Decd. Feb 1891 1891

to appear at the ~~Clerk's Office~~ of our Circuit Court of Southampton county, ^{on the 1st day of} ~~at the Rules to be holden~~
~~the October term thereof~~ 1900
for the said Court on the Monday in next to answer a bill in Chancery

exhibited against her in our said Court by Susanna Jones, Nellie Simon,
Laura Laine, Ann Branch, Olla Watson, J. F. Watson,
J. E. Falls, B. E. Travis, W. H. Falls, W. B. Watson, and
Ann Eliza Travis

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

WITNESS, L. A. GAY, Clerk of our said Court, at the Courthouse, this 1st day of
October, 1900, in the 12th year of the Commonwealth.

Teste: L. A. Gay C. C.

A Copy—Teste: C. C.

Jones et als.

v. Spa.

M. A. Nicholson, Exor.

Executed
J. W. Williams
Shyp

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON *B. L. Davis*

James et al. v. Mr. in Chy for C. et.
to appear before ~~the judge of our County Court~~ of Southampton County, at the Courthouse thereof,
on the ~~13th~~ *13th* day of *November*, 190*0*, to testify and the truth to speak on behalf of

Jones et al.
in a certain matter of controversy in our said Court depending and undetermined between
Jones et al. plaintiffs, and
Mr. A. Nicholson, Executive re defendant.

And this *he* shall in no wise omit, under the penalty of the law. And have there this writ.

Witness, *James et al. v. Mr. in Chy. et al.*
B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this *31st* day of

October, 190*0*, in the 12*5* year of the Commonwealth.

TESTE:

A COPY—TESTE:

J. B. Prince, Jr.
Clerk in Chy.

C. C.

C. C.

The deposition of S.L.Davis and others taken before me J.B. Prince Jr., a commissioner for the Circuit Court of Southampton County, Virginia, pursuant to notice hereto annexed, at the office of John N. Sebrell Jr., in the town of Courtland Virginia, on the 13th day of November 1900, between the hours of ten A.M. and four P.M. to be read as evidence in behalf of Susanna Jones et als in a certain suit in equity depending in the Circuit Court of Southampton, wherein Susanna Jones and others are plaintiffs and M.A. Nicholson, Executrix is defendant.

Present:

John N. Sebrell Jr., Attorney for plaintiffs.

William Shands " " Defendant

The witness C.L. Davis being duly sworn deposes as follows:

- Q. State you age, residence, occupation and do you know the parties to this suit?
- A. 39, Southampton county, Farmer, I know the defendant.
- Q. Please state what official position you held in Southampton county on the 22nd day of July, 1892.
- A. I don't know whether I was Constable then or not. If the judgment I have against Geo. Travis was dated then I was Constable at that time.
- Q. There was a ~~judgment~~ warrant issued by R.A. Bristow, Justice of the Peace, dated July 22nd, 1892, upon which is written the following return " Executed July 22nd, 1892 by Written summons, C.L. Davis, Const.", which I now hand you (witness is here handed the original warrant.) Please state whether you are the C.L. Davis who made that return?
- A. Yes.
- Q. Please state what you meant by that return ?
- A. I meant by that that the parties ~~were~~ summoned by written summons just like the summons in side there, ~~above~~ the judgment.
- Q. State whether or not you delivered the summons to the parties?
- A. No sir, I didn't deliver them myself -

Q. How did you execute them ?

A. I stopped at Airfield and I asked Mr. Branch if he could tell me where these parties lived, and I think Mr. Branch told me that Mr. Travis was dead. And I asked him where I could find Mrs. Travis and he told me he didn't know. He said he thought I might find her at Reeves Morris's. I rode up to Morris's and he told me he didn't know where I could find her that she might be up there somewhere in Barrett's Neck. I then went back to Airfield and asked Mr. Branch when he could see Mrs. Travis. He said he would see her at Barrett's Church. I gave him the summons and told him if he couldn't see her in time to give her the five days notice to let me know so that I wouldn't get the judgment before the proper length of time.

Q. Did you give him a summons for G.T. Travis also?

A. I don't remember about that, but I should think so by a judgment having been given by the Justice against G.T. Travis. ~~That~~

Q. You don't know of your own knowledge whether G.T. Travis or A.E. Travis ever saw the summons?

A. I do not, I only took Branch's word for it.

Q. And do you mean by taking his word that he said he was going to let you know if he didn't do it ?

A. Yes.

Q. Then I understand you that you executed this summons by giving a copy to Mr. Branch with a request that he give it to Mrs. Travis, and that you did not see either one of the parties nor deliver a copy of the summons to either of them and cannot say that they received it, and this is the only summons they had, am I correct ?

A. That is right as far as I know.

Q. You are sure are you not that you never gave either one of them a copy ?

A. Yes.

Q. Who wrote this warrant ?

A. ~~I wrote it. The way I did it was the Justice after I had filled~~
~~then would sign~~

A. I wrote it. The way I did it was the Justice would sign several at a time and I filled them out to suit the case.

Q. Did you ever see G.T.Travis or A.E.Travis ?

A. Not to know them.

Q. Was either of them present when the judgment was given?

A. Not that I know of. If they were I didn't know them.

Q. No defense was made to the warrant was there ?

A. None at all.

Cross-examination.

Q. When the case was heard on the day of trial did you not produce before the justice who tried it the papers in this case and tell him that they were ready for trial ?

A. Yes sir.

Q. Did he not thereupon render judgment upon the same?

A. Yes sir.

Q. And further this deponent saith not.

WITNESSES

C. L. Davis

The further taking of these depositions is continued to such day as shall be agreed on between counsel.

Virginia, county of Southampton, to-wit:

I, Jos. B. Prince, jr., a commissioner in chancery for the Circuit Court of Southampton county, in the said state, do hereby certify that the foregoing deposition of C. L. Davis was duly taken, sworn to and subscribed before me at the time and place and for the purpose mentioned in the caption hereto mentioned.

Given under my hand this 13th day of November, 1900.

Jos. B. Prince Jr.
Comr. in Chy.

Commissioner's fee \$1.50

GEO. C. CABELL, JR. JNO. W. SEBRELL, JR.
CABELL & SEBRELL,
ATTORNEYS AT LAW,
308 2ND ATLANTIC BUILDING.

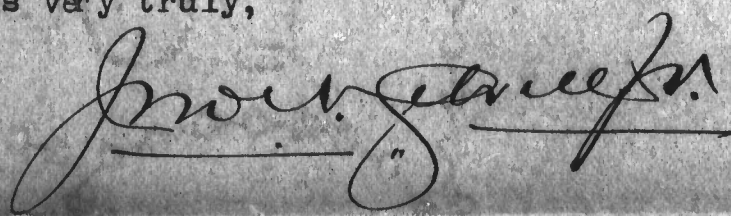
NORFOLK, VA. October 12, 1903.

Mr. L. A. Gay,
Clerk Circuit Court,
Courtland, Va.,

Dear Sir:-

Enclosed you will find copy of decree which Mr. Shands for the defendant has signed. Please get Judge Prentiss to enter it when he comes up to sign the records, and if he should come up before you get this, please send it to him to be entered as a vacation order. I hope that you will write to Mrs. Nicholson for the cost in this suit sending her a statement which Mr. Shands will O. v. and upon the payment by her let me have my part of it, \$16.50.

Yours very truly,



Dic. by S.-S.

Enc. 1.

Jones et als.

vs. } Statement of Costs

Nicholson & Co.

Sum. 25. 1 exp. 13. receipt 15. atty. 10. Docket 18= .84

return 35. decree To place on docket 36= 71

placing same on docket 25. fil. bill 15= 40

Do. depositions 15. 5 continuances on docket 125= 1.40

Lay costs ca. 40. Lay over 2 years 10.5 20= 60

Future costs if removed at Oct. Term 1903, 61= 61

Total \$4.56

Legal shx 50

Layover 16.50

\$21.56

Fee of J. B. Prince Esq. 1.50

\$23.06

Test: L. A. Gay & Co.

-1903-
Lester H. Allen,
v. J. Deane
Nicholson Ex x

Entered this Oct.
14, 1903

Robert D. Perkins

Entered page 42

Let's consent!
Sweetest, I'll be for Keiff

Wm. Shand & dphs

To be entered in the
chancery order book -
Robert D. Perkins
of the Clerk of the
Circuit Court of
Southampton County:

Circuit Court of Southampton
County in vacation on the
14th day of October 1903.

Jones et al.
vs. Z

Nicholson Exr. &
~~by consent of parties by counsel it is~~
~~ordered that this cause may be submitted~~
~~to the Judge of this court for final decision~~
~~and after the trial in vacation as might be~~
this day this cause came on to
be heard on the bill of Complaints
and exhibits - the writs were taken for
confessed, the defendant being duly
served with process, and still failing
to appear, plead, answer or demur,
the deposition of witness, and was
argued by counsel.

On consideration whereof, it
from the statements of counsel
appearing that the matters ~~involved~~
herein have been settled and it having
been agreed ~~by~~ by the parties
plaintiffs and defendant, that
this cause be dismissed at
the cost of the ~~plaintiff~~ defendant,
the court doth adjudge, order
and decree that this cause
be dismissed, and that the
plaintiff recover of the defendant
the cost in this behalf expended.
All of which is hereby certi-
fied to the Clerk of this court