1933-180 Chancery Causes: Allen Herris &c 208

Nansemond County (Suffolk)

vs

C. L. Alexander

Holoman, Boykins, Ogle, Newsoms, Newsom

Allen Harris, et als.

vs.

C. L. Alexander

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY

IN THE MATTER OF THE ESTATE OF MARIAH BOYKINS, DECEASED

It appearing to the Court from the proper evidence now produced before it, that, a will purporting to be the will of the late Mariah Boykins was offered for probate in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, on the 11th day of November, 1926, in which C.L. Alexander was named executor and that the said C.L. Alexander under the terms of the will qualified as executor, upon giving bond for $1500.00 That Eva Newsoms, one of the attesting witnesses to said will did make oath that the said will was signed by her after the death of the said Mariah Boykins, alone in the presence of the said C.L. Alexander, and further, one Ruth Ogle, who admits writing the will upon the suggestion of the said C.L. Alexander, and upon oath says that the purposed will was written on November 8, 1926, which was after the death of the said Mariah Boykins. all of which appears from the sworn statement of the said Ruth Ogle filed herewith. It appearing further that the said C.L. Alexander did on the 19th day of November, 1926 resign as executor under the said will and upon the special request of the heirs of the late Mariah Boykins, Hugh L. Holland after giving proper bond, qualified as administrator C.T.A. It appearing further to the Court that the beneficiaries of the above described will and the heirs at law of the late Mariah Boykins having given their consent to the doing away of said will and the qualification as administrator c.t.a. of Hugh L. Holland, and that the hereinbefore mentioned will is not the will of the late Mariah Boykins, and not having been properly signed in the presence of the teststor by two attesting witnesses, the two witnesses not

being in the presence of the testator and in the presence of each other, and further one of the attesting witnesses being a beneficiary under the said will.

It is ordered and decreed that the hereinbefore mentioned will which was probated on the 11th day of November, 1926, be declared null and void. It is further ordered and decreed that the said will is not that of the said Mariah Boykins and that the same be so declared, and ordered stricken from the records of the Clerk's Office of the Circuit Court of Nansemond County, Virginia.

We hereby consent to the
within decree

Allen Harris
matilda Smith
Chainey Holomon
mary Harris
by Hugh J. Holland
their atty.

Cedar Necks am
allen Temple a M E
-Z. Church
by C L Alexander
Pastor and agent.
C L Alexander

#67748

Allen Harris, et als.

vs. Decree.

C.L.Alexander

Enter Dec. 4. 1926.
J. L. McLemore

AFFIDAVIT:

I Eva Newsoms being duly sworn, deposes and says as follows: I nursed Mariah Boykins late of the City of Suffolk Virginia, for something like four months before her death at one o'clock A.M. on the morning of November 8, 1926 and who was buried in the City of Suffolk, Virginia on Thursday November 11, 1926.

I further make oath and say that I signed the paper which was exhibited to me by Reverend C.L. Alexander, who did not explain the purpose of the paper or make any explaination of the contents of the paper whatever, but ask me to sign the same, and I did sign it on Wednesday morning November 10, 1926 at the home of Cobbs who lives on Lloyd Street in the City of Suffolk, Virginia, with no one present in the room except the said C.L. Alexander and myself. I was tired and sleepy and very much in need of rest at that time and did not feel like investigating the paper or the contents of the paper, but signed at the request of the said C.L. Alexander.

I further make oath and say that Bessie Edney was not present at the time that I signed the paper which I later found out was the supposed will of the late Mariah Boykins, who was at that time dead and was on the following day buried.

I further make oath and say that the said C.I. Alexander within an hour after we returned from the burial of the late Mariah Boykins, came to the house where I was staying along with Bessie Edney and carried us to the Clerk's Office of the Circuit Court of Nansemond County where he gave to the Clerk a copy of the supposed will and the same was as I understand probated. I was not ask any questions at the Clerk's Office except the question, is this Eva Newsoms, to which I replied, yes.

Dated this 15th day of November, 1926

Eva Newsom

State of Va.
City of Suffolk to-wit

I Mabel Jakeman, a Notary Public in and for the City aforesaid do certify that Eva Newsoms whose name is signed to the foregoing writing has acknowledged the same before me in my City aforesaid

Given under my hand this 15th day of November, 1926

Mabel Jakeman N.P.

My Commission expired Sept 26-1930.

1926. Dec. 4. Fri.

J. L. M

I, Ruth Ogle being duly sworn
deposes as follows,

I do make oath and say that
last Monday evening, which
was November 8, 1926, at the
home of Minnie Boykins on
Lloyd Street in the City
of Wilmington, I wrote the will of Virginia Boykins
at her request. Rev. J. C. L. Alexander
told me what to write.

I did not see any one
sign the paper, but I do
know that Eva Simmons was
not present when I wrote
the Will.

Ruth Ogle

Subscribed & sworn to before
me on this 15th day of November,
1926

John Melvin Lovelace
Notary Public

My commission
expires Sept 4, 1930

1926. Dec. 4. Fri
Am.

Allen Harris, Mary Harris and Chainey Holloman...Complainants.

Vs.....Decree.

C. L. Alexander.....Defendant.

Upon the prayer of the within bill, injunction is granted the complainants, Allen Harris, Mary Harris and Chainey Holoman, enjoining and restraining the defendant, C. L. Alexander, from disposing of or in any way molesting the property, either real or personal, of the estate of the late Mariah Boykins, who departed this life on the morning of November 8, 1926, and whose supposed will was offered for probate on November 11, 1926, in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, ~~and~~ the said C. L. ALexander having qualified under the said will as Executor of the said estate; and further ~~to~~ enjoining and restraining the defendant from going on the premises of the late Mariah Boykins, or in any way interfering with the said estate, for ninety days from this date unless sooner dissolved or enlarged ~~until the further order of this Court. This injunction order shall be in force from this date~~; but this order shall not become effective until the complainants or some one for them shall enter into bond before the Clerk of this Court in the sum of Two Thousand ($2000#) Dollars, conditioned according to law.

~~The bond required has been given according to law.~~

Teste:_____, Clerk.

To the Clerk of the
Circuit Court of Nansemond County

Enter Nov 16 1926

G.W. Coleman
Judge of the Circuit Court
of Norfolk County

C L Alexander not
being found at his
usual place of abode
Nov 16 1926, I Executed
the within notice Decree
on said Nov. 16, 1926
by delivering a copy to
Mary Alexander, who
was found at C L Alexanders in Nansemond Co. Va
usual place of abode and
who is a member of
C. L. Alexanders family
over 16 Years Age

E B Rawles
Sheriff

Allen Harris,et als. Complainants.

vs.... Decree.

C. L. Alexander..... Defendant.

Entered, November 14th, 1926

_____ Judge.

#6 B 47

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

Allen Harris, Mary Harris and Chainey Holoman.....Complainants

vs.....Bill

C.L. Alexander.....Defendant

TO THE HONORABLE JAMES L. MCLEMORE, JUDGE OF THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA

Your complainants Allen Harris, Mary Harris and Chainey Holoman respectfully represent:

1st. That your complainant Allen Harris is a nephew of Mariah Boykins, who died at one A.M. on Monday morning November 8, 1926, that Mary Harris is the wife of the said Allen Harris and that Chainey Holoman is the sister of the late Mariah Boykins.

2nd. That the said Mariah Boykins was the owner in fee simple of a certain lot or parcel of land situated in the County of Nansemond, Virginia on Lloyd Street, near the City of Suffolk, in what is known as Lloyd Place, that she owned considerable personal property, namely household and kitchen furniture, cash in the American Bank & Trust Company amounting to $174.00, several insurance policies amounting to several hundred dollars.

3rd. That the said Mariah Boykins did some time during the month of June, 1926 make a will leaving her entire estate, after the payment of her just debts, to her sister and nephew, the complainants to this bill, that she expressed up until her death her desire for these parties to have all of her property, both real and presonal, and especially her sister Chainey Holoman to have her household and kitchen furniture.

4th. That the defendant C.L. Alexander did on or about the 8th of November, 1926, which was after the death of the said Mariah Boykins have a certain party by the name of Ruth Ogle draw an instrument purporting to be the last will and testament of the said Mariah Boykins and the same was signed by Bessie Edney and Eva Newsoms as witnesses, the testator signing by mark. Your complainants will further show that the said C.L. Alexander within on e hour after the burial of

the said Mariah Boykins did take the paper purposed to be the will of the late Mariah Boykins and the witnesses to the same, before the Clerk of the Circuit Court of Nansemond County, Virginia and had the same probated, the said C.L. Alexander qualtifying as executor of the estate under the terms of the said will, giving a bond for $1500.00, and to further show the contents of the said will, a copy of the same is hereto attached.

Your complainants therefore pray that the said C.L. Alexander may be enjoined and restrained from selling, assigning, or in any way disposing of the property of the late Mariah Boykins, in exercising any authority over the said property, either real or personal and that he may be restrained from trespassing in and upon the land or property of the said Mariah Boykins that he be enjoined from in any wise interfering with the free enjoyment and use of the said property by your complainants, until the matter be heard in your Honor's Court anduntil it may also be determined by this Court as to whether or not this is the true will of the late Mariah Boykins.

And to this end your complainants pray that the Court may hear immediately and determine the question as to whether or not this is the last will and testament of the said Mariah Boykins; that all proper process be issued, orders and decrees may be made and entered, inquiries directed and that an injunction may be issued from this Court directed to the said C.L. Alexander, enjoining him in accordance with this bill from any wise intetfering, disposing of or exercising any right of ownership of the said real and personal property of the late Mariah Boykins and that the said C.L. Alexander may be made a party defendant to this bill, and required to answer the allegations thereof, but not under oath, answer under oath being hereby waived; and that your complainants may be granted such further, other and general relief as the nature of their case may require or to equity shall seem meet and just. And your complainants ever pray etc.

Witness: Mabel Jackman

J. Melvin Lovelace

Allen his X mark Harris

Mary her X mark Harris

Chaney her X mark Holloman

STARE OF VIRGINIA,
CITY OF SUFFOLK, to-wit:

I, Mabel Jakeman, a Notary Public of and for the City aforesaid , and State of Virginia, do hereby certify that Allen Harris, Mary Harris and Chainey Holoman ,whose manes are signed to the foregoing bill, have this day appeared before me in my said City, and made oath before me that the several matters and things set forth in said bill are of their own knowledge true.

Given under my hand this 16th day of November, 1926.

Mabel Jakeman
Notary Public

My commission expires:
on April 26, 1930

I Mariah Boykins, of Suffolk, Virginia, Nansemond County being of sound and deposing mind do make publish and declare this to be my last will and testament, hereby revoking all other wills by me at any time made.

First, I desire a decent burial and that Crocker & Boykins by the undertaker to handle my remains and the policy for $100.00 in the Tents be applied to my burial and what ever amount, may be necessary from the rest of my insurance.

Second, I will that all the rest and residue of my estate, real and personal be sold, located on Lloyd Street East Suffolk, Nansemond County, including household and kitchen furniture.

Third, I desire that the proceeds from said property be applied first to the settlement of all my debts, and the rest to be divided as follows; I give and bequesth to my dear friend Eva Newsome who nursed me $100.00; to Allen Harris my nephew of New York $100.00; to Chainey Holoman, my sister of Wakefield, Virginia $100.00; to Matilda Smith $50.00; to Allem Temple A.M.E. Z. Church $300.00 and the residue to C.L. Alexander, Paster.

Fourth, I give my executor hereinafter mentioned full power to sell all my real and personal estate for the purpose above set forth.

Fifth; I do hereby nominate and appoint C.L. Alexander of the City of Suffolk executor of this my last will and testament, with full power and authority to execute the same and having perfect confidence in his judgment and integrity, I direct that said executor shall not be required to give bond.

In Witness whereof I hereunto subscribe my name to this my last will and testament. This 9th day of October, 1926.

her
Mariah X Boykins
mark

Witness:
Eva Newsoms
Bessie Edney.

Probated November 11, 1926
Bond $1500.00

Allen Harris et als...Complainants

vs.....Bill

C.L. Alexander.....Defendant

Filed Nov. 16, 1924

G.B. Bunting Clerk

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA