

1877-010 Chancery Cause: Benjamin B. Washington vs Mary A. E. Atkinson, widow of James
Dale of Wight County

Atkinson

other surnames: Young,
Atkins

Washington

in { Injunction
Bill

Atkinson

March 25th 1842.
Filed & injunction if?
on execution of bond.

April Rules - 1842.
Deem nisi.

May Rules, 1842, Bill
taken for confessed & set
for hearing.

May 28^d 1842 - Order
of dissolution ~~Record~~
entered.

April term 1844.
Dismissed on Peffs
Motion.

To the Hon Geo: Blaw

Judge of the Circuit Court of 2nd Judicial
District in Chancery Sitting

Humbly Complaining
Sheweth unto your Honor B. H. Washington a citizen
of Isle of Wight County that sometime in the year
1869 he became security on the administration
Bond of James Atkinson as the administrator of
his father Wiley Atkinson who departed this life
sometime in the said year 1869 leaving ~~four~~ children
entitled to his estate in equal distributions and that
the said James Atkinson continued faithfully to discharge
the duties of Administrator, aforesaid, settling his accounts
as required by law before Mr. N. Young one of said
Commissioners in this County up to the time of his
death which occurred in the month of February 1872
leaving his widow M. A. C. Atkinson in charge of
his James Atkinson estate only by virtue of coverture
and that since the death of the said James Atkinson
without authority of law and before there has been
a qualification upon the said James Atkinson's
estate she the said M. A. C. Atkinson widow
as aforesaid has taken upon herself the entire
disposition of his James Atkinson's estate, both
by selling whatever she chose and by removing
the property from the farm of the said Jas. Atkinson in the
County of Curry to the County of Isle of Wight with
household & Kitchen furniture, Corn, fodder, Pea-meats Oats
and every other article so purchased except about twenty
barrels of Corn and 1200 lbs. of fodder & 15 or 20 lbs.

of Tea Nuts and ~~all~~ other articles not known to your
Complainant but believed by him to be of great value.
Your Complainant further states to yr. Honor that he is still liable
as security on the aforesaid Bond and that the distributive
shares of the said Wiley Atkinson have been ascertained
against the said James Atkinson by Commissioners Young
and ought to be paid out of the estate of the said James Atkinson
before his said widow (in the absence of any qualification)
should be allowed to dispose of his said estate, when there
is no legal responsibility on her part whatever to the creditors
of James Atkinson's estate or Yr. Complainant as security
aforesaid - Yr. Complainant shews further unto yr. Honor
that he is afraid that all of the estate of the said James Atkinson
will be wanted by the said M A E Atkinson unless she
is restrained & enjoined from so disposing of his James Atkinson's estate
and that Yr. Complainant is still liable on the said
Administration Bond for an amount believed to be
about \$150 perhaps more and that he is fully satisfied
that James Atkinson left sufficient property to pay off
and satisfy any and all demands against him or admin-
aforesaid over and above what might be allowed the
widow under the "Poor Law" now in force in Virginia
Intender

Consideration of all which and as your
Complainant is without remedy in the premises
save by the aid of a Court of Chancery prays that
the said M A E Atkinson and ^{all} other persons whatsoever
^{be enjoined and restrained} from removing or otherwise disposing of each and every article
of personal property left on the said James Atkinson's farm in the
County of Surry or which may have been removed by
the said M A E Atkinson from the said farm to the

County of Isle of Wight until there has been a qualification according to law on said James Atkinson's estate and then that the said M. A. Atkinson be required to deliver to the duly qualified administrator each and every article so removed by her and to account for the amount of money she has received from the articles sold by her or her agents as aforesaid - and that she the said M. A. Atkinson, and be made a party Defendant to this Bill and required to answer each and every allegation upon her Corporal Oath as if she had been specially interrogated therein, and by granting your Complainant's prayer or your Complainant will ever pray &c.

Witness

R. F. Granger

Benjamin Washington

State of Virginia

County of Isle of Wight.

I. M. D. Toole a Justice of the peace in and for said County in the State of Virginia ^{do certify that Benj. H. Washington} personally appeared before me in my said County and made oath that the allegations contained in the foregoing Bill of Injunction are true to the best of his belief & knowledge Given under my hand this 22 day of March 1872

Wm D. Toole J.P.

Mary A. E. Allen

ass.  Allen

B. S. Washington



Recd. May 23^d 1872.

Received this 15th day of June 1872.

Geo. S. Russell N.H.


which there has been no administration and
(unless some creditor administers)
is not likely to be soon, as there is no Sheriff
in Smy Co. to whom the estate can be com-
mitted. But necessity forces her for herself and
her said children to claim the benefits of said
exemption laws. This dependence in conclu-
sion prays that said order of injunction may
be dissolved, at least so far as said state
exemption laws are concerned and that
said complainant may be compelled to
deliver to her as soon as all such articles as
she is entitled to under said laws: And
having answered the prays here to be
dismissed &c.

Mary A. E. Atkins

State of Virginia
Smy County to wit:

Mary A. E. Atkins whose name
is signed to the foregoing answer in testimony
this day personally appeared before me, Geo. S.
Leach, a Notary Public for the County of Smy
in the State aforesaid, in my said County, and
made oath that the statements contained in said
answer so far as made of her own knowledge
are true, and so far as they are made from knowl-
edge or information derived from others she believes
them to be true. Given under my

(The)
§ 8th & § 4th

said Court Entitled "An Act to Amend" sections of Chap. 49 of the Code of 1860 in regard to property exempt from distrip & levy" passed Feb. 20th 1867, and she contends that said order of injunction in this cause ought at least to be dissolved as to all the articles to which she is entitled as aforesaid. This defendant has been put to great inconvenience and even hardship by being cut off from the use and benefit of all said articles by said order of injunction. As to the remainder of the personal estate of which said James Atkins died possessed which is very small, this defendant has made and filed in the Clerk's Office of said County Court, (in which County said dec^d was living at the time of his death) a deed of homestead claiming all the said property under the provisions of what is commonly known as the "Homestead Law" and she is informed that the Courts of the State will soon decide upon the validity of such deed and she is willing to abide the decision of the said Courts. All of said property is now in the possession of said complainant by virtue of said order of injunction, ~~or at least ought to be~~. This defendant has never desired and does not now desire anything but a fair and legal settlement of the estate of said dec^d on

The answer of Mary A. E. Atkins widow of James Atkins dec'd to the bill of complaint exhibited by Benjamin B. Washington complainant, in the Circuit Court of the County of Wight County against her.

This defendant now and at all times heretofore serving and reserving to herself all manner of exception to the manifold errors, imperfections and uncertainties in said complaint and said bill of complaint contained, for answer thereto, or unto so much and such parts thereof as this defendant is advised are material for her to answer, this defendant answering saith: That she admits as true the death of said James Atkins, leaving this defendant his widow, and four infant children surviving, and that he died possessed of a small quantity of personal property, and that said complaint is borne as bearing for said decedent as charge in his said bill. But this defendant, who is a parent, a housekeeper & the head of a family, and is moreover actually engaged in the business of agriculture, claims that however these things may be, she and the said infant children are entitled to the benefits of the State exemption law commonly known as the "Poor Law" as provided in sections 33 & 34, of Chap. 49 of the Code of Va. (Ed. of 1860) and as amended by an Act of the Genl. Assembly of

On the 28th day of March 1872 I delivered a
true copy of this memo to ~~the~~ M. A. E. Atkinson in
person

E. J. Chapman 1872

B. H. Washington

Sum. to ans.
B. H. f
inquest.

M. A. E. Atkinson

To April Rules 1872.
Cir. Ct.

Graves f. g.

Injunction bond is
executed.

Teste

A. J. Youngblood

The defendant, M. A. E. Atkinson, is hereby informed
and restrained, himself and his family, servants,
agents and all other persons concerned, from
serving, taking, destroying, disposing of by
word or otherwise the property mentioned in
the confidential Bill, belonging to the estate
of the deceased James Atkinson, in the counties
of Henry and De Kalb with right under the further
order of the Court.

Sub

A. J. Youngblood

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ISLE OF WIGHT COUNTY, Greeting:

We command you to summon *M. A. E. Atkins*

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 *April* next to answer *the Bill of injunction filed against her by Benjamin B. Washington*

And have then there this writ.

Witness, NATHANIEL P. YOUNG, Clerk of our said *circuit* Court, at the Courthouse, the *25th* day of *March* 18*96*, in the *96th* year of the Commonwealth.

N. P. Young

Washington
as {Mechanics

Atkins

Entered by Consent of Amuse
Genl. Comdr. for dep.
R. F. Geary for dep.
May 20th 1872

In the event
to be entered
Genl. Comdr.
May 20th 1872.

Received May 23^d 1872
to Entered.

Washington
vs
Atkins ~~and~~ } In Chancery In Vacation

This cause ~~came~~ in which notice to
Dissolve the injunction herein was waived by Consent
of Counsel came on to heard this day in vacation
on the Bill of the Plaintiff and the Answer of the Deft.
M A E Atkins and general replication thereto ^{and was argued by Counsel} On
Consideration whereof the Court by like Consent of
Counsel and upon the hearing of the cause doth advise
order and decree that the order of injunction
herein before granted be dissolved so far as it restrained
~~the said~~ enjoined the said Deft. M A E Atkins from
taking possession of & using and enjoying the articles
exempted from forced sales under distress or levy
and so much thereof as is claimed in the Defts
Answer as relates to such exemption and that the
said articles be delivered to her under such exemption
by the parties in possession thereof and that as to
all other matters not herein specially decided
this Cause is continued for further hearing.

Washington
order of
at signification
Atkinson

Filed 28. March
1892.

Washington
vs
Atkinson

In Chancery Invocation

An injunction is awarded the Plaintiff according to the prayer of the Bill to enjoin and restrain the Defendant M A E Atkinson and her family, servants Agents and all other persons concerned from removing, taking, destroying, disposing of by sale or otherwise the property mentioned in said Bill belonging to the estate of the said James Atkinson deceased in the Counties of Perry and Isle of Wight until the further order of the Court, but the Plaintiff shall not have the benefit of this injunction until he shall execute a bond before and to be approved by the Clerk of the Circuit Court of Isle of Wight in the penalty of three hundred dollars conditioned according to Law.

Geo T Blount.

Judge Sec

To The Clerk of the
Circuit Court of the
County of Isle of Wight ~~County~~

Clarke's
Letter

Recd. 23^d of
May 1892

Norfolk, Va May 21st 1862
N. D. Goring Esq
Dear Sir

Enclosed I
send you the answer of Mrs.
M. A. E. Atkins in the case
of B. S. Washington vs her & al.
and also an order from
Judge Snow partially dispo-
sing the injunction. The
Judge remarked again he
had endorsed the order that
he had not directed it to
the Clerk as he should have
done but that it made no
difference as it would be
understood.

Yours, Very respy. de.
Geo. S. Clarke

Washington

N. 3 Injunction
Boud.

Attest

Executed & filed 2nd
March, 1842.

Know all men by these presents, that we Benjamin
G. Washington and William S. Harrison
are held and firmly bound unto the Commonwealth
of Virginia in the sum of three hundred dollars,
to the payment thereof, well and truly to be made
to the said Commonwealth, for and on our behalf, and
each of us, our and each of our heirs, executors &
administrators, jointly and severally, firmly by these
presents. Sealed with our seals, and dated the 25th
day of March. 1842.

The condition of the above obligation is such, that
whereas the said Benjamin G. Washington has obtained
from the Judge of the Circuit Court of the County
of Isle of Wight, an injunction to enjoin and
restrain ~~the~~ Mr. A. E. Atkinson and her family,
servants, agents and all other persons concerned,
from removing, taking, destroying, disposing of
by sale or otherwise, the property mentioned in the
Bill of said complainant Washington, belonging
to the estate of the said James Atkinson died in the
County of Surry and Isle of Wight until the further
order of the court. Now, if Benjamin G. Washington,
shall well and truly pay all costs and damages which
may be awarded against him, provided said injunct-
ion shall be dissolved, then the above obligation
shall be void, or otherwise remain in full force.

Signed, Sealed and
Acknowledged, and the
necessity verified on oath
as to his sufficiency, before me
J. D. Young Clerk.

Benjamin Washington 
W. S. Harrison 