

1880-008 Chancery Causes: William Johnson & Anna Johnson, by & c VS A

H. Ashburn, estor

Dde of Wight County

of William K. Johnson

other SURNAMES: Pierce
Peirce

Commissioner's Office,

Isle of Wight C. H. Va Nov: 26th 1876

To Edith Peirce, Mother and guardian of
William Johnson and Anna Johnson

.....Plaintiffs.
and to A. H. Ashburn, Executor of Wm. E.
Johnson decd:

.....Defendants.
You are hereby notified that I have fixed upon the tenth day of
January 1877 to take and settle, at my office aforesaid, the

following accounts to wit: An account of the amount
paid by said Executor on account of the
legacy of Five Hundred dollars shown
by his answer to be in his hands due
the plaintiffs. And also to ascertain and
report to Court the balance of said legacy
in his hands as executor aforesaid.

Required to be taken by a Deeree of the Circuit Court of Isle of Wight County, rendered
on the 21st day of October 1876 in a suit in Chancery depending
in the said Court, in which you are parties, plaintiffs and defendants; at which time and
place you are required to attend.

Given under my hand, as a Commissioner in Chancery of said Court the day and year
first aforesaid.

.....A. S. Young..... Commissioner.

Executed by delivering to the within
named A. B. Johnson a true copy of
the within Decer 11th 1876.

A. B. Edwards
Deft

Johnson per order.

A. B. Edwards
Deft

Johnson's Decr.

10th 10th 1876

Executed by
delivering to the
within named A
true copy of the
within Decer.
12th 1876

A. B. Edwards
Deft

A. B. Edwards
Deft

I, William R. Johnson of the County of
Essex of right and State of Virginia being weak
and feeble in body, but possessing a sound
mind, do make and ordain this my last will
and testament, hereby revoking all former
wills by me at any time made, in manner
and form as follows,

1st

after paying all my just debts, I give and bequeath
to my sister Polly Johnson Fifty Dollars,

2nd

I give and bequeath to my grand daughter
Laura Ann Sumner the sum of Fifty Dollars,

3rd

I give and bequeath to my grand daughter Mar-
garet Rhodes the sum of Fifty Dollars,

4th

I give and bequeath to my grand daughter Mary
Sumner the sum of Twenty five Dollars,

5th

I give and bequeath to my daughter Catharine
Edwins one feather bed and one cow and calf her
choice of my beds & cows,

6th

I give and bequeath to my grandson James
Sumner, my sorrel Horse known by the name
of Major, if living at my death,

7th

I give and bequeath to my daughter Martha
Gray that tract of land belonging to me, on the
South Side of the County road, in front of my
residence, containing somewhere about
Sixty acres, and better known as part of the
Draper land, to have and to hold she and her
heirs forever,

8th

I give and bequeath to my daughter Jane Bradshaw and her heirs forever that tract of land belonging to me, lying on the South side of the County Road leading from Windsor to Knoxville, containing some where about one hundred and twenty acres, and is known as the Butler place, should the timber on said land, which is under Contract with C. H. Ashburn & Co. not be cut, and settled for at my death, I also give to her the amount that may accrue from the sale of said timber, according to the Contract between me and C. H. Ashburn & Co.

9th

I give and bequeath to my son Madison Johnson and his heirs forever all the rest and residue of my land, embracing the farm on which I reside, and the land on which he resides, with this provision ~~or on~~ the condition that he is to pay to my daughter Martha Gray the sum of Sixty Dollars, and to her that sum only. I having already given to her son Samuel Gray Fifty Dollars. And on further Condition that he pay to my Executor the sum of Five Hundred Dollars, which sum of Five Hundred Dollars, I give and bequeath to my two grand children William and Anna Johnson, children of my departed son William Henry Johnson, to be given them, when, and not until they shall have in the judgment of my

Executor arrived to the age of discretion, in the event either of them should die before receiving the amount: it is my desire that the surviving one should receive the whole, in the event both should die before receiving it, It is my desire that the amount be divided among my lawful heirs,

10th

All of the rest and residue of my estate I, with my Executor to sell, and divide among my lawful heirs, after paying costs and charges,

11th

I nominate, constitute and appoint my friend A. H. Ashburn my sole Executor. Signed and Sealed on this 16th day of May in the year of our Lord, one thousand eight hundred, and Sixty Seven, in presence of (intelines before assigned),

H. D. Peel

Dick Peel,

Wmth Kth Johnson Seal
mark

Virginia. In the Quarterly Court of the County of Wight County, the 1st day of December 1873, The last will and testament of William K Johnson decd, was proved by the oaths of Henry D. Peel and Dick Peel, the subscribing witnesses thereto, and ordered to be recorded, And on the Motion of A. H. Ashburn the Executor therein named, who made oath.

and together with Mills L. Watkins and Henry
D. Peel his securities (who justified, entered
into and acknowledged a bond in the presence
of Two Thousand Dollars, with condition
according to law, Certificate of probate
is granted him on the said Will of William
K. Johnson deceased, in due form of law,
Ordered that said bond be recorded,

Teste, Jas. H. Hart, Clerk for
H. P. Young, Clerk,
Attesty Lester

Jas. H. Hart, Clerk for
H. P. Young, Clerk,

Wm K. Johnson's

Will

Attesty

For C. B. Johnson to
a copy of which

Johnson per Friend

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vs
Johnson's Executor.

This cause this day came on to be
again heard on the papers formerly read & on
the certified copy of the execution vs A. H. Ashburn
issued under the decree herein of April term, 1877
& the Sheriff's return thereon, showing satisfaction
by the said A. H. Ashburn of the same & was
argued by Counsel; On consideration whereof
the Court doth adjudge, order & decree that
this suit be removed from the docket, nothing
further remaining to be done herein

Johnson per Friend
100
Johnson's Ex'n

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

Rough Decree
October Term, 1880.
To be entered

Geo. Blow

Entered 28

169

Ipswich Circuit Court, April 20th 1877.

William Johnson & Anna Johnson suing
by Edith Pierce their mother and guardian
as next friend. Pltffs.

against } In Chancery.

A. Ashburn Executor of Wm. K. Johnson Defts.
This cause, this day, came on to be again
heard on the papers formerly read, and
on the report of A. J. Young under the decree
herein of October term 1876, and was argued
by counsel; on consideration whereof
the court confirming said report to which
no exceptions were filed doth adjudge order
and decree that the defendant A. Ashburn
out of the sum of \$500.⁰⁰ with interest thereon
from the 1st day of December 1874, first
pay the costs of this suit, and the balance
thereof, pay to the legal guardian, if any; if
the Plaintiffs Wm. Johnson and Anna Johnson,
taking the receipt of such guardian
therefor, and if there be no such guardian,
deposit the same to the credit of the said
Plaintiffs, in the Farmers and Merchants
Savings Bank, Smithfield, subject to
the future order of the Court herein, taking
the certificate of deposit of the Cashier of
said Bank therefor, and return the

same, or the receipt of said guardian as
aforesaid, with his report to court of his
proceedings under this decree, and the
court doth further adjudge order and
decree, that copy of this decree be
served on the said A. S. Ashburn, and
that on his failure to comply with the
requirements of this decree, within ninety
days from the date thereof, that execution
issue against him for the amounts
aforesaid, and that the Shff. disburse
of the proceeds of said execution as
herein before directed.

Attest — Th. A. Edwards D.C. for
S. J. Young Sh

Johnston for f.d.
vs. Fagelus copy Dec.
of April 1877.

Johnston vs. Fagelus

to be returned
within 90 days from
21st April 1877.

Executed by delivering
to the within named
A. S. Ashburn a
true copy of within
decree June 6th
1877.

B. Edwards

Shff

Johnson her friend

02
Johnson's Exor

This cause this day came on to be again heard on the papers formerly read on the report of Commissioner H. P. Young under the decree bearing October Term 1876 & was argued by counsel; on consideration whereof the court confirming said report to which no exceptions were filed doth adjudge order & decree that the defendant A. A. Ashburn out of the sum of \$500.00 with interest thereon from the 1st day of Dec 1874, first pay the costs of this suit, & the balance thereof pay to the legal Guardian ^{if any} of the plaintiffs W^m Johnson & Anna Johnson taking the receipt of such Guardian therefor & if no such Guardian deposit the same to the credit of the said plaintiffs in the Farmers & Merchants Savings Bank Smithfield subject to the future order of the court herein taking the Certificate of Deposit of the Cashier of said Bank therefor & return the same or the receipt of said Guardian as aforesaid with his report to court of his proceedings under this decree. And the court doth further adjudge order & decree, that a

copy of this decree be served on the said
 A. A. Ashburn & that on his failure to com-
 ply with the requirements of this decree
 within ninety days from the date thereof,
 that execution issue against him for the
 amount aforesaid, & that the Sheriff dispose
 of the proceeds of said execution as hereinbefore
 directed.

Johnson per la

or Johnsons Exor

Wm. Ashburn
 April 20th 1877

To be returned

Geo. W. Benson

96

Entered 1877

Iles of Right Circuit Court October 21st 1846.

William Johnson, + Anna Johnson suing by
Edith Pierce, their mother + guardian as
next friend. Plffs

Against 3 In Chancery
A. S. Ashborne exor. of John K. Johnson, Defs.
This cause came on this day to be heard
upon the complainants bill, the answer of A. S.
Ashborne exor. of John K. Johnson decd. to said bill,
this day filed by consent of the court, +
exhibits filed, + was argued by counsel, on
consideration whereof the court doth adjudge
order, + decree that a commissioner of this
court take an account of the amount paid
by said exor. on account of the legacy
of five hundred dollars shown by his
said answer to be in his hands due the
plaintiffs, + ascertain + report to court the
balance of said legacy, in his hands as
exor. of aforesaid.

A copy Teste

W. A. Edwards. Clerk
N. P. Young Clerk

Ex^o
Johnson per f^o.

as 3 Cols Dr of
Oct 176

Johnson exor.

Nov. 26th. 1846.
Notice is^d to 10th
Jan. 1847.

Conver in Aug.

Johnson per friend vs
Johnson's executor

This cause came on this day to be heard upon the Complainant's bill. the answer of A. H. Ashburn executor of William K Johnson dec'd to said bill, this day filed by consent of the Court, and exhibits filed and was argued by Counsel, on Consideration whereof the Court doth adjudge, order and decree that a Commissioner of this Court take an account of the amount paid ^{of five hundred dollars shown by his said answer to be} by said executor on account of the legacy, in his hands due the plaintiffs, and ascertain and report ^{to} the Court, the balance of said legacy in his hands as executor aforesaid

Johnson per Friend
vs
Johnson's Execution

Rough Decree
October Term, 1876.
To be entered
Geo. Blount

Est. (17)

check of the Cir. Court will please
issue execution under the decree
in apt. term 1877. in Johnson vs. ft.
vs. Johnsons Error. et als. for the sum
of \$500.⁰⁰ with int. from the first day of
December 1874. Let the execution be
Debnis's purpose

Aug 8/77

C B Hayden to

$$\begin{array}{r} 28 \\ 21 \\ \hline 5 \end{array}$$
 ac. 5.18
 sh. 2.00
 etc. 16.50
 Cont. 5.00

Cost 28.68
 1.08
 \$29.76

$$\begin{array}{r} 5.18 \\ 1.08 \\ \hline 6.26 \end{array}$$

Memo. left
 by L. B. Hay and
 Aug. 8th 1877

Bill Cost 6
 Aug. 1877

Cont. for Hop 16.50
 Cell. for 6.21
 Shuff. " 2.00
 Cont. Young 5.00

Cost 29.71

Commissary office Isle of Wight
County, Jan'y. 10th 1847.

To the Circuit Court of Isle of Wight County.

Pursuant to a decree of the said Circuit Court, rendered at the October Term 1846, in the suit in chancery therein depending between between Edith Price mother and guardian of William Johnson and Anna Johnson plaintiffs against A. H. Ashburn Executor of William W. Johnson defendant, directing a commissioner of the said Court to take an account of the amount paid by said Executor on account of the legacy of Five Hundred dollars shown by his answer to be in his hands due the plaintiffs, And also to ascertain and report to Court the balance of said legacy in his hands as Executor of record, your commissioner reports to the Court that, on the 26th of November, 1846, he issued notices to the parties, plaintiffs and defendant, that he had appointed and fixed upon the 10th day of January, 1847, to take and settle, at his office, the said account and make said inquiry; which notices were duly executed and returned to your commissioner. That on the day so appointed the said Executor appeared before your commissioner

and stated that he had paid nothing
on account of said legacy, and your
commissioner therefore, reports to the
court that there is now due to the said
plaintiffs the entire legacy of \$500.00
with interest thereon from the first day
of December, 1874, till paid, which
is in the hands of said executor.

Given under my hand as a com-
missioner of the said court, the day
and year first aforesaid.

N. P. Young Com.

Comm. fee \$5.00

Shff. " 1.00

\$6.00

Johnson vs. M. M. M.

vs. M. M. M.

Johnson vs. M. M. M.

Report of Court.

(Young) under Sec.

of Act. 1876.

Filed 20th Jan
1877.

The Commonwealth of Virginia,

To the Sheriff of Isle of Wight County, Greeting:

WE COMMAND YOU TO SUMMON

A. A. Ashburn Esq.
of William B. Johnson

to appear at the Clerk's Office of the Circuit Court of Isle of Wight County, at Rules to be holden for the said Court, on the first Monday in *March* next to answer *the Bill in*

Chancery of William Johnson & Anna Johnson
being by Edith Pierce their mother and
guardian as next friend

of a plea of

for \$

Damages \$

And have then there this writ.

Witness, N. P. YOUNG, Clerk of our said Court, at the Court House, the *22^d* day of

February

187*0*, in the *100th* year of the Commonwealth.

N. P. Young Clk.

Not finding the within named A. D.
Cathern at his usual place of abode
I represented the within by delivering a true
copy of the within Summons to Miss Sada
Cathern a member of the family a white
Person abt. 16 years of age and explained
the same to her July 28. 1876

J. B. Edwards Sheriff

Wm. A. Anna Johnson

per J. B.

Curran, in

to J. B. Sheriff

A. D. Cathern Esq.

of Wm. A. Johnson

at Wm. A. Johnson

at Wm. A. Johnson

To the Honorable George Blow: Judge
of the Circuit Court of Nantsemond County:

The Answer of A D Ashburn
Executor of W^m R Johnson to the Bill
of Complaint in said Court exhibited
by William Johnson Anna Johnson
per friend against him:

This Defendant saving &
reserving all right of exception to
the many errors & imperfections in
said Complainant's bill contained
for answer thereto, as to so much
thereof as he ~~is~~ advised it is material
or necessary for him to answer,
answering says, that he admits to
be true, the allegations of said bill
that he is the Executor of said W^m R Johnson,
that the said W^m R Johnson by his will
gave to the complainants a legacy of
Five Hundred Dollars - that the said
legacy of Five Hundred Dollars has
been paid by Madison Johnson on
whose land it was charged to this
Defendant as Executor aforesaid & that
he holds said legacy under the trusts
of said will, except as to the sum of
which he has paid their guardian -
that said legacy is not needed for

the payment of the debts of his said testator
 that in his judgment the complainants
 have attained the age of discretion,
 & that he has no objection to the
 prayer of said bill for a decree
 against him for the payment
 of the balance due on said legacy
 to said complainants, whose limited
 means renders such payment
 necessary for their education &
 which payment this defendant
 believes would greatly promote
 their interests. And having
 answered he prays hence to be
 dismissed with his costs in this
 behalf most reasonably expended &
 he will ever pray.

Signed - A. H. Ashburn

acknowledged before me a justice of the peace for the county

of Gray Mch 28 -

This 20th April 1876

Benj C Roberts J.P.

Johnson & family

Johnson & Co

Anson of Johnson
 Executors

May

Now in the Court
 of your Honor
 I have the honor
 to state an error
 in the bill
 Ashburn

To the Honorable George B. Low Judge of
the Circuit Court of the county of Isle of
Wight in Chancery sitting

Humbly com-
plaining sheweth to the Court your
complainants William Johnson and
Anna Johnson infant orphans of
William Henry Johnson dec'd suing
by Edith Pierce their mother & guardian
as next friend, that some time in
the year 1873 one William K. Johnson
the grandfather of your complainants
departed this world in the said county
having previously made & published
his last will & testament which at the Dec
Term 1873, said court was admitted
to probate therein & A. H. Ashburn nomi-
nated in said will as Executor qual-
ified as such, as will appear from
a certified copy of said will with cer-
Exhibit A, tificate of probate of said executorial
qualification annexed marked A. &
prayed to be taken as a part of this
bill. That under the provisions of
the 9th clause of said will a tract of land
was given to Madison Johnson on
condition that he should pay to the
said Executor the sum of \$500.00, which
sum of \$500.00 the said testator bequeathed

to your said complainants to be given them when in the judgment of said Executor they shall have arrived to the age of discretion, with the provision that if either of them should die before receiving the amount, the survivor should receive the whole & that if both should die before receiving it, remainder to the Testators lawful heirs That the said Madison Johnson has only very lately paid the said Executor the said legacy of \$500.00 That the said complainants have respectively attained 18 years of age. That they are very poor, having no income. That they have no estate except a small piece of very poor unproductive land & the said legacy of Five Hundred Dollars. That they have both attained the age of discretion. That they have both grown up without any education - That they feel the want & need of an education & are very anxious to receive one & have no hope of obtaining one, except through said legacy. They can never obtain the same benefit from said legacy as at the

present time That the said legacy is not needed for the payment of the debts of the estate That said executor has only paid a very small amount to the guardian of your complainants That they are greatly in need of said legacy for their education That they are informed that said executor is satisfied that your complainants have attained years of discretion & that the payment of said legacy at this time would greatly advance the interests of your complainants & that in his judgment the payment of said legacy to your complainants at this time would be proper & that he would have no objection to said payment at this time, but from some supposed necessity for his protection by the decree of this court directing or authorizing such payment because of a contingent limitation of said legacy to the heirs at law of the testator, on the failure of your complainants to receive it in their lifetime. In tender consideration whereof & for as much as your complainants are with-

out remedy at law & can only be
settled by the aid of this Honorable
Court of Chancery where matters of
this sort are cognizable, to this end
your complainants pray that said
R. H. Ashburn as Executor of said William
H. Johnson may be made a party defend-
ant to this bill & required to answer
the same & that by the decree of this
Honorable Court payment to your
complainants of said legacy by said
Executor ^{may be defended} if he should admit that in
his judgment your complainants or
either of them have arrived at the
age of discretion; or if he should
deny that they have reached such
age, that an inquiry may be direc-
ted to ascertain whether or not they
have reached such age. That all
necessary accounts may be directed
that such other & further relief may
be granted in the premises as to
the court may seem meet & the
nature of the case may require &
your complainants will ever pray &c

Hayden per

Johnson ^{14 of dec 18}
per friend
Bill &c

A H Asburn
Etc -

18th 6.

March Rls. Bill &c -
filed & de. miss.

Apr. Rls. Bill taken for
conf. & set for hearing.
April ch Court

October at De for acct

April ch. 77. Set back
Court & de. for payments
to the plaintiffs

Court since last De

"
Dec. ch. 1880.

Final Dec.