

1878 - 04

Southampton County - Chancery

Barnes, James, Exor vs Gordon, Richard J.
et al

"To sell land to settle
Estate"

James Barnes
Exor Est - y
Jacob Barnes

Richard J. Gordon
James J. Gordon +
Davis Barnett
Exors Est Richard
Gordon
+

Saml. Kelly Sh.
Adm. of com. S. Barnett

Catharine Gordon
Ex. W. Rich Cline -
Est of Benj. J. Barnett.

77 ~~68~~ ~~67~~ ~~66~~ 54 52 40
224 17-15

Barnes Exam

v. } Papers

Darden's Exam

1878. May - Removed from
the Docket.

Barnes Error.

nd 3 Bill.

Darius Error.

1866 September Rules

To the Hon. Richard M. Baker Esq of the Circuit
Court of Southampton.

Humbly complaining sheweth unto your Honor, yt
Orator James Barnes Executor of the last will and
Testament of Jacob Barnes decd. That in the year
1861. Catherine Barnett of Southampton County, deposited
this will here first made and published her last
will and testament in writing, which was admitted
to probate, by the County Court of Southampton, a
copy of which is herewith filed & prayed to be
considered a part of this bill, Marked (1).

That the Testatrix for her said will, bequeathed
of and of her estate in the following manner.

"One sixth part of my estate to my daughter Nancy
Darden and her husband, during their natural lives
and at their death, if said daughter leaves no lawful
issue, that such part be divided as follows - One
third of said share to the heirs of my son John
Barnett decd."

This said Nancy Darden, and Richard Darden
her husband have both died, the former with
out issue - and the latter one or several - the
day of A.D. 1866

The heirs of John Barnett were, Mary Barnett ^{and} who
~~have died, and without issue, and intestate.~~
The estate of the former has been committed to Saml.
Keller, Shff. of Southampton, and of the latter to George
W. De la Lot Shff of Southampton. - And Catherine
who inter married with James S. Darden, ~~has~~
died, her second husband surviving - and her estate,
has been committed to Saml. Keller Shff of Southampton
for administration - all which will appear by the
order of the Court. Committ^{ing} said estates, which
orders are herewith filed - marked 2-3-4.

That William S. Barrett sold and conveyed his interest in the said business referred to. to Jacob Barnes, given to him, ~~by deed~~ ^{by deed}, recorded, in the Clerk's Office of Southampton County Court - a copy of which is herewith filed as a part of this bill marked (5).

That Jacob Barnes died after making his will and gave to him qualification as his Exr. as will appear by the order of the County Court of this County, marked (6).

That Richard S. Darden, James S. Darden, and Lewis Barrett, qualified as Executors of the Last will and Testament of Richard Darden and are? as such a very large estate both real & personal more than sufficient to pay and satisfy, all his just debts, funeral expenses and charges of administration. - A copy of the bond of the Exrs. is herewith filed, together with the certificate of their qualification - marked (7).

That your orator charges that Richard Darden in his lifetime, rec'd from the Exr. of Catherine Barrett, one-half of the estate remaining in money on or about 9th Jan'y. 1832 - the sum of, five hundred and fifty six dollars & forty cents (\$556.40 - in which sum the will of Catherine Barrett, he was entitled during his life, and which after his death, was distributable, equally to Wm S. Barrett. (who sold his interest to your orator. Testator) Buey. Barrett and Catherine Darden.

That your orator has applied to the Executors of Richard Darden to pay to him his proportion of the above mentioned sum but they have made various frivolous pretenses, refused to comply with his reasonable and just demand - and still refuse - all of which is contrary to equity -

In view of the consideration of all which and in as much as your orator is without relief, in the premises, & left in a state of Equity. To the End therefore, that justice may be done, he prays that Richard S. Darden, James S. Darden, and Lewis Barrett. Exrs. of Richard Darden die? Sord, Bello. shff of Southampton and ^{or} each one of Wm S. Barrett and Catherine Darden, and George or Victor shff of Southampton and of Buey. Barrett - may be made defendants to this bill, and compelled to answer the allegations thereof fully and unreservedly.

That the Executors of Richard Darden, state how much of the estate of Catherine Barrett was rec'd by their Testator, and when rec'd - and that your orator may be compelled to pay the part thereof to which your orator is entitled to receive - And grant such other, further and general relief, in the premises, as Equity may decree & the Court require. May it please the Court &c.

Chambers p. p.

Barnes' Exr

n } Ex. with bill

Darling Exr 1st

This deed made this 6th day of June in the year 1853, between William S. Barrett of the one part and Jacob Barnes of the other part. Witnesseth the said William S. Barrett for and in consideration of the sum of seventy five dollars to the said Barrett in hand paid by the said Jacob Barnes the receipt of which is hereby acknowledged has granted, sold and conveyed unto the said Jacob Barnes all the right title and interest whatsoever that the said Barrett may now have or may hereafter acquire in the estate of any kind whatever real or personal, devised or bequeathed to Richard Darden and his wife Nancy or Ann by the wills of Benjamin Barrett & Catharine Barrett, the grand father & grand mother of the said William S. Barrett. But it is not the intention of the said William S. Barrett to dispose of or convey any interest whatsoever that his wife Sarah Jane Barrett (daughter of Lydia Barrett & grand daughter of the said Benjamin & Catharine Barrett) may now have or may hereafter acquire or that he the said William S. Barrett may now have or hereafter acquire in right of his said wife by virtue of the said wills. But it is his intention to convey only what he may be entitled to by and through his own proper person under the said wills. Witness the following signatures & seals this 6th day of June A.D. 1853.

Witness
Wm. S. Barrett (Seal)

Southampton County In the Clerk's Office the 6th day of June 1853.
This deed of bargain and Sale from Wm. S. Barrett to Jacob Barnes was acknowledged by the said Barrett and admitted to record.

Teste

L. R. Edwards Clk

Attest

Teste L. R. Edwards Clk

Barrow Ex.

2. } Ells: with till
3. 4. 6 & 7.

Barrow Ex.

Southampton County Court August 21st 1866

On the motion of James Barnes. Ordered that the estate of William S. Barrett dec^d be committed to the hands of Samuel Kello Sheriff of this County for administration according to law.

A Copy

Teste L R Edwards Clk

Southampton County Court December Term 1862

Ordered that George W Vick Sheriff of this County take into his hands the estate of Benjamin J Barrett to be administered according to law

A Copy

Teste L R Edwards Clk

Southampton County Court August 21st 1866.

On motion of James Barnes Ordered that the estate of Catharine Darden dec^d be committed to the hands of Samuel Kello Sheriff of this County for administration according to law.

A Copy

Teste L R Edwards Clk

At a Court held for the County of Southampton the 16th day of May 1857.

The last Will and Testament of Jacob Barnes dec^d was proved by the oaths of A. Williams and Bennett Barrett two of the subscribing witnesses thereto and the codicil thereto was proved by the oaths of Bennett Barrett, Wm F. Birt & Samuel Daughtrey the subscribing witnesses thereto and were thereupon ordered to be recorded and Cuthbert D. Barkum one of the executors therein named having refused to take upon himself the burden of the execution thereof on the motion of James Barnes the other executor therein named who made oaths and together with C. D. Barkum & Henry Cook his securities (who justified on oath as to their sufficiency) entered into and acknowledged a bond in the penalty of thirty thousand dollars conditioned according to law certificate is granted the said James Barnes for obtaining a probate of the said will in due form

A Copy

Teste L R Edwards Clk

At a Court held for the County of Southampton on the 19th August 1864.

The last Will and Testament of Richard Darden dec^d together with the Codicil thereto were this day proved by the oaths of Ben. E. Pope and J. J. Woodard the subscribing witnesses to the said will and Codicil and thereupon ordered to be recorded as the true last Will and Testament and Codicil of the said Richard Darden dec^d. And on the motion of Richard J. Darden, James J. Darden and Davis Barrett the Executors therein named who made oath and together with Ben. E. Pope, Harrison P. Pope, Edwin Harris, James H. Person, Ben. J. Bryant, Amos S. Pope & E. C. Barrett, their Securities, (who justified on oath as to their Sufficiency) entered into and acknowledged a bond in the penalty of One hundred and fifty thousand dollars, conditioned according to law. Certificate is granted them for obtaining a Probate of the said Will in due form.

Attest

Teste

E. R. Edwards Clk

1 (copy)
Catharine Barretto

W.M.

Barnes' Ex.

Ex with bill

Barnes' Ex.

In the name of God Amen. I Catherine Barrett of Southampton County, Virginia, knowing the mortality of man and being in health and of sound mind and memory, do make and ordain this my last will and testament in manner and form following to wit.

First my will and desire is that all my ~~great~~ debts should be paid.

Secondly my will and desire is that at my death all my black people should be free, and named as follows, Dread, Venus, Peter, Mides, Jimmy and young Dread, with all their increase if any.

Thirdly I give my son John Barrett the whole of my land and plantation I am possessor of to wit the land wherein I now live together with the tract of land adjoining the same that Wm^g Barrett bought of Jesse Barrett, upon this proviso that he the said John Barrett will or shall pay to my estate in two years after my death one thousand dollars the said land to be possessed by him the said John Barrett and his heirs forever.

I give to my grand son Benjamin J^r Barrett son of John Barrett half dozen black Windsor chairs; also I give to my grandson Davis Barrett seven silver tea spoons, also I give to my grandson Benjamin J. Barrett seven silver tea spoons. Also I give to my daughter Lydia Bryant two dollars to her and her heirs forever. Also I give to my grand daughter Lucy hundred two dollars to her and her heirs forever. N.B. my will and desire is that after my death all my estate not heretofore disposed of together with all my bonds or accounts I leave in my possession against the heirs of my estate or any other person should be divided as follows.

Item - First One sixth part of my estate to my grandson Simmons Barnes son of Bennett Barnes ^{Barnes} die and should said Simmons die without lawful issue that sixth part to be divided as follows one third to the heirs of my son James Barrett, one third to the heirs of my daughter Lydia Bryant and one third to the heirs of my son John Barrett.

Item Second - One sixth part of my estate to the grand children of my son Giles Barrett and should one of said grand children of the said Giles Barrett die without lawful issue the surviving heir or heirs take that part of the die? heir or heirs, and in case all of the said grand children of said Giles Barrett die without ^{lawful} issue that sixth part to be divided as follows. One third to the heirs of James Barrett, one third to the heirs of Lydia Bryant and one third

To the heirs of my son John Barrett.

~~Item Second One sixth part of my estate to the grand children of my son
Giles Barrett and should one of the said grand children of the said Giles Barrett
die without lawful issue the surviving heirs or heirs take that part of the dec^d heir or
heirs and in case all of the said grand children of said Giles Barrett die without
lawful issue that sixth part to be divided as follows One third to the heirs of James
Barrett, one third to the heirs of Lydia Bryant and one third to the heirs of my
son John Barrett.~~

Item third One sixth part of my estate to my daughter Nancy Darden and
her husband during their natural lives and at their death if said daughter
Nancy leaves no lawful issue that sixth part to be divided as follows, one third
of said share to the heirs of my son James Barrett, one third to the heirs of my
daughter Lydia Bryant and one third to the heirs of my son John Barrett.

Item Fourth One sixth of my estate to the heirs of my daughter Lydia
Bryant and should one of those heirs die without lawful issue the surviving
heir or heirs take that part of the dec^d heir or heirs.

Item fifth One sixth part of my estate to the heirs of my son John Barrett
and should one of the heirs of said John Barrett die without lawful issue the
surviving heirs or heirs take that part of the dec^d heir or heirs.

Item Sixth One sixth part of my estate to the heirs of my son James Barrett
to wit: Davis Barrett and Benjamin T. Barrett and should either of those two
just named heirs die without lawful issue that the surviving heir of said
James Barrett shall possess the legacy of dec^d heir and in case both of the
said heirs of James Barrett die without ^{lawful} issue that sixth part together
with any and all and every part the said heirs of James Barrett die shall
or may be entitled to by the death of any of the before mentioned heirs of my
estate shall be divided as follows One half to the heirs of my daughter
Lydia Bryant and the other half to the heirs of my son John Barrett.

Lastly I nominate and appoint my son John Barrett whole and sole
Executor of this my last Will and Testament revoking all other wills by me heretofore
made In Witness whereof I have hereunto set my hand and affixed my seal this
4 day of November one thousand eight hundred and thirty-

Catharine L. Barrett (Seal)

Signed Seals and acknowledged In presence of us -

Bennett Barrett.

John H. Sanderford

Jonathan T. Griffin.

At a Court held for the County of Southampton the 15 day of November 1830.

This last Will and testament of Catharine Barrett dec^d was proved by the oath of
Bennett Barrett, John H. Sanderford and Jonathan T. Griffin the witnesses thereto
and ordered to be recorded And on the motion of John Barrett the Executor therein
named, who made oath and together with Henry Hendrix and Alexander Myrick
his Deputies entered into and acknowledged a bond in the penalty of six thousand
dollars conditioned as the law directs certificate is granted the said John Barrett for
obtaining a probate of the said will in due form

Teste

James Rochelle Ck

A Copy

Teste

J. R. Edwards Ck

La

Executed the within summons on
Richd. J. Barden, August-31/1866. & on
George W. Wick August-30/1866. by deliv-
ing to each a Copy.

J. H. Wells Mf.

Barnis Ex.

Sum. Chy

Dardens Ex 10

1866 September Rule

Executed by delivering a
copy to Davis Barnis
August-29/1866.
Writ to the Residence of
James J. Dardens in being
from him left a Copy
with the Richd. Barden
being a white person over
16 years of age & a mem-
ber of his family & explained
the purpose to him —.

Pity Carson

Sept. for S. H. Wells Mf.



THE COMMONWEALTH OF VIRGINIA:

TO THE SHERIFF OF SOUTHAMPTON COUNTY---GREETING.

WE COMMAND YOU to summon *James J. Darden, Rich^d J. Darden and Davis Barrett*
Exors of Richard Darden. Deft's Hll Sheriff & adv. of Mr. J. Barrett, George W
Vick's Hll & adv. of Benj^t Barrett dec^d

to appear at the Clerk's office of our *Superior* Court of Southampton County, at
the Rules to be holden for the said Court on the first Monday in *September next to ensue*
bill in Chancery exhibited against them in our said Court by James Barnes
Exor. of Jacob Barnes

and have then there this writ. Witness LITTLETON R. EDWARDS, Clerk of our said Court, at the
Courthouse this *23^d* day of *August* 1866, in the *91st* year of the Commonwealth.

L. R. Edwards

Barny En

v

Warden En

Ans. of Dfts.

1866 Nov 8

The annex of Jas J. Warden, Davis Barnett
and Rich^d J. Warden dec^d. to a Bill in
Chancery filed in Southampton Circuit
Court by James Barnes Executor of the Last
Will and Testament of Jas^{ts} Barnes dec^d.

These Respondents say that they
are ignorant of the facts set forth in
the said Bill, so far as their own knowledge
is concerned, but whatever amount
may be due to the parties interested they
are ready to pay, and have no objection
to a decree to ascertain the amount
due; and to whom due.

Jas. J. Warden
Davis Barnett
Rich^d J. Warden
Exec^s of Richard
Warden dec^d.

by John R. Kelly
att^y.

Barnes' Exor.

v } Stat. Rules

Bardens Exor. 1st

In Southampton Circuit Court

James Barnes Executor of the last will and testament of Jacob Barnes dec^d

against

Richard J Darden James J Darden & Davis Barrett Exors of Richard Darden dec^d Sam^l
Kello Sheriff of Southampton and as such admor. of Wm E Barrett & Catharine Darden &
George W Vick late Sheriff of Southampton & admor. of Benj Barrett

1866 Aug. 23^d Summons issued.

" Sept R Summons ret^d Ex^r Will filed - Deere New & Deft^s.

" Oct " Will taken for Confessed

" Nov " Cause set for hearing.

" " J. Anor. Dardens Exors. - Deere for aut.

1872 May " Revised in name of W W Briggs Shff & adm. D B Atm & Jacob Barnes
& deere of Nov 1866 to be Ex^r.

Barnes Enr

(17)

Darius Enr

1866

Unv. G. R. Deere

To be entered.

R. H. Bacon

Barne, Exr. v. Warden's Exr.

This day the defendants James J. Warden Davis Barrett and Richard J. Warden Executors of Richard Warden decd. by leave of the Court filed their answer, and this cause came on this day to be heard on the Bill taken for enforced as to the other defendants, on whom process had been duly served and they still failing to appear and answer, and on the answer of said James J. Warden, Davis Barrett and Richard J. Warden Exrs. of Richard Warden decd. ~~with~~ exhibits filed with said Bill & with general replication to said answer and was argued by counsel. On consideration whereof the Court doth advise, order & decree that a Comr. of this Court ascertain what amo. was received by Richard Warden & his wife Nancy from the Representative of Leatham Barrett decd. to be held by them for life under the will of said Leatham Barrett decd., and to whom the same should be paid, and the amo. to each, and make Report to Court of any matter specially stated deemed pertinent by himself or that any of the parties may require to be so stated.

Baus. E. 5.

Mr. } Decon
Baus. E. 5.

May 21. 1872.

To be entered

Geo. B. Burt.

Now taken into account
This account Cho

12 am.

M.

Lo en aires. L'orr.

Larny. Barny. the L. W. of Jacob

Banner. Having departed this life; and ~~Lane~~
the Sheriff ~~of South Carolina~~, he appears as
~~a constable~~. Heum's qualification as a Const. at Law
with the will annexed of Jacob Banner. Now
known, it is ordered that this cause proceed
in the name of the S^r. Ex^{or}. ~~at~~ ^{Sheriff} adon of Jacob.
And the Court doth order & decree that
a Comd of this Court. execute the order
of Nov. Court. 1866. entered in this case.