

1885-12

Southampton County - Chancery

Warden and Exor

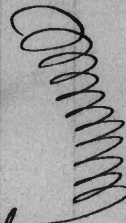
vs. Schrell, James E.
gdn, et al

"2. settle debt of"
infant

Schrell, James E.
gdn for

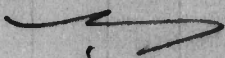
Applicant, J. N.

Darden & Ely

11.  DECREE
May 1885-

Sebrink, Guardian &

Cutler ^V May 1885-

Geo. V. Brown,


A. S. Darden and N. S. Eley merchants
and partners trading as Darden &
Eley.

^{N.}
James E. Sebrell Guardian of J. N.
Applewhite and the said J. N.
Applewhite an infant under the
age of twenty-one years.

This cause which has been
regularly matured and set for
hearing at rules according to
law came on this day to be heard
upon the bill taken for confessed
as to the adult defendant on whom
process has been duly served and
he still failing to appear and place
answer or demur, and upon the
answer of the infant defendant
by J. B. Prince his guardian ad litem
duly filed at rules ^{with general replication thereto} and was argued
by counsel.

On consideration whereof, it is
adjudged, ordered and decreed that
this cause be referred to one of
the Commissioners of this Court,
who is directed to take, state
and report to Court the following
accounts:

1. An account showing the amount ^{and the consideration therefor} of complainant's claim, against the infant defendant or his guardian.

~~2. Whether, if any, the said infant possesses -~~

~~3. Whether also -~~

2. An account showing ^{of} what estate the infant defendant is the owner of.

Together with any other account deemed pertinent by himself or required by any of the parties in interest to be so stated.

Dardew & Cley

^{N.}
J. E. Sebrill, Guardian &c

This cause came on this day to be further heard upon the papers formerly read and upon the report of Commissioner B. F. McLeomore dated the 10. day of August 1885- and filed the 29. day of September 1885- to which no exceptions have been filed, and was argued by counsel:

On consideration whereof the Court being of opinion the estate of the infant defendant in the hands of his guardian ~~is liable to the said~~ ~~is the~~ ~~is the~~ is the vested and absolute property of the said infant doth adjudge, order and decree that the James E. Sebrill Guardian of J. S. Applewhite do, out of the fund now shown to be in his hands by the said report, pay to Dardew & Cley the sum of \$63.⁶² with legal interest on \$34.⁷⁸ part thereof from the 10. day of August 1885- and their costs by them in this behalf

expended)

And the objects of this suit having
been accomplished it is ordered to
be stricken from the docket.

Dandew & Cley

Deere
Final

Abbott, Guardian

Conten Sept. 1885

To be entered

Geo. B. Snow

135
Darius & Eliza
V. 3. That Rules
Debraux, Lyon &c

In Court at the County Court

A. D. Dorden & R. A. Eley

merchants & traders trading

as Dorden & Eley Pltffs

Against

James C. Debell Lyon

of New York City & New York City

an infant -

Defdt

In
Chancery

1886

March 27th Summons ^{issued} to April Rule

April Rule 1886
re: Executed on J. C. Debell Lyon, Bill
filed J. B. Dwyer a signed Lyon
ad libitum to infant Lyon answer
of Lyon ad libitum filed and filed.

Replication. Decree nisi vs Lyon

May Rule Bill taken for confessed as to adult
defdt. & cause set for hearing.

Darden & Eley

vs $\frac{1}{3}$ summons

Applewhite's Edut &c

1885. Apl Rules

Executed April 2nd 1885
by delivering a copy to
James E. Sobrell & J. N. Apple-
white

G. W. Vick

Sherrill

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County—Greeting:

WE COMMAND YOU TO SUMMON

James E. Sebrice Guardian
of J. N. Applewhite, and J. N. Applewhite—
an infant—

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for the said Court
on the first Monday in *April* next, to answer a bill in Chancery exhibited against *them*

in our said Court by *A. S. Gauden and R. S. Eley, merchants*
and partners trading as Gauden & Eley

And this *You* shall in no wise omit; and have then there this writ.

WITNESS, J. B. PRINCE, Clerk of our said Court, this *27* day of *March*, 188*5*
in the *109*- year of the Commonwealth.

Teste J. B. Prince C. C.

An account showing the estimated value of the Estate of John N. Applewhite, infant defendant in a certain Chancery suit now pending in the Circuit Court of Southampton County, under style of "Darden & Eley vs Sebrell, Gdn &c." - pursuant to a decree of said Court, rendered at the May Term 1885. -

1885

Estimated value of the personal Estate of John N. Applewhite -

\$1400.00

Less amount expended

by J. E. Sebrell Guardian 347.38

Balance

1052.62

\$1400.00 \$1400.00

1885

Balance due Ward

\$1052.62

Value of Ward's real estate:

3/4 interest in 340 acres

of land values at \$1190.00

Subject to life Estate of

Father & Mother.

Total -

\$595.00

\$1647.62

Respectfully Submitted

B. F. M. Lemore

Comr

The title to the above property is Contingent.

Respectfully Submitted.

B. F. M. Lemore

Comr

Commissioner's Office.

Jerusalem 7^a Aug 10^o 1885.

To the Hon: Geo. B. Blow. Judge of the Court.

The undersigned, one of the Commissioners of the Circuit Court of Southampton County, respectfully reports: That in obedience to a decree of said Court, entered at the May term 1885, in the Chancery suit of "Darden & Eley vs Sebreer, Jr.", he issued Notices to the Parties Plaintiff and Defendant, requiring them to appear at his Office, in Jerusalem on the 10^o day of Augt: 1885. at which time and place, he should proceed to take ~~the~~ the accounts called for in said decree. That said Notice has been returned, by the Sheriff, Executed, and is herewith filed. And on the said 10^o day of Augt: 1885, he proceeded to take the following accounts, to wit: 1st an account showing the amount of the Plaintiffs debt against the infant defendant or his Guardian, and finds that said Plain amounts to \$63.⁶², as of the 10th day of Augt: 1885. 2^d "An account showing what Estate the infant Defendant is the owner of &c" and estimates the personal Estate at \$1400.⁰⁰, less the amount heretofore paid out by the Guardian, Jas. E. Sebreer \$347.³⁸

leaving a balance due the defendant
of \$1052.⁶², he also estimates defendant's
interest in real Estate. at \$595.⁰⁰ ag-
gregating \$1647.⁶² —

The Commissioner states specially, that
the infant defendant, John N. Applewhite,
inherits his Estate under the last will
and testament of his grand father Jos. H.
Barham, dec'd. The Executors of Jos. H.
Barham estimate the personal Estate of
said Barham at \$14,000.⁰⁰, in this estimate
is included a debt of \$3000 due the
Estate of said Barham, and for the recovery
of which a suit is now pending. it is
impossible to say what the result of said
suit may be. and if the Executors fail
to recover said amount (\$3000) it will
change the above figures materially.
Item 8th of the will of Jos. H. Barham is
in part, as follows: I give to the children
of my daughter, Margaret L. Applewhite,
by her present husband John E. Applewhite,
one fifth of my personal Estate. There
are at the present time, only two children,
which entitles the defendant to one
tenth of Jos. H. Barham's personal Estate — of
\$1400.⁰⁰, less the amount already expen-
ded by the Guardian, as shown in the

accompanying report; other children may be born unto said Applewhite & wife, and in such event, the defendant's Estate would be decreased in proportion to the number of children that may be born unto them.

Item 5th of said Will, loans to Margaret L. Applewhite and her husband, Jas. E. Applewhite - during their natural lives or the survivor of them, the tract of land known as the "Guiley place", and at the death of both, gives said Land to the children of Margaret L. Applewhite, by her husband, Jas. E. Applewhite, to ~~be divided~~ equally - but should said Margaret L. Applewhite ~~survive~~ all of said children die, leaving no child, then the tract of land loaned her above, is to revert back to the Estate of said decedent. It will be seen, therefore, that the infant defendant will not come into possession of any part of said Real Estate, until after the death of his father & mother; and, if his mother should survive him, he will never have any fee simple title in the Real Estate. His interest in the land is now estimated at \$595.00 which is one half its assessed value - but should other children be born

unto the Father & Mother of the Defen-
dant, his interest would be proportion-
ally less-

Respectfully Submitted
D. H. McLeone

Court in Chancery
"

Court's fee \$10. -
charged to Plaintiffs }
}

Darden & Clay
in Refert
S. C. C. C. C.
1885- Sep: 29-

An account showing the amount of
 Mrs. Darden & Eley's claims against
 John N. Applewhite or his Guardian James
 E. Sebrell. reported under a decree of
 the Circuit Court of Southampton County,
 entered at the May term 1885 in the Cham-
 cery suit of Darden & Eley vs Sebrell
 Guardian &c. To wit:—

To Acc due Darden & Eley	\$ 57.78	
" Int: from Dec 3 '83 to Aug 10 '85	5.84	63.62
Total amo: due		\$ 63.62

Respectfully Submitted
 D. J. McLenore
 Comr

Southampton Circuit Court

May Term 1885

A. S. Sorden and R. S. Selig merchants
and partners trading as Sorden
& Selig.

James E. Sebell guardian of J. A.
Applegate and the said J. A. Applegate
as infant under the age of twenty
one years;

his cause which has been regularly
made and set for hearing at rules
according to said cause on this
day to be heard upon the bill
taken for confessed as to the said
defendants or on some process has
been duly served and he still

failing to appear and plead answer
or demurrer and upon the answer of
the infant defendants by J. B. Prince
his guardian additional duly filed
at rules, with general replication
therein and was argued by counsel
On consideration whereof it is
adjudged, ordered and decreed that
this cause be referred to one of
the Commissioners of this Court,
who is directed to take, state and

B. F. McLevon

Commissioner.

To the Sheriff of Southampton County to Execute.

report to court the following accounts
1 An account showing the amount
of Complaints claimed against the infant
defendant or his guardian -
2 An account showing what estate
the infant defendant is the owner
of. Together with any other account
demanded or claimed by himself
or required by any of the parties
in interest to be so stated.

A Copy of
Teste J. B. French Esq.

10/ 14000.00
1,400.00

Darwin & Clay
vs { Notice.

Subscribed

1885 Aug. 10th ~~Re. 1885~~

Executed July 28th
1885 by delivering to Jas
E. Sebell & J. M. Applewhite
a copy of the within
Notice.

G. M. Vreba
Shenith

Lorica acknowledged
Darwin & Clay
by Counsel.

Commissioner's Office,

Jerusalem, Va. July 21 1886

To H. S. Jordan and R. S. Eley, merchants
and partners, trading as Jordan & Eley -
against

Gas E. Sebrall Guardian of Jot. Applewhite
and the said Jot. Applewhite an infant under
the age of twenty one years -

You are hereby notified that I have fixed upon the 10 day of August next, if
fair, if not, the next fair day thereafter (Sunday excepted), to take and settle, at my office, the following accounts,
to wit: An account showing the amount of the complain-
ants claim against the infant defendant or his Guardian
2nd And account showing what estate the infant
defendant is the owner of together with any other
matters accounts deemed pertinent by himself or
required by any of the parties interested to be so stated

required to be taken by a decree of Southampton Circuit Court rendered at the May term,
1886, in a suit in Chancery depending in 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 Commissioner in Chancery of the said Court, the day and year first aforesaid.

B. F. Lemon

Commissioner.

To the Sheriff of Southampton County to Execute.

The separate answer of J. M. Applebush, an infant under the age of twenty one years by Joseph B. Prince, his guardian ad litem, assigned to defend him in this suit, to a bill of complaint exhibited against him and another in the Circuit Court of Southampton County by A. S. Darden and N. S. Eley merchants and partners trading as Darden & Eley.

This respondent reserving to himself the benefit of all just exceptions to the said bill, for answer thereto, or to so much thereof as he is advised that it is material he should answer, by his said guardian ad litem, answers and says:

That he is an infant of tender years, and by reason of his infancy is incapable of understanding or of taking care of his rights and interests. - He, therefore, by his said guardian, commends himself and his rights and interests to the protection of the Court, and prays that no decree may be pronounced which will tend to his prejudice. -

And having fully answered, the said respondent prays to be hence dismissed with his reasonable costs in this behalf expended, and he will so pray &c.

J. B. Prince
Guardian ad litem for J. M. Applebush

Exhibit No 1.
with bill of
Larden & Cley
v.
Scholl, Guardian &c.

Suffolk, Va. Mch 12th 1885 -
 Mr J. E. Selvell Guardian for
 Bought of Darden & Cley

DEALERS IN

Dry Goods, Notions, Clothing, Shoes, Hats, Carpets,

Terms: 1883

Hardware, Groceries, &c., &c.

Apr 27	To 2 Gauze Shirts	50		1 00
28	" 1/2 lb Tobacco	1 00		50
May 3	" 1 Suit Clothes		20 00	
	" 1 Straw Hat 2 ⁵⁰ 2 Shirts 1 ⁵⁰		5 50	
	" 2 Lucien Torrels 20 4 HKfs 25		1 40	
	" 1 Pr Cuff Buttons		1 50	
	" 2 Cuffs 30 6 Lucien Collars		1 60	
	" 1 Shoes 3 ⁷⁵ 2 Prs 1/2 Hose 25		4 25	34 25
11	" 4 Prs Whi Gloves 25		1 00	1 00
17	" 1 PKT Knife			125
26	" 1 lb Tobacco			75
June 8	" 1/2 lb	50	50	25
Oct 3	" 2 lb	50	50 ⁺ 1 gr Paper 25	125
6	" 1 Pr Blankets			1 50
13	" 1 " Pants 5 ⁰⁰ 1 Pr Suspenders 50			5 50
27	" 1 " Braces			125
29	" 1/2 lb Tobacco	60	30	
	" 1 Bot Cologne		25	55
Nov 3	" 1 Pr Shoes			5 00
10	" 2 lb Tobacco	60		120
26	" 1 lb	50		60
29	" 1 Pr Gloves			1 15
30	" Paper & Envelopes			25
Dec 3	" 1 lb Tobacco			60
1884	Jan 11	" 1 lb	50	60
Feb 7	" Tobacco			33
				\$58 78
June 14	By Cash		1 00	1 00
				\$57 78
	To Int on above at 6%			5 25
				\$63 03

Sworn to before me by A. S. Darden.

Robt. H. Trenton Comm. in Chancery

Seabell, Va. Feby 10/85.

Miss. Darden & Elley.

Suffolk, Va

Gentlemen.

I have seen Mr. J. N. Applewhite, and he is very anxious that you should be paid, and requested me to pay you.

I have been legally advised to request you to bring a chancery suit, in order to test the question of how much this young man is entitled to, under the will of his grand-father, Joseph H. Barham, deceased. You can get the case before Judge Blow at the May term of this court.

Very truly
J. E. Seabell

Chy.

Cu. Ct. Southampton.

Printed.

120

Darden & Eley

Bill &
Exhibit.

J. E. Sebrall, Guardian.

A. S. Darden and N. S. Eley merchants and
partners trading as Darden & Eley.

James E. Sebrell Guardian ~~of~~ J. N. Applewhite,
and the said J. N. Applewhite an infant under
the age of twenty-one years.

To the Honorable George Blow Judge of
the Circuit Court of Southampton County.

Your orators A. S. Darden and
N. S. Eley merchants and partners trading
as Darden & Eley respectfully represent
to the Court.

1. That James E. Sebrell is the guardian
of J. N. Applewhite, an infant under the
age of twenty-one years, duly appointed
and qualified, and as such has the
care and custody of the said infant's
person and estate.

2. That the said James E. Sebrell and
the said J. N. Applewhite are jointly indebted
to your orators in the sum of \$54. ⁷⁸
with interest from the 3. day of December 1886, until paid.
for certain goods wares and merchandise
sold to the said Sebrell and delivered
to the said Applewhite at the special
instance and request of the said
Sebrell. - An itemized account is
herewith filed marked "Exhibit No 1"

and your orators pray that it may be read as a part of this bill. - That the said merchandise were necessities for the said infant Applewhite, suitable to his estate and station in life, that they were furnished with the knowledge and approbation of the said Sebrill, and that the said infant had no other means of obtaining the said necessities. That although the said infant and the said Sebrill admit the said indebtedness they still decline and omit to pay the same. -

3 That the said Sebrill as guardian of the said Applewhite has in his possession and under his control personal estate belonging to his said ward, worth at least the sum of \$1200.±. -

Forasmuch therefore as your orators are without remedy save in a Court of equity where such matters are properly cognizable and shewable they pray that the said James E. Sebrill guardian of J. N. Applewhite, and the said J. N. Applewhite an infant under the age of twenty-one years, may be made parties

defendant to this bill and required to
answer the same, the said Sebrall in
his own proper person on oath, and the
said infant by guardian ad litem duly
appointed; - that your orators debt may
be paid out of the profits of the said
infants estate if not already exhausted,
or ~~out~~ if exhausted, out of the corpus
or principal of his estate, or if this
be insufficient by the said James
E. Sebrall; that all proper and
necessary accounts may be taken,
and for such other, further and
general relief as the nature of
their case may require and the prin-
ciples of equity justify -
Let a Subpoena go &c -
And your orators will ever pray &c

Robt. M. Francis. p. 9.

State of Virginia, County of Hanover, to wit:

This day A. S. Darden personally appeared before me
and made oath that the statements made in the foregoing bill are
true to the best of his knowledge, information and belief. -

Robt. M. Francis,
Commissioner in Chancery -