

1855-007

SOUTHAMPTON COUNTY
CHANCERY PAPERS

KINDRED'S EXECUTORS VS. SMITH
KINDRED'S EXECUTORS VS SMITH & UX & a)

5/1855

Other surnames: Beaman,
Cross, Darden, Bowers,
Wise, Holland, Pretlow,
Murfee, Riddick, Pope,
Bishop

Hundreds Ex^{ts}

& } Papers

Smith Jr

1855 May Term

Hundreds Ex:

v } Stat. Rules

Smith

John I & Benjamin B Kindred Exors. of Henry Kindred dec Defts }
 against }
 Humming T. Smith Dfr. }

- 1852 Aug 18th Summons issued returnable to October rules
 " Oct. R. Sum. not? Executed. Bill filed & Devere Wise to Dfr.
 " Nov. Bill taken for confessed & cause set for hearing &c
 " " Term Leave to amend bill and cause remanded to the Rules -
- 1853 Mar. R. Amended bill filed and summons awarded.
 " April " Sum. not? Executed except on Deft. Wise. Devere Wise against all the Defts
 except Dfr. Wise.
 " May " Bill taken for confessed as to all the Defts except the Deft. Wise and cause set for
 hearing as to them -
- 1855 " T. Dismissed

Colk	\$10.95	}	\$33.20
Shff	6.50		
Low 4	15.75		

10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20

Hundreds Exr.

& } Bill

Smith

1859 October Rules

To the Hon Richard H. Baker, Judge
of the Circuit Court of Southampton County.

Humbly complaining shew unto
your honor, your orators Drs J Hendrix and Benja B.
Hendrix of the County of Southampton, that Henry Hendrix
departed this life in the year 1849, having previously
executed his last will and testament which was duly
admitted to probate in the County Court of the said County,
a copy of which is herewith filed (marked A) and prayed
to be considered a part of this bill: that your orators,
the executors therein named have qualified as such
as will appear by a Transcript from the records of
the said Court herewith filed (marked B) and prayed
to be read with this bill.

Your orators represent that they as executors
as aforesaid, instituted a suit against Henning J.
Smith and John L. Bishop, for the benefit of Benjamin
J. Pope and Elbert H. Pope, and at the ~~May~~^{May} term of
the Circuit Court of the said County in the year 1850 ob-
tained a judgment against the said Smith and Bishop,
to wit on the 9th day of ~~May~~^{November} AD 1850, for the sum of
"Three hundred and sixty three dollars and sixty two cents
with legal interest thereon from the 16th day of July 1849
till paid" and the further sum of seven dollars and
forty cents adjudged for their costs by them about their suit
in that behalf expended.

They further represent that no execution
was ever sued out on the judgment aforesaid, but that
They caused an abstract or copy of the said judgment
to be docketed by the clerk of the said County Court of
Southampton on the 25th day of January AD 1851,
as will appear by an extract from the records of

the said writ here with fees (marked C) and prayed to be read with this bill; and that the said Judgment was docketed within twelve months from the time of obtaining the same.

Your orators admit that on the 5th day of May AD 1851, the said Henning T. Smith paid the sum of Two hundred and twenty nine dollars and eighteen cents in part of the said Judgment, but they charge and aver that the balance has not been paid either by the said Smith or Bishop and that it still remains wholly unpaid, which is contrary to equity and tends to the injury of your orators and well as to the injury of the said Bishop and Robert H. Pope.

To the end therefore that Justice may be done, and as your orators are reminded at law and relevant only in a Court of equity, they humbly pray that your honor would make Henning T. Smith a party defendant to this bill and compel him as true and perfect answers make to the allegations herein contained as if he had been thereto more specially interrogated: and that your honor would order and decree that the real estate of which the said Smith was seized at the time of the obtaining of the said Judgment, to wit the farms on which the said Smith now resides, lying in this County and supposed to contain 1000 acres, shall be sold or, in the discretion of the Court, rented or leased out for such time as may be necessary for the rents and profits to satisfy the said Judgment, including interest, cost &c. Your orators state specially that they pray that the said farms belonging to the said Smith may be rented or leased out, since it is in the opinion of your orators, very probable that the rents and profits for one year only would be suf-

ficient to satisfy the Judgment aforesaid; the farm being in a good state of improvement and having on it a good and commodious dwelling house, and various other necessary out-houses.

And your orators pray that your honor would grant such other and general relief the premises considered, as equity may dictate and the nature of the case may require, and as in duty bound they will ever pray &c.

Thos L. Skindred
per

Kindred's Eggs

Bill
Smith & others

✓ 1853 March Rules

To the Hon Richard H. Baker, Judge of the Circuit
Court for Southampton County.

Humbly complaining thereunto
your honor your orators, John J. Kinross and Benjamin
B. Kinross of the County of Southampton, by
way of amendment to their original bill, that Henry
Kinross departed this life in the year 1849, having pre-
viously executed his last will and testament, which
was duly admitted to probate in the county court of
the said county, a copy of which is herewith filed (marked
A) and prayed to be considered a part of this bill,
that your orators, the executors, therein named have qual-
ified as such as will appear by a transcript from
the records of the said court herewith filed (marked B) and
prayed to be read with this bill.

Your orators represent that they as exe-
cutors as aforesaid instituted a suit against Hen-
ning T. Smith and John L. Bishop for the benefit of
Benjamin J. Pope and Elbert H. Pope, and at the No-
vember Term of the Circuit Court of the said county, in
the year 1850, obtained a judgment against the said
Smith and Bishop, to wit on the 9th day of November
AD 1850, for the sum of three hundred and sixty three
dollars and sixty two cents with interest ^{from} the 16th
day of July AD 1849 till paid, and the further sum
of seven dollars and forty cents (\$7.40) adjudged for their
costs by them about their suit in that behalf expended.

They further represent that no execution
was ever issued out on the judgment aforesaid, but that
they caused an abstract or copy of the said judgment to
be docketed by the clerk of the said county court of
Southampton on the 25th day of January AD 1851,
as will appear by an abstract from the records of

the said Court hereunto filed (marked C) and prayed to be read with this bill, and that the said judgment was docketed within twelve months from the time of obtaining the same according the form and effect of the statute for such cases provided.

Your orator admits that on the 5th day of May A.D. 1851, the said Henning T. Smith paid the sum of two hundred and twenty nine dollars and eighteen cents in part of the said judgment, but they charge and aver that the balance has not been paid by either the said Smith or Bishop to either of them, and that it still remains wholly unpaid which is contrary to equity, and tends to the injury of your orator as well as to the injury of the said Beza S. & Elbert H. Pope.

It is further stated by your orator, that the said Beza S. Bishop is and was at the time of obtaining the said judgment notoriously insolvent and that since that time the said Henning T. Smith has executed a deed of trust to one F. B. Riddick as trustee to secure certain debts and other liabilities to certain persons therein named, to which the said beneficiaries, it is therein alleged, had been subjected for and on account of the said Smith - That by the said deed the whole estate both real and personal of which the said Smith was seized and possessed, was conveyed, and that the only security by which your said orator can hope to obtain payment of this said debt is by virtue of the lien which they allege they have obtained on the whole of the real estate of which the said Smith was seized at the time of the obtaining of the said judgment.

So the end therefore that justice may be done, and as your orator are respectfully asked

and allowable only in account of equity, they humbly pray that your honor would make Henning T. Smith, Martha J. Smith his wife parties defendant to this bill, together with Richard H. Beaman, Benjamin D. Smith, Hardy Croft, Richard Darden, Learr Bowers, William B. Wise, Zachariah E. Holland, Merrill Holland, John Prettow, Simon Murfee, Joseph P. C. Low, and F. B. Riddick, ^{his personal representatives} and compel them as true and perfect answers make to the allegations herein contained as if they had been thereto more specially interrogated; and that your honor would order and decree that the real estate of which the said Smith was seized at the time of obtaining the said judgment, to wit the farm on which the said Smith now resides, lying in the County of Southampton & supposed to contain one thousand acres more or less, shall be sold at public auction or in the discretion of the Court, rented or leased out for such time as may be necessary for the rents & profits to satisfy the said judgment together with the interest, cost &c.

And your orator pray that your honor would grant such other and several relief, the premises considered, as equity may dictate and the nature of their case may require; and as in duty bound, they will ever pray &c.

Respectfully
pg

✓
Hundreds Exr.

to Sp^u. chs

Smith

1852 September Rules

Executed Aug 21

Joshua Kettou

Dept of I Kello Mf

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *Henning T Smith*

to appear at the Clerk's Office of our Circuit ~~Superior~~ Court of ~~Law and Chancery~~ for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in *September* next, to answer a Bill in Chancery exhibited against *him* in the said Court by

In: I Knidred Benja B Knidred Geo: of Henry Knidred dec^d

And unless ~~shall answer the said Bill within four months thereafter, the Court will take the same for confessed, and decree accordingly. And this~~ shall in no wise omit, under the penalty of ~~\$100~~. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the *18th* day of *August* 18*52*, in the *77th* year of the Commonwealth.

L R Edwards Cl

[One Copy to be delivered each Defendant.]

SUMMONS.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of *Nassau* County, GREETING:

YOU are hereby commanded to summon *Richard H. Besman. Benjamin D. Smith. Hardy Croft. Zachariah C. Holland & F. C. Riddick* personal representative

if *they* be found within your Bailiwick, to appear at the Clerk's office of our *Circuit* court for Southampton County, at the Rules to be holden for the said Court, on the first Monday in *April* next, to answer

an amended bill in chancery exhibited against them in our said Court by John I. Kindred & Benjamin B. Kindred Exors of Henry Kindred dec.

And have then there this writ. Witness L. R. Edwards, Clerk of our said Court, at the office aforesaid, this *7th* day of *March* 185*9*, in the *77th* year of our foundation.

L. R. Edwards Clk

Executed - and a true copy of the within
Summons, in chancery delivered to Richd.
H. Beamon, Benjⁿ D. Smith, Hardy
Crops, Zachariah E. Holland and Francis
C. Kiddick, personal representative
N. H. Kelly Shff.

Hardwick's Est.

To J. C. Smith, Esq.

Smith Esq

1883 April 24th

Chambers

SUMMONS.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, GREETING:

YOU are hereby commanded to summon *Humming T Smith & Martha T his wife,*
Richard Darden, Carr Bowers, William B Wise, Merritt Holland, John Prillor,
Simon Murfee & Joseph Prillor

if they be found within your Bailiwick, to appear at the Clerk's office of our *Circuit*
court for Southampton County, at the Rules to be holden for the said Court, on the first
Monday in *April* next, to answer *an amended*

a bill in chancery exhibited against them & others in our said Court by John
I Kindred & Benjamin B Kindred Executors of Henry Kindred dec^d.

And have then there this writ.
the office aforesaid, this *7th*
foundation.

Witness L. R. Edwards, Clerk of our said Court, at
day of *March* 1853, in the 77th year of our

L R Edwards

Hundreds Cons.

to } Spe. Chy
Smith & Co

1853 April Rule

Executed an H. T.
Smith, Martha G. his
Wife; Simon Munroe
barr Bonners, John
Pettow, Meritt Hol-
land, Joseph Pettow-
by deliberating to each
a Copy - John Pettow
Deputy for
Sam^d Helle ~~Shel~~

Presented me Richard Jordan by
Delivering me copy March 31, 1853. with
in its an indication of my Joshua Jackson Deputy
Sam^d Helle
P. J. Helle

Will Geo

Hundred's Eve

~ } Exh'ts with Bell

Smith

A 13

In the name of God. Amos. I Henry Kindred being in sound mind and disposing memory do make this my last will and Testament.

1st I pay all my just debts.

2nd I give to my wife Lucy W Kindred the plantation whereon I now live including the Williams, the Vicks and the McWicks tracts. I also give her one third of all my money and bonds due my estate when after my estate being settled. I also loan her one third of my negro slaves during her natural life.

3rd I give my son David H. Sarah V. & Elizabeth S Kindred also to the child which is not yet born One thousand four hundred dollars to each one of them making five thousand six hundred dollars to be divided between the four children.

4th I give to my daughter Louisa S Kindred four hundred dollars.

5th If there should not be money enough to the amount which I have given away to my children my wish is for negroes to be valued to make that amount without selling them to make the amount of money which I have given away to my children.

6th My desire is that all the balance of my estate to be equally divided between John I, Louisa I, David H, Sarah V, and Elizabeth S Kindred including the child which is not born

7th If either of my before named children should die before they should arrive to the age of twenty one years the portion of my estate which they would be intitled to should be equally divided between all of my surviving children except one should die leaving a lawfull issue of her body then my wish is that her issues should receive the mother of my estate which the mother would of got prove that she had a lived until twenty one years of age.

The slave which I have loaned my wife Lucy W Kindred, at her death is to be equally divided between John I, Louisa I, David H, Sarah V, and Elizabeth Kindred and the child which is not yet born. if either of the above named children should die before the death of my wife, my wish is that the portion which that child or children would receive at her death to be equally divided between all of my surviving children or their lawfull issue of these bodies. In Witness whereof I have hereunto set my hand and affix my seal in presence of - entered before signed

I leave my son John S Kindred and Benjamin B Kindred my executors to this my last will and Testament - signed and sealed in presence of -

Henry Kindred (Seal)

Exam. Dryant
Benjamin I Pope
Richard L. H. H. H. H.
mak.

At a Court held for the County of Southampton in the 19th day of December 1849.
This Court will and testament of Henry Knicker did was proved by the oaths of Exam.
Dryant and Benjamin I Pope two of the subscribing witnesses thereto and ordered to be
recorded. And on the motion of John I & Benjamin B Knicker the Executors
therein named who made oath and together with Richard Darden Peter Edwards
and Harrison I Pope their securities entered into and acknowledged a bond in the penalty
of sixty thousand dollars conditioned as the law directs. Certificate is granted them for
obtaining a probate of said Will in due form.

Teste. J. R. Edwards

Attest.

Teste. J. R. Edwards

Kindred's Env.

~ } Exhibit with bill

Smith

, 6,

Date & amount of the judgment	Date of docketing Judgment.	Alternative value of specific property recovered.	Amount & dates of credits.	Names, description and residences of parties.
1850 November 9 th \$363. 62/100 with interest thereon from 16 th July 1849. till paid and costs \$7. 40 cts	1851 Jan. 25 th			John I & Benjamin B Knickerd Esrs. of Henry Knickerd de ^r who sue for the use benefit of Benjamin B. Pope and Elbert A Pope. vs. Hemming T Smith & John L Bishop
1850 November 9 th \$57. 78/cents with interest thereon from 16 th July 1849 till paid Costs \$6. 80	do			John I & Benjamin B Knickerd Esrs. of Henry Knickerd de ^r . vs. H. T. Smith.

The above is a true extract taken from the judgment docket of the County Court of Southampton this August 18th 1852

Teste.

L R Edwards *ls*

The Commonwealth of Virginia: To the Sheriff of Southampton County. Greeting.

Whereas at a Circuit Superior Court of Law and Chancery for the County of Southampton held at the Court house of the said County on the 6th day of April 1842 in a suit in Chancery therein depending in which Bodwin Parker an infant who sued by Wiley Parker his next friend was Plaintiff and Humming I Smith, Matthew W Vaughan and Harrison Cobb executors of Harrison Parker del. and others were defendants, it was adjudged, ordered and decreed that Humming I Smith, Matthew W Vaughan, and Harrison Cobb, Edwin Harrison and Samuel R Gardner out of their own estates, pay to Humming I. Smith administrator of Mariah Parker deceased the sum of three hundred and ninety two dollars and ninety cents with legal interest on two hundred and ninety five ^{dollars} sixty seven and two third cents part thereof from the 31st day of December 1840 till paid, and to Bodwin Parker a like sum of three hundred and ninety two dollars and ninety cents with legal interest on two hundred and ninety five dollars sixty seven and two third cents part thereof from the 31st day of December 1840 till paid, and to Harrison Parker the sum of three hundred and ^{ninety two dollars and} ninety cents with legal interest on two hundred and ninety five dollars sixty seven and two third cents part thereof from the 31st day of December 1840 till paid, and that the defendants pay to the Complainant his costs in that behalf expended. But the said Bodwin Parker, Humming I. Smith administrator of Mariah Parker deceased and Harrison Parker were not to have the benefit of the said decree until each of them or some person for him should execute to the said Humming I. Smith, Matthew W Vaughan and Harrison Cobb executors of Harrison Parker deceased a bond in the penalty of seven hundred and eighty five ^{dollars} and eighty cents with good security conditioned to refund the proportions of any debts or demands that might thereafter arise against the estate of the said Harrison Parker deceased, together with the costs attending the same, which bonds should be filed in the cause. And afterwards the said Samuel R Gardner, Harrison Cobb and Edwin Harrison died intestate and administration on the estate of the said Samuel R Gardner has been granted unto Nancy Gardner in due form, also administration on the estate of Edwin Harrison has been granted unto Seth D. Williams in due form, and administration on the estate of Harrison Cobb was granted unto James Cobb who has also died, and since his death the unadministered estate of the said Harrison Cobb has been committed to the hands of Samuel Kello Sheriff of Southampton County to be administered, and the said Humming I. Smith has also died having first made and published his last will and Testament and Humming M. Smith one of the executors therein named hath proven the said Will and taken upon himself the burthen of the execution thereof, and the unadministered estate of the said Mariah Parker has since the death of the said Humming I. Smith been committed to the hands of Samuel Kello Sheriff of Southampton County for administration according to law. Yet execution of the decree aforesaid still

remains to be made as by Samuel Kelle Sheriff as aforesaid and administrator de bonis non of Mariah
Parker and Harrison Parker by Edwards Butts his guardian ad litem appointed in the suit aforesaid we
are informed. And we being willing what in our said Court is rightly done should be duly executed, command
you, that you summon the said Humming M Smith executor of Humming J Smith dec^d Matthew W. Vaughan
Samuel Kelle Sheriff of Southampton County and as such administrator de bonis non of Harrison Cobb dec^d
Nancy Gardner administratrix of Samuel R Gardner dec^d & Seth D. Williams admor: of Edwin Harrison dec^d
to appear before the Judge of our Circuit Court of Southampton County (to which Court the records and
papers of the aforesaid Circuit Superior Court of Law and Chancery have by operation of Law been transferred)
on the first day of the next term, to shew cause, if they or either of them can, why the aforesaid decree or
so much thereof as directs and orders that Humming J Smith, Matthew W. Vaughan, Harrison Cobb,
Edwin Harrison & Samuel R. Gardner out of their own estates, pay Humming J. Smith admor: of
Mariah Parker dec^d the sum of \$392.90 cents with legal interest on \$295.67 2/3 cents part thereof
from the 31st day of December 1840 till paid and to Harrison Parker the like sum of \$392.90 cents
with like interest should not be revised and carried into execution. And have them there this writ.
Witness Littleton R Edwards clerk of our said Court at the Courthouse this 10th day of April 1855
in the 79th year of the Commonwealth.

L. R. Edwards clg

Fancy Gardner is not a resident of my County
J. B. Edwards Dept. for
J. Kello Shff.

Prothon notary: Jp.

2. } Sec. Bd.

Charles Cox: Jp.

1855 May Term

6 pm

Executed on Seth S. Williams and
Matthew M. Vaughan c Apr 16th by
delivering to each a copy of the within
and on H. M. Smith c Apr 17th 1855

J. B. Edwards Dept. for J. Kello Shff.

Executed on Saml. Kello, Sheriff of Southampton, on the 16th
18.55 by delivering to him a copy.

James J. Kello deputy
for Saml Kello Shff

The Commonwealth of Virginia. To the Sheriff of Southampton County. Greeting.

Whereas at a Circuit Superior Court of Law and Chancery for the County of Southampton held at the Courthouse of the said County on the 6th day of April 1842 in a suit in Chancery therein depending in which Godwin Parker an infant who sued by Wiley Parker his next friend was plaintiff and Henning T Smith, Matthew W Vaughan, and Harrison Cobb executors of Harrison Parker dec^d and others were defendants, it was adjudged, ordered and decreed, that Henning T Smith, Matthew W. Vaughan and Harrison Cobb, Edwin Harrison and Samuel R Gardner out of their own estates pay to Henning T Smith administrator of Mariash Parker deceased the sum of three hundred and ninety two dollars and ninety cents with legal interest on two hundred and ninety five dollars sixty seven & two third cents part thereof from the 31st day of December 1840 till paid, and to Godwin Parker a like sum of three hundred and ninety two dollars and ninety cents with legal interest on two hundred and ninety five dollars sixty seven & two third cents part thereof from the 31st day of December 1840 till paid and to Harrison Parker the sum of three hundred and ninety two dollars & ninety cents with interest on two hundred and ninety five dollars sixty seven & two third cents part thereof from the 31st day of December 1840 till paid, and that the defendants pay to the Complainant his costs in that ~~part~~ ^{part} expended. But the said Godwyn Parker, Henning T. Smith, administrator of Mariash Parker deceased and Harrison Parker were not to have the benefit of the said decree until each of them or some person for him should execute to the said Henning T Smith, Matthew W Vaughan and Harrison Cobb executors of Harrison Parker deceased a bond in the penalty of seven hundred & eighty five dollars and eighty cents with good security conditioned to refund due proportion of any debts or demands that might thereafter arise against the estate of the said Harrison Parker deceased, together with the costs attending the same, which bonds should be filed in the cause. And afterwards the said Samuel R Gardner, Harrison Cobb, and Edwin Harrison died intestate, and administration on the estate of the said Samuel R Gardner has been granted unto Nancy Gardner in due form: also administration on the estate of Edwin Harrison has been granted unto Seth D. Williams in due form, and administration on the estate of Harrison Cobb was granted unto James Cobb who has also died & since his death the unadministered estate of this said Harrison Cobb has been committed to the hands of Samuel Kello Sheriff of Southampton County to be administered. The said Henning T Smith has also died having first made and published his last will and Testament and Henning M Smith one of the executors therein named hath proven the said will and taken up on himself the burthen of the execution thereof, and the unadministered estate of the said Mariash Parker has, since the death of the said Henning T Smith been committed to the hands of Samuel Kello Sheriff of Southampton County for administration according to law. Yet execution of the decree aforesaid still

as aforesaid
remains to be made as by the said Samuel Kello Sheriff & admor. de bonis non ~~as aforesaid~~ of Mariah
Parker and Harrison Parker by Edwards Bull's his guardian ad litem we are informed and we
being willing, what in our said Court is rightly done should be duly executed, command you that you
Summon the said Hemming M Smith executor of Hemming J Smith dec^d. Matthew W Vaughan, Samuel
Kello Sheriff of Southampton County and as such administrator de bonis non of Harrison Cobb dec^d. Nancy
Gardner Administratrix of Lemuel R. Gardner dec^d. & Seth D. Williams admor. of Edwin Harrison
dec^d. to appear before the Judge of our Circuit Court of Southampton County (& to which Court the
records and papers of the aforesaid Circuit Superior Court of Law & Chancery have by operation of law
been transferred) on the first day of the next Term to shew cause if they or either of them can, why
the decree aforesaid or so much thereof as directs and orders that Hemming J Smith, Matthew W Vaughan,
Harrison Cobb, Edwin Harrison & Lemuel R Gardner out of their own estates, pay Hemming J. Smith admor.
of Mariah Parker dec^d. the sum of \$392.90 cents with legal interest on \$295.67 2/3 cents part thereof
from the 31st day of December 1840 till paid and to Harrison Parker the like sum of \$392.90 cents
with like interest should not be revised and carried into execution. And have them there this writ.
Witness Lillien R. Edwards Clerk of our said Court at the Courthouse this 10th day of April
1855 in the 79th year of the Commonwealth.

L R Edwards Ck

Nancy Gardner adm