

1843-006

Chancery Causes: James Winston and George Winston vs James H. Deale & ux & al

Isle of Wight County

Other surnames: [James
& George Winston], Drew,
Whitehead, Persons, Hall
Bullock, Marks, Deal

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of *Isle of Wight* County, Greeting.

WE COMMAND YOU TO SUMMON *James H. Deal, and James H.*

Deal and his wife Elizabeth and Wm. Parson,
the last an infant

to appear before the Judge of the Circuit Superior Court of Law and Chancery for the County of Isle of Wight, at the Court House of said County, on the first Monday in *November* next, being Rule day, to answer a bill in Chancery in the said Court exhibited against *them* by *James Winston and George Winston, Merchants and partners under the firm and style of James and George Winston, who sue on their own behalf as well as on behalf of Athin, Executor of James H. Deal - And this they shall in no wise omit under the penalty of \$100 each.*

and if *they* shall fail to answer the Bill within two months thereafter the Court will take the said Bill for confessed, and proceed to decree the matter thereof accordingly. And have then there this

Writ.—Witness Nathaniel P. Young, Clerk of our said Court, at the Court House, this

22nd day of *October* 184*2*, in the *8th* year of the Commonwealth.

N. P. Young

James George Winston Esq.
vs: 3 pds in Chy.

James H Deal Esq.

To November Rules 1842.

Atkinson pgs.

to be served on
Deal wife
only -

A. Atkinson

To be served on November 3rd 1842. by delivering a
true copy to James Deal and wife

J. M. Whitaker D. S. for
Benj. Davis Att.

To the Judge of the Circuit Superior Court of Law
and chancery for Isle of Wight County, humbly
complaining, shew to the Court your orator,
James and George Winston of Richmond,
Merchants and partners under the style
of James and George Winston, who sue on
this our behalf, and on behalf of Anti.
Davis and others, that the said James &
Davis being indebted to your orator, under
his obligation to them for fifty dollars, \$50
cents payable on demand, on which a suit
was instituted in the Circuit Superior Court
of Law and ch. for said County and judgment
rendered for them against said Davis on
the 7th of May 1842 for \$50.50 with interest
from 31 September 1841 till paid \$6.73 costs -
executions fifa issued thereon for said money
and costs, and the same was returned
by the officer "nulla bona" - and again
on the 4th of October 1842, the plffs. sent
out another fifa, which came to the hands
of Jos. B. Whithead - Deputy for B. Brown
Sheriff of Isle of Wight County on the 4 day
of October 1842, and the same has been
returned by the sheriff with the following
return, that is to say "Served October 2. 1842
upon the undivided interest of James & Davis in the
estate of Willis T. Penon, ^{consist of} ~~consist of~~ ^{slaves} ~~slaves~~ ^{the} but it being an equitable
interest, it cannot be carried away or sold by me
and I know of no other property of said Davis
The slaves alluded to in the above are Dick, Peter, Tom,
Nancy, Willie, Bob, Sam.
Sarah "Filly"

J. B. Whithead Esq
to B. Brown Sheriff

Now complainant charge that one Asa D.
Lea is also obtained judgment against the
said James H. Deale in the County Court of
Del. of Wright in November 1841, and send out
a fieri facias for the sum of \$80 with inter-
est thereon from 1 Jan'y. 1839 till paid
and \$7.58 costs - subject to a credit for fifty
five dollars and forty cents per Decem 30.
1841 - having seen or said execution the
sum of \$44.18 with interest on \$36.60 paid
thereof from said 30th Decem 1841 till paid -
which fieri facias also returned, no effects
were without satisfaction - and the said
Lea, send out another execution against
the goods and chattels of said Deale on
the day of Octob 1842, which came
to the hands of one Joseph B. Whithead
Deputy for B. Breese sh. of Del. of Wright
on the 4th day of Octob 1842, and the
same has been returned as follows -
Levied Octob 12 - 1842 upon the undivided interest
of James H. Deale in the estate of Miller J. Person, but
as it be a equitable intent, it cannot be
carried away or sold by me - and I know
of no other property of said Deale. J. B. Whithead
The slaves, also due to the above are Dick (sh. of Del. of Wright)
John, Perry, Miller, Beth, Sam, Sarah, Del. - Breese sh. of
And one Joseph Person also of Person
Person also send out his fieri facias on the 20th of Octob 1842
against the goods and chattels of James H. Deale for
Deale for the sum of \$24.89 with interest from 17th
Septem 1841 till paid and \$7.80 which came to the hands
of J. B. Whithead Deputy for B. Breese sh. of Del. of Wright
on the 22nd Octob 1842, which has been returned with
the following execution to wit: levied 22nd Octob 1842
upon the undivided interest of James H. Deale in the estate
of Miller J. Person, consists of slaves, but it being an
equitable intent, it cannot be carried away or sold by me
and I know of no other property of said Deale -

Joseph B. Whithead Deputy for B. Breese sh. of Del. of Wright - and on the 16
marks for the same send out his fieri facias against the estate
of said Deale on the 5th of Octob 1842 which came to the
hands of said Whithead on the 5th Octob 1842, on which
he has made a like return with the other - which
said executions are still unsatisfied.
and the complainant file herewith
off in copies of said executions, return
marked A. B. C. & D
which are offered as parts of this bill -
You orator charge that there is a very
considerable estate liable to this owner
the history of which estate is as follows -
Some years ago the said James H. Deale
intermarried with one Eliza Person, wife
of said person - she having two sons, John
Miller J. Person and Mr Person, who were
owners of an undivided portion of slaves
acquired from their father - that on a
short the day of Septem or the first of
Octob 1842, the said Miller J. Person, died
an infant, intestate, unmarried and without
issue, leaving Mr Person a full brother.
his mother Eliza wife of said James H. Deale,
and one Sarah H. Deale a half sister
entitled to the personal estate of said Miller -
that one Joseph B. Whithead is a deputy of
said Miller J. Person and now considerable
estate - that since the death of said
Miller, the said Eliza Sarah H. Deale who
was a daughter of said James H. Deale
and a half sister and distributee of the
said ^{Miller} Thomas Person separate this life in
a short the day of Octob 1842, an
infant, intestate, unmarried and without
issue, the said James H. Deale, being her
father and distributee of her estate, for
Mr. B. Whithead is her administrator - the said
Sarah and during the existence of the estate
of your orator, and the interest of the same

Lewis McNeal became bound to some complainant, & so soon as it vested, the execution is a: his in the hands of the officer has a binding influence in Equity upon said property, altho it was an invalid lien in the distributes and not in a condition to be taken possession of by the officer. It is true that the complainant have some claim that they could in the way of diligence and therefore a Court of Equity will give them relief. Your orator understands & believe it to be true that the County Court of Wash. M'g't County, have, in a suit for division of the slaves of said Willis T. Benson and Sarah E. Deale dec'd: directed Lewis to divide the slaves, & so 10 in number, for 1/5 as to give 3/5 of one moiety to said Lewis McNeal his wife, & 1/5 of one moiety to the said Lewis McNeal as the father and distribute of his daughter the said Sarah E. Deale, and your complainant insist that by virtue of their execution and return, and commencement of this suit in this Court of Equity, they are entitled to be paid their claims out of the slaves of said Lewis McNeal & Lewis McNeal and wife & so on as aforesaid against from the said decedents, but they can't enforce their lien simply by the aid of this Court. Your orator states that after this ~~execution is a: his in the hands of the officer~~ ~~has a binding influence in Equity upon said property~~ ~~altho it was an invalid lien in the distributes and not in a condition to be taken possession of by the officer~~ ~~It is true that the complainant have some claim that they could in the way of diligence and therefore a Court of Equity will give them relief~~ ~~Your orator understands & believe it to be true that the County Court of Wash. M'g't County, have, in a suit for division of the slaves of said Willis T. Benson and Sarah E. Deale dec'd: directed Lewis to divide the slaves, & so 10 in number, for 1/5 as to give 3/5 of one moiety to said Lewis McNeal his wife, & 1/5 of one moiety to the said Lewis McNeal as the father and distribute of his daughter the said Sarah E. Deale, and your complainant insist that by virtue of their execution and return, and commencement of this suit in this Court of Equity, they are entitled to be paid their claims out of the slaves of said Lewis McNeal & Lewis McNeal and wife & so on as aforesaid against from the said decedents, but they can't enforce their lien simply by the aid of this Court.~~

In their consideration whereof, they pray that the said Lewis McNeal & his wife Eliza, Joseph B. Whithead and of Sarah E. Deale and of Willis T. Benson may be made defendants to this bill, & be compelled on their oaths to answer the same and that you will decree that the estate held by the said Whithead as adm'r of said Willis T. Benson and as adm'r of Sarah E. Deale as belongs to Lewis McNeal in his own right and that of his wife may be out of the slaves & so on as aforesaid & upon make responsible to your orator, decedents and the executors of the other decedents herein before mentioned. That you will remove the obstacles that exist to the levy at law and make any order in the premises that may comport with Equity &c. Atkinson p. 2

Minster's ~~don~~

m } ch

Alcali &c.

1842. November Rules.

Bill v. felix & son.

1843. January Rules.

bill taken for confessed &
cause set for hearing.

1843 May term.

Dismissed by plea.