

1825-014

Chancery Causes. Hardy Council v. up v. d vs John Saunders v Joseph J. Holland,

Isle of Wight County

exors of Charlotte Carr v. d

other SURNAME'S COUNCIL

To the worshipful Court of Ple of Wight
County in Chancery setting.

Humbly complaining shew unto the Court your orators and
oratrixes Andy Council and Elizabeth his wife, Nathan
Carr, Jesse Carr, Solomon Carr, and Adeline Carr, the said
^{Solomon and} Adeline being ~~an~~ infants sue in this behalf by
Nathan Carr — their next friend. That a certain Mary Carr

the sister of the complainants died a Minor intestate, without
having been married and without issue ^{and paid from debt} some time about the
year 1815. That the said Mary had title to a certain
slave named "Jacob", who was held by one Charlotte
Carr, her mother, the widow and relict of one Thomas Carr.

That altho the said Mary Carr was entitled to the said
slave the possession was to be delayed until the death or mar-
riage of the said widow and relict, as will fully and at large
appear, reference being had to an attested office copy of the
will of the said Thomas Carr, which is herewith filed and
to be received, and taken as a part of this that Bill. —

And your orators and oratrixes beg leave further to re-
present that at the death of the said Minor she left a
mother, and the following brothers and sisters. Elizabeth
the wife of Andy Council, Nancy the wife of John Saunders,
Nathan Carr, Benjamin Carr, Jesse Carr, Solomon Carr and
Adeline Carr. And your orators and oratrixes beg leave to

make the following statement. — Nancy who intermarried with

John Saunders died without issue about the year 1821.
her husband is now living, and has administered on her estate
and pretends to claim the same portion or interest in the estate
of the said Mary, as if the said Nancy his wife was still living —

some time about the month of May for the present year
1824. Benjamin died intestate, leaving his mother, and the said

complainants his five brothers and sisters as his heirs. The said

Nathan Carr administered upon his estate in the County of

Watts? and it is admitted on all hands that his estate is

amply sufficient to pay all his debts. Charlotte the mother

has very recently died intestate, and John Saunders and

Joseph J. Kolan are her Executors, who representing some

doubt about the state of the effects of her estate, claim to have

her portion paid over to them subject to debts and distribution.

So that the estate of the said Mary became divisible among
her mother, brothers and sisters. But as a brother has died since

the order of the said Mary, these complainants ask the Court to decide

the portions or shares to which each are entitled.

and yr. orators and oratrices beg leave further to represent that since the death of the said Charlotte Carr, the tenant for life, her ^{co}ors who as before stated are John Saunders, and Joseph J. Holland, have professed themselves of the said slave "Jacob," have refused to surrender the said slave, for the purpose of division or sale. Your orators and oratrices beg leave further to state, that they are advised that your worship possess ample powers to order the sale, when one or more shares shall descend from a person dying intestate, and an equal division thereof cannot be made in kind, on account of the nature of the property, and to direct the ~~payment~~ distribution of the money arising therefrom, according to the rights of each claimant. Your orators and oratrices present the care provided by the act of assembly, and pray your worship to decree the sale of the slave "Jacob," and settle the rights of the parties, and to direct the distribution of the money arising from such sale, among the several parties entitled thereto.

But now so it may please the Court, that the said John Saunders and Joseph J. Holland ^{of the said Charlotte Carr decd.} and the said John Saunders ^{putting} to claim some portion as representing his late wife, having professed themselves of the said slave "Jacob," in the manner requested by your orators and oratrices refuse to surrender the said slave for sale or division to those entitled thereto. Sometimes they pretend to say, that as two of the parties are infants, they need not do any thing in the premises during their minorities. At other times they pretend to say that the estate of their testatrix is entitled to a portion, and that they cannot take upon themselves to make sale or division of the said slave without the sanction or authority of a Court of equity, where matters of this sort are afore relievable. All which actings and doings are contrary to equity and good conscience, and tend to the manifest injury and oppression of your orators and oratrices. To the end therefore that the said John Saunders in his own right, and together with Jos. J. Holland as ^{co}rs of Charlotte Carr decd. may be made defendants to their bill of complaint, and be compelled to answer the premises fully and unequivocally, as if the same were true again repeated, and they thereunto interrogated. More

especially that they may set forth discover and declare whether the said Mary Carr did not die an infant, and entitled in the manner herein before stated unto the slave Jacob. Is not a division impossible, and are they not willing that a sale should be made, and the money arising therefrom be distributed according to the rights of the claimants. That the said defendants may set forth plainly and distinctly what right, title, claim, or interest they have, or pretend to have in the slave "Jacob," either individually or in a representative character. Your orators and oratrices lastly pray that your worship will appoint fit and proper persons to act as Commissioners for the purpose of making a sale of the slave "Jacob," and paying over that portion of the proceeds of sales unto them, which this Court shall think they are entitled to. And that your worship will make such other, or further order, or decree in the premises, as shall be more consistent with the principles of equity and good conscience. A

May it please Sr. to grant &c.

Cardy Council due: to them
} Bill, answer
Dr. } and Decree
John Saunders & Jos: J. Holland
acori. &c.

Godwin Council of the Council

December 10th 1024 Bill and answer
and interest: decora

July 4th 1025
Report returned & decreed accor-
dingly

Pre: atto.

Iole of Wright.
Kaxemond.
C. C.

The joint and separate answer of John Saunders and Joseph J. Holland, exors of Charlotte Carr-dee, and of the said John as admor of Nancy who was Nancy Carr his late wife, to the bill of complaint of Hardy Council and wife and others, against them in this Honorable Court exhibited.

These defendants now and at all times hereafter saving and reserving to themselves all benefit and advantage of exceptions to the many errors, uncertainties and false allegations in the complainants said bill of complaint contained, for answer thereto, or unto so much thereof as they are advised it is necessary or material for them to make answer unto, answer and say. That it is true that they are Executors of Charlotte Carr-dee who was the widow and relict of Thomas Carr-dee and that she was the mother of Mary Carr the dec'd. infant, whose Estate is the subject of the present suit. They believe that the deaths of the parties have been correctly set out and their deaths as soon as ascertained in the sale or division claim for the benefit of the Est. of their testatrix, two shares are devised from the infant Mary and one devised to Benjamin, a son and brother of the said Mary. These debts have recently administered on the Est. and it is impossible for them to furnish any thing like a correct statement of the funds. They found the slave Jacob in the Est. and from every thing they can learn there exists no doubt but that slave Jacob was bequeathed by their said testatrix remainder over to Mary Carr and her heirs, as charged to be the fact by the Compt. under the will offered to of Mrs. Carrs. They have no objection to surrender the said slave to the legally disposed of under the authority of this Court, they claim the indisputable right to hold him upon him till the close of the present year under the law of the land.

And the depts John Saunders as admor. of his wife Nancy who was a sister of the said Mary Carr and who was living at the death of the said Mary Carr, that altho his said wife has died without issue, yet he has administered on her Est. and claims as her admor. an equal interest with the mother and the surviving brother and sister at the time of Mary's death be that portion what it may. He has no objection that this Court should settle the rights and interests of the respective claimants, and is perfectly willing to a sale, upon receiving his own share paid over to him. and these defendants further answer and say that they claim for the estate of their testatrix $\frac{1}{8}$ part of the whole, and $\frac{1}{6}$ of $\frac{1}{8}$. and the said Saunders as adm. of his said wife claims $\frac{1}{8}$ part of the whole or of the Est. shall be reduced into 48 parts or shares, upon the Est. of their testatrix is entitled to $\frac{7}{48}$ with each of the Compt. and the said Saunders as adm. of his said wife claims $\frac{5}{48}$ either of which modes of apportionment will answer the law and produce a just and equal division as they believe. Without that, that for
(signed.)

Hardy Council th Fother
vs. Answer.
Saunders & Holland com.
and J. Saunders as adm.

Nansemond.

By virtue of a decree of the County Court of Isle of Wight to me directed
bearing date December Court 1824. I have made sale of the negro
boy Jacob in the bill mention'd To Hardy Council for \$232.50 and
then deducted all the necessary charges as follows paid the attorney for
\$10.00 Clerks fee \$3.97 and \$11.62 ^{yr} Commission a 5% &c
leaving the neat amount of sale of \$206.90 ^{yr} which I assign'd
to the complainants and defendants agreeable to the bill therein mention'd
as follows Paid to Joseph J. Holland and John Saunderson Esqrs of Charlotte
Carr Dec. ^{one Bond of} \$25.86 ¹/₄ it being her proportion of the neat amount of sale
Paid to John Saunderson Admtr of his wife Nancy Saunderson personally Nancy
Carr ^{one Bond of} \$25.86 ¹/₄ it being her proportion as the bill mention of the neat
amount of sale Paid to Nathan Carr ~~one~~ ^{one} bond of \$31.03 ^{yr} it being his
proportion agreeable to the bill therein nam'd of the neat amount of sale
Paid one Bond to Lefre Carr of \$31.03 ^{yr} it being his proportion agreeable
to the bill therein nam'd of the neat amount of sale Paid one bond to
Hardy Council & Petsy his wife personally Petsy Carr of \$31.03 ^{yr} it being
his Proportion of the neat amount of sale agreeable to the bill therein
nam'd Paid one Bond to Nathan Carr Guardian of Solomon Carr of ~~one~~
\$31.03 ^{yr} it being his proportion of the neat amount of sale agreeable
to the bill therein nam'd Paid to Gadwin Council guardian of Angelina
Carr one bond of \$31.03 ^{yr} it being her proportion of the neat amount
of sale agreeable to the bill therein nam'd for which of the above state-
ment I submit to the honourable Court of the County of Isle of Wight
given under my hand this 22 day of December 1824.

Gadwin Council

In Isle of Wight County Court
December Term 1824.

Between.

Hardy Council and Elizabeth his wife, formerly
Elizabeth Carr, Nathan Carr, Jesse Carr,
Solomon Carr, and Adeline Carr, the said
Solomon and Adeline being infants, sue
in this behalf by the said Nathan Carr, their
next friend.

Compl^t

and

John Saunders and Joseph J. Holland ^{et al} } Richy.
of Charlotte Carr dec^d. and the said John }
Saunders as adm^r of his late wife Nancy }
who was Nancy Carr. } def^t.

By Consent of the parties and with the assent of the Court
this cause came on this day to be heard, on the Bill and
answer filed, and was argued by Counsel, on Consi-
deration whereof the Court doth adjudge order and
decree, that Godwin Council

~~bring~~ ^{a special} ~~of them~~, whom the Court appoint Comm^r for that
purpose, expose to sale at public auction on a credit of
nine months the slave "Jacob" in the bill mentioned, having
advertized the time and place for at least Ten days at the front
door of the Court House, of this County, and at two other pub-
lic places, near to the place appointed for the sale,
taking bonds with ample security from the purchaser or
purchasers at such sale. And the said Comm^r or each
of them as may act, after deducting the costs of this suit,
together with the necessary and incidental expenses
and charges attendant on the execution of this decree
(which they are hereby required and authorized to demand of the
purchaser in cash) will then proceed to divide the
net amount of Sales, into forty eight parts or shares,
and allot and apportion unto the complainants $7/48$ each and unto
the defendants or ^{et al} of Charlotte Carr dec^d $7/48$, and unto
the def^t. John Saunders as adm^r of his late wife Nancy
 $6/48$ - which said shares or parts are to be taken in equal
rate bonds, payable ^{to} each of the parties ^{who are} at age, and to the
legal and proper Guardians of the infants - and make

report of their proceedings to this Court in order to a final
decree: liberty is reserved the infants in this suit to show
cause, if any they can, against this decree, at any time
within one year after they shall severally attain the age
of twenty one years.

Decree.

In Isles of Wight County Court December Term 1821

Between
Hartley Council and Elizabeth his wife formerly Elizabeth
barr. Nathan barr. Jeph. barr. Solomon barr. and Adeline
barr. the said Solomon and Adeline being infants sue in
this behalf by the said Nathan barr their next friend. Complainants

and
John Saunders and Joseph S. Holland executors of Char-
lotte barr deceased and the said John Saunders as
administrator of his late wife Nancy who was Nancy
barr. Defendants

In Chancery

By consent of the parties and with the assent of the court this cause came
on this day to be heard on the bill and answer filed, and was argued by
counsel, on consideration whereof the court doth adjudge, order and decree
that Godwin Council whom the court appoints a special commissioner for
that purpose, expose to sale at public auction on a credit of nine months
the slave Jacob in the bill mentioned, having advertised the time and
place for at least ten days at the front door of the courthouse of this county
and at two other public places near to the place appointed for the sale taking
bonds with ample security from the purchaser or purchasers at such sale,
and the said Commissioner or such of them as may act, after deducting
the costs of this suit together with the necessary and incidental expenses and
charges attendant on the execution of this decree, which they are hereby
required and authorized to demand of the purchaser in cash, will then
proceed to divide the net amount of sales, into forty eight parts or shares
and allot and assign unto the complainants 7/10 each and unto the
defendants as executors of Charlotte barr deceased, 7/10 and unto the defendants
John Saunders as admin. & of his late wife Nancy, 9/10 which said shares
or parts are to be taken in separate bonds payable to each of the parties
who are at age, and to the legal and proper Guardians of the infants, and
make report of their proceedings to this court in order to a final decree.
Liberty is reserved the infants in this suit to shew cause if any they can
against this decree at any time within one year after they shall severally
attain the age of twenty one years.

Attest Teste Nathl Youngs

Council of the

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Deers

Samuels had

W. H. H. H.