

1817-020

Chancery Causes'. Elias Saunders vs James McClenney & al

Isle of Wight County

Other surnames: Johnson,
Eley, Butler, Cohoon,
McClenney, Saunders

To The worshipful Court of Isle of Wight County in Virginia
Sitting, Humbly complaining sheweth unto the Court your orator
Elias Saunders; That on the fifth day of Nov^r in the year
of our Lord eighteen hundred and ^{three} your orator & one Stephen
Johnson late of the said County, became bound in a writing obliging
as securities for one Jacob Johnson for the sum of £ 8. 13. 0 - more
due to ^{policy &} Zachariah McLennay ^{Executors} of Eliza McLennay
as will more fully appear by an attested copy of the said
Obligations, which for greater certainty is hereto annexed &
prayed to be considered and taken as part of this bill.

That some time afterwards to wit, on or about the
day of ~~August~~ 1804 Jacob, the principal obligor in the said
writing, left this section of country without paying the
said debt; but your orator has understood that before he
departed, he left with the said Stephen Johnson (who was
uncle of said Jacob) ~~power~~ ^{authority} to pay the
of the said debt. as any of your orator's debts or what
which he expects to establish both by disinterested witnesses,
and by the answers of the defendants herein after named,
that, some time before the death of Zachariah McLennay, to wit,
about the day of March 1801 - the said Stephen
Johnson; having money due to him from one Michael Eley,
granted to Zachariah McLennay an order for the sum of
£ 8. 13. 0 ^{or thereabout} to be used as payment of the said written obligation,
which said order, your orator believes was paid and
the debt ~~thereby~~ for which he was a security as aforesaid ^{thereby} paid.

Your orator represents that, after the death of
Stephen Johnson one Mills Butler administered on his
estate and as your orator is informed and believes,
at the sale of the estate ^{to wit the 12th of Aug. 1809} had a conversation with the
said Zachariah concerning the said order drawn on
the said Eley, in which conversation the said Zachariah
acknowledged he then held the said order, that it was
drawn by S. Johnson & received by him for the express purpose

of paying off the obligation aforesaid, and that the said Eley had accepted the order. In answer your Orator is informed, believes to be true & expects to prove the fact, that said Butler being desirous to have the transac-
-ion closed, told ~~such~~ said Zachariah that if he did not get the money from Eley soon—(as Eley tho. there in plenty, appeared to be working his estate) to return the order and he would pay the debt out of his intestates estate, and collect the amount from Eley himself, and that Zachariah, though he lived very near said Butler and was a very keen, money loving man—and lived several years thereafter, did not return the order—nor ever again mentioned the subject—

execution issued whereby your orator ~~is~~ is oppressed
and injured. — He has applied to the said parties to wit,
James McBlenny, John C. Cochran Adm^r of Zacharia McBlenny
and Miss Butler adm^r of Stephen Robinson, offering to prove
to them the payment by Leg^y V^e as aforesaid, and requesting
them to relieve him from the injustice and injury under
which he labours &c; but so it is, may it please the Court,
the said James McBlenny, John C. Cochran adm^r as aforesaid and the
said Miss Butler adm^r as aforesaid, continuing to injure &
defraud your orator in the premises; ^{refuse to relinquish} ~~refuse to~~ Consider
—ation whereof your orator fears he prays that they the
said McBlenny, Cochran & the said Miss Butler, be made
defendants to his bill, & on oath full, true and perfect
answer make to all and singular its allegations, that the
said James McBlenny, his attorney and all others be henceforth
injoined from further proceeding at law, on the said Leg^y
Execution, until the parties be fully & fairly heard in
equity — and that his orator may be restored to the same —
—uate the said injunction — make any other or
further order or decree in & concerning the premises
as shall promote justice & Equity &c. He prays the Court
to award the Commonwealth's Expenditure &c.

Isle of Wight County, to wit - This day Elias Lumsden made
oath before me, a justice of the peace for the said County,
that the foregoing bill is true so far as he knows or believes
that as far as it depends on the information of others
he believes it to be true. Given under my hand this 6th
day of June 1854

Mills Lumsden
Jp

Declarations

vs

McCluney

} Bill

June 1814 Bill filed Leave
for Injⁿ

May 1814 Am^t filed

June 1815

Costs

July 1817 Injⁿ awarded
with damages & costs

Costs \$5.00 paid up

July Judgments
1817

The answer of James M. Cluney to Bill of Complaint exhibited against him and others in the County Court of Isle of Wight by Elias Saunders Complainant - This Respondent saving and reserving to himself all benefit and advantage of exception to the many errors, uncertainties and false allegations in the complainants said Bill contained for answer thereto or unto so much thereof as materially concerns the defendant He answers and says -

That upon the settlement of Zachariah M. Cluney's administration on the estate of Elijah M. Cluney, the Bond in the Complainant's said Bill alluded to, was paid to your respondent as guardian to the children of the said Elijah M. Cluney - That he knows nothing of the arrangement between Stephen Johnson, one of the obligors to the said Bond, and a certain Michael Eley, for the purpose of paying-off and settling the claim aforesaid as in the Bill set forth, that being a circumstance alleged to have happened before your respondent was interested in the management of the business - your Respondent, however, has been informed that the sum drawn by Johnson on Eley was for one half only of the amount of the said Bond, and from the fact of Johnson being a mere co-security, your respondent thinks it fair to infer that such was the case - your Respondent relies upon the circumstance of not producing the sum upon Eley, as evidence going to show, either that the sum has never been presented, or if presented, that the amount thereof was never finally discharged - He further represents, that when the Process issued upon the Bond aforesaid, that so far from appearing and making in a proper & legal way the defence now attempted to be set-up, your respondent is informed, that by force of arms he, ^{the comp.} kept off the officer

thereby manifesting a contempt both for the Process of this worshipping court
& the obligation imposed by the laws of his country - your respondent
is further advised that by reason of the Process last aforesaid, the said
Complainant could not have appeared and made defence to the suit on
the obligation aforesaid, and thereby have avoided the judgment by default,
without first giving Special Bail, which he entirely failed to do - all which
which matters and things this defendant is ready to aver and Prove, as this
worshipping court shall direct and award, and humbly Prays that the injunction
be dissolved, and that he be reimbursed with his reasonable costs and charges
in this behalf most wrongfully sustained

Veritas vult

This day James McClenny appeared before the subscriber a Justice
of the Peace for the County aforesaid, and made oath that the allegations contained
in the foregoing answer so far as they depend upon the actings and doings of
the said James McClenny are true, and so far as they extend upon the actings
& doings of others he believes them to be true; given under my hand this 13th
day of April 1815

Wm. L. P.

James McClenny

at

Elias Samson

Answer.

John Barber Esquire

Sir This may inform you that the time when I
Requested Zachariah McClenney to return
the order on Michael Eley was the 12th of January
1809 ^{said} the Zachariah Lived until March 1811

NB

the ase against Michael Eley
was 1830.00

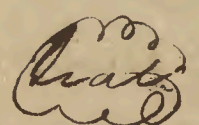
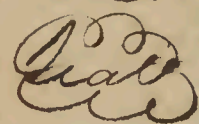
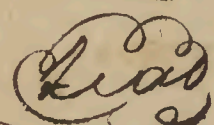
M Butler

memorandum
for Mrs. Barker esq.

4521
187
500
167

Mr Jacob Johnson, Stephen Johnson, and
Elias Saunders, do promise to pay or
cause to be paid unto Polly and Zachariah
McClanny ex^t of Elijah McClanny dec^d.
the just and full sum of eight-Pounds thir-
-teen ^{shillings} good and lawful money of Virginia
to be paid on or before the forth day of
November next, and if not paid at the
expiration of the credit to ~~bare~~ ^{bare} interest
from the present date, as we have here-
unto set our hands and affixed our seals
this fifth day of November 1812

Teste
J. Shepherd.

Jacob ^{his} Johnson 
^{mark}
Stephen ^{his} Johnson 
^{mark}
Elias Saunders - 

Attest Teste David Dick &c.

Know all men by these presents, that we Elias Saunders & Joseph
Westray ————— are held and firmly bound
unto James M. Clenny wife exor of Elijah M. Clenny — in the sum
of Seventeen pounds six shillings —————
current money of Virginia to which payment well and truly to
be made we bind ourselves our heirs executors & administrators
jointly and severally firmly by these presents sealed with our
seals and dated this 4th day of July 1814

The condition of the above obligation is such that whereas the
said James M. Clenny wife hath obtained
a Judgement at common law against the said Elias Saunders
in the county court of
Isle of Wight for eight pounds sixteen shillings and cost and
the said Elias Saunders ————— has obtained an
Injunction to stay the execution of the said judgement until
hearing of the matter in equity upon a Bill filed for that pur-
pose. If therefore the said Elias Saunders
shall satisfy and pay the said Judg-
ment at law and all costs and damages that shall be awarded
to the said James M. Clenny wife in case the
injunction shall be dissolved that then the above obligation to
be void else to remain in full force and virtue.

Signed Sealed & acknowledged

in presence of

D. Duke

Elias Saunders (Seal)

Joseph Westray (Seal)

M. Conway
" } Maj. Bond
Saunders