

1832-010

Chancery cause. Elisha Whitley + Joseph Whitley, Hy + C. Vs Wallis Whitley +

Isle of Wight County

Joseph Whitley's adme

Other surnames: Andrews,
Parr

Whitely &

in & via

Whitely &

June 21. 1831.

June 5th 1831 Bill filed
Order of publication vs.
Willis an absent defendant
to Sep. Court 1831

Sept. 5th 1831. Wm. Carr
ans^r filed by consent

Sept. 5th 1831 Intest^y done

Feb. 5th 1832 report ret^d
to Court. - Vene bond filed

Dec. 3rd 1832 final answer

and does not require the intent of his intestate estate in said slave to pay debts, Willis Whittly some years ago left the Commonwealth and is believed by your orator to be still (if living) out of this State and your complainant asks to be allowed to proceed against him as an absent defendant according to law. By a fair and proper construction of said Statute, your orator Elisha ~~Whittly~~ is entitled to own this, Willis who is out of the ^{State} ~~County~~ one, this and the other this is the property of the estate of Joseph Whittly for it to go to his child your infant complainant, but from the value and age of the slave they can't be decided in this without manifest injustice to the parties. The said slave are in possession of Elisha Whittly the executor of the testator & your orator prays that the Court will make an order directing your orator to take the highest price upon such terms as to your worship may seem proper, directed a correct distribution of the same to be derived from the sale ^{that the said} ~~the said~~ of the said slave and the said Joseph Whittly pay the expenses, Willis being a non-resident of Virginia and one of your complainants being a minor relief can only be afforded by this honorable Court. They therefore pray your worship to make any & every order proper in the cause herein and your orator prays for.

A. Atkins pro.

Elisha Whittly & Joseph Whittly the last under the age of twenty one years, Petitioners
Willis Whittly & Company, the last administrators of Joseph Whittly deceased.

The defendant Willis Whittly who is out of the County and against whom the petition appears to have precedence in the mode prescribed by law against absent defendants failing to appear and answer, on motion of the petitioners, the Court doth take the petition for confessed and to this defendant, the cause comes on to be heard on the petition, the defendant of the defendant (Company).

was argued by Counsel; on consideration whereof, the Court doth adj. ord. decree that Elisha Whittly, in and they are hereby appointed Counsel and solicitors after public notice for at least 30 days, to file to the High Court at ^{City of W. County} ~~at the High Court~~ on a credit of 6 months, except for so much as will pay the expenses of the suit of the said which will be for Cash, the slaves being, James and Rebecca that of the said slaves, the said Elisha Whittly in equal sums deposit on to the petitioners Elisha Whittly, one to the possession of Joseph Whittly & that he bring the other bonds into Court to be filed for the benefit of said Willis Whittly &c, remain subject to the order of this Court & that they make report for.

To the Justices of the County Court of ~~Delaware~~
Wight in Chancery sitting. I humbly complain-
ing shew unto your Honorship your orator
Elisha Whitley and Joseph Whitley the
latter an infant under the age of twenty
one year, being by Samuel Andrews
his next friend, that one Elisha Whitley
late of the County of Sussex died in the
said County on or about the day of
a. d. having made his last will
and testament a copy of which is hereto
annexed marked A and is proposed to
be considered a part of the record of the
said will was admitted to record in the
Court of said County. The Court will
find from said will, that the testator
left a widow called Mary Whitley
to whom he left as his natural life
negro woman ^{represented} ~~the~~
Fanny, and the testator in the last clause
of his will directed that after the death
of his wife, the said Mary, or used their income
together with the other estate left her
during her life, should be equally divid-
ed between the testator's three sons
Joseph Whitley, Elisha Whitley & Miller
Whitley, the said Mary (the said Mary
and recently in possession of the said Mary,
Laney and a boy called Thomas
the overseer of the said land

your orator Elisha is the same Elisha
(son of the testator, to whom the said Joseph
and Miller Whitley the slaves & their
income in remainder were devised;
Joseph is dead & left a child now one of
the plaintiffs, Wm Parr is his executor, & your

Whitby a. v.

a. v. a. v.

Whitby

Enter the a. v.

Plat. v. a. v.

Plat. v. a. v.

The report and view of William
Parsons of Joseph Whitty
and to the view of complaint
exhibited against him to the
in the County Court of Salem
of May 11 by Eliza Whitty & others.
This respondent says & for answer
says that he is the executor of
Joseph Whitty who was the
father of the infant plaintiff
& has no occasion so far as
he is informed for any part
of the estate in the said name
towards paying the debts of
the intestate - He is willing
for the Court to make any
order in the premises which
may comport with Equity -
and has answered
may he be to his satisfaction

(Signed)

William Parsons

Executed on William Parr, Willis Whitley no
inhabitant Garden D Hall D for Jas. Johnson Suff

Whitley D. P. 1831

no

3 Spe. in Chg.

Amagville, 1831

The defendant & his

attorney & counsel

will appear before

the court & will

be prepared to

show cause to the

Atkinson at 10 o'clock

Intend
May 19. 1831

The defendant will be ready to answer

Atkinson at 10 o'clock

for the defendant

The Commonwealth of Virginia to the Sheriff of the county
Court of Isle of Wight Shewing: You are hereby command to summon
~~Benjamin Sheringfield and Elizabeth his wife who was Elizabeth~~
~~Whitley, William Whitley~~ William Parr administrator of Joseph
Whitley deceased, ~~Charlotte Whitley Robert Bartholomew and~~
~~Rogers his wife, William Thomas and Minerva his wife~~ and Miles
Whitley, to appear at the courthouse of Isle of Wight county before
the Justices of the court of said county on the first Monday in
June next, to answer a bill in Chancery exhibited against
them by the said court, by Eliza Whitley & Joseph Whitley
an infant child of Joseph Whitley deceased by Samuel Andrews
his next friend and Guardian.

And unless the said defendants shall appear and answer the said
bill within four months thereafter, the court will take the same
for confessed, and decree the matter thereof accordingly, and
this they shall in no wise omit under the penalty of \$100 each.
And have then there this writ: Witness Nathaniel Boring Clerk of
our said court at the courthouse the 17th day of May 1821 in
the 53th year of the Commonwealth.

Nathl. Boring
Clerk

Whitley

is

Doer

Whitley & Co

July 6th 1832 right ref.
Leontes

In Island of Night County Court September Term 1831
Elisha Whitley and Joseph Whitley the last under
21 years of age suing by Samuel Andrews his
next friend

Complainants

against

William Parr admor. of Joseph Whitley and Millie
Whitley

Defendants

In Chancery

The defendant Millie Whitley who is out of this State and against
whom the plaintiffs seem to have proceeded in the mode prescribed by law against
absent defendants still failing to appear and answer. On motion of the plffs:
by consent their bill is taken for confessed as to the said absent defendant and
the cause coming on to be heard as to the said William Parr admor. of Joseph
Whitley by his consent. it is adjudged, ordered & decreed that Elisha Whitley
do sell to the highest bidder on a credit of 6 months except for so much as will
pay the costs of this suit and of the sale which will be for each, the shares
in the bill named, Lewis, Soney, Soney & a boy called Edmund at Island
Night courthouse on a court day after reasonable notice, that he take of
the purchaser or purchasers bonds with good security in such way as to
enable the commissioner to comply with this decree that of the net profits
he apportion one third to the plaintiff Elisha Whitley and three to the infant
plaintiff Joseph Whitley and the other one third to Millie Whitley the absent
defendant, that the commissioner do pay over to the Guardian of the infant
defendant the bond to which he may be entitled, that they pay over to Elisha
Whitley the bond to which he may be entitled & that they deliver to this court
the bond to which Millie Whitley is entitled to be subject to their order, and
the court doth also order that the commissioner make report to this court
in order to a final decree.

Clerks fee \$3 95

att^o " including 3 11.00

not tax

Printers bill 3.00

\$19 95

Attest Nathl. Young Clk.

His right to it -

Agreeably to an order of the County
Court aforesaid, the undersigned, having
advertised in the mode directed by the
Court, proceeded at November County
Court to sell Jenny and her children
the Slaves named in the record - when
Ethan Allen purchased them at the price
of three hundred and sixty one dollars,
the expenses of the suit amounted to the
sum of ----- \$19.95

Costs of Sale incurred and also an
account of expenses for keeping the
same negroes & medical fees
paid here also deducted left a balance
of \$304.30 - of which Elisha Whittier
received 1/3 say ----- \$101.43 1/3

Bond paid to Saml. Andrews
guardian for Jeff: Joseph }
Whittier ----- } 101.43 1/3

Bond taken for the share of
supt. Willis Whittier now returned }
to the Court herewith ----- } 101.43 1/3
\$304.30 -

all which is respectfully submitted -

Nov. 17. 1831 -

Elisha Whittier

Whitely & Co
or by order
Whitely & Co

Cost
Mm.

Jud of Wight County where Court 1831
Elisha Whitty and Joseph Whitty the
said under the age of twenty one years, being
by Edward Anderson, his next friend.

Willis Whitty and William Parrasor of
Joseph Whitty and — — — Sept.

The said defendant Willis Whitty not having
entered his appearance and given security
according to the act of assembly, and the rules of
this Court, and it appearing by satisfactory
evidence, that he is not an inhabitant of this
County, it is ordered that the said defendant
do appear here on the first day of ^{September} ~~October~~
~~next~~ Court next, and answer the plea of the
p.c.p.s: and that a copy of this order be
forthwith inserted in some News paper
published in the borough of Norfolk for two
months successively, and posted at the front
door of the Court House of this County —

[illegible]

Elisha Whittly and Joseph Whittly the last named
was one of our being by same. I suppose his next
friend, is Messrs ad. of Joseph Whittly & Willis
Whittly - The said Willis Whittly who is out of
this state & against whom the paper seem to have
proceeded in the more pursuant to law
as absent defendants still fails to appear & as
on motion of the paper by Counsel their petition
for compulsion to the said absent said & the
cause coming on to be heard as to the said
Messrs ad. of Joseph Whittly by his consent,
it is adjudged, ordered & decreed that
Elisha ~~Whittly~~ Whittly

At Court held for Islip Twp. County the 11th day of July 1814 The foregoing
was established as the last will and testament of Elisha Whitley deceased
as per decree of said court

Absay Tote Nathl. Young Jr.
" of "

Elisha Whitley's
Will

Whitley & Co.

Whitley & Co.

Exhibit A

Item I lend unto my wife Nancy Whitley the plantation whereon I now live during her natural life or widowhood, also I lend her my negro woman Prip, and one negro girl Fanny, one feather bed and furniture, my plantation utensils of every description, together my crop of corn, pease, fodder, &c. made on the plantation the present year, one riding chair, one horse and one mare & colt, and my stock of hogs, and after my wife's death I give the said plantation to my son Willis Whitley and his heirs forever.

Item I give to my daughter Peggy Whitley one negro girl Siola to her and her heirs forever.

Item I give to my daughter Minnifred, one negro boy Sam and one bed and furniture to her and her heirs forever.

Item I give unto my son Joseph Whitley one negro boy Brister and one bed and furniture to him and his heirs forever.

Item I give to my daughter Nancy Whitley one bed and furniture to her and her heirs.

Item I give unto my son Elisha Whitley all my land lying on the north side of the road leading from Hooker's swamp to Black water containing sixty acres more or less, also one horse and one bed and furniture which he has already in his possession to him and his heirs forever.

Item I give unto my son William Whitley five shillings to him and his heirs forever.

Item I give to my daughter Elizabeth Stringfield five shillings to her and her heirs.

Item it is my will and desire that after the death of my wife Nancy Whitley the negroes and their increase together with the other estate left her during her life, should be equally divided between my three sons, Joseph Whitley, Elisha Whitley and Willis Whitley and their heirs forever.

Item it is also my will and desire that the balance of my estate should be sold and after paying my just debts should be equally divided between my three sons Joseph, Elisha and Willis Whitley and my three daughters, Nancy, Peggy, and Minnifred Whitley to them and their heirs forever.

I nominate and appoint my sons Joseph Whitley and Elisha Whitley my whole and sole executors to this my last will and testament. In Witness my hand this 30th day of October 1800

(signed)
Elisha Whitley

I witness
David Nelson
Sally Nelson
David Dick

Whitney 2 rows of
3 published
Whitney & Co

off
of
p

ISLE OF WIGHT COUNTY, TO WIT:
At Rules held in the Clerk's Office of said county, the 6th day of June, 1831.

Elisha Whitley and Joseph Whitley, the
last under the age of twenty one years,
suing by Samuel Andrews, his next
friend,

Compl'ts.

In Chancery.

AGAINST
Willis Whitley and William Parr, adm'r
of Joseph Whitley, dec'd.

Def'ts.

THE defendant, Willis Whitley, not having
entered his appearance and given security
according to the act of Assembly and the rules of
this Court, and it appearing by satisfactory evi-
dence that he is not an inhabitant of this state,
it is ordered that the said defendant do appear
here on the first day of September Court next,
and answer the bill of the Plaintiffs, and that a
copy of this order be forthwith inserted in some
newspaper published in the Borough of Norfolk
for two months successively, and posted at the
front door of the Court House of this county.

A Copy—Teste,

NATH'L YOUNG, C. C.

22nd

July 1

Notifies that the annexed notice,
in the case of Whitley vs Whitley,
and Parr, has been inserted, for
Two Months, successively, commen-
cing July 1st 1831. in the Ameri-
can Beacon, published in Norfolk.

Wm. C. Shields
of Shields & Baburn,
Publishers of the Beacon.

Sworn to before me, an Alderman of Nor-
folk Borough, by Wm. C. Shields, this 29th
day of September 1831.

J. C. Barran

Elisha Whittley recd:
as admor. of Willis
Whittley for a bond large
in this suit of Whittley
vs. Whittley —

Received of Nathaniel Young clerk of Islop Wright county
a bond payable to Willis Whitley, by Nathaniel Pruden junr.
and John Phillips for One hundred and one dollars and 43 $\frac{3}{4}$ cents
dated the 7th day of November 1831 and payable six months
after date, which amount was the proportion of said Willis
Whitley in his mother's & Nancy Whitley's dower negroes, which
negroes was sold for a division by a decree of Court - & the
said bond placed in the clerk's office for said Whitley -
May 31st day of May 1832

Elisha M. Whitley
Admor: of Willis Whitley
Dad.