

Garland S. Jarrell,

Plaintiff,

against

Jeremiah Jarrell, in his own right, and as executor of Jeremiah Jarrell, dec'd, James Jarrell, Jefferson Jarrell, Adam Jarrell, Washington Jarrell, Madison Jarrell, John Jarrell, Joel Jarrell, William S. Walker and Mary, his wife; Jeremiah Jarrell and Sarah Jarrell, children of William Jarrell, dec'd, Clarissa Jarrell and Abraham Jarrell, children of Abraham Jarrell, dec'd, Defendants:

This cause coming on this day, to be further heard upon the papers formerly read, the report of Commissioner Walker, made in pursuance of the decretal order of the day of May, 1835, and the exhibits and papers herewith filed, and the examinations of witnesses introduced into the cause since the former hearing, and being argued by counsel, upon thirteen exceptions taken to the said report, by the plaintiff and the defendants, Joel Jarrell, and William S. Walker, and two exceptions taken to it by the defendant, Jeremiah Jarrell, the executor. The Court, upon consideration thereof, doth sustain the first, second, third, seventh, eleventh and twelfth, of the exceptions first above mentioned, and overrules the ninth and tenth, and overrules the first of the exceptions last above-mentioned, and as to the fourth, fifth, sixth, eighth, and thirteenth of the exceptions first above-mentioned, and the second of those last above-mentioned, the Court doth adjudge, order and decree, that the said report be re-committed to the Commissioner, with directions, not only to alter and reform the same in the particulars made necessary by sustaining the exceptions above-mentioned, but also, in the following particulars, to wit:—He is to enquire into the truth of the matters alleged in the fourth, fifth, sixth, eighth, and thirteenth of the exceptions first above-mentioned, and to modify his report according to the result of those enquiries. He is to allow the executor one hundred dollars a year, and no more, for his wages, as or crecer for the testator, instead of the amount allowed by him, in the statement B, of his report; and he is to allow to the executor no commission at all upon his transactions prior to the 7th day of December, eighteen hundred and thirty three; and in settling the accounts between the executor and the legatees, the commissioner is directed to make a vest in the executorial account on the 31st day of December, 1833, and to leave a small sum at that time in the executor's hands to meet the contingent expenses of the estate, and to consider the balance as a fund for distribution at that period, so that he will open an account between the executor and the legatees on the first day of January, 1834, which he will settle on the ordinary principle of an account between debtor and creditor applying any payments by the executor before, at or after that time, to extinguish first the interest due to the legatees then or at the time of any subsequent payment, and afterwards the principal so far as it will go. And to enable the commissioner to make the enquiries herein ordered, any party to the cause shall submit to be examined in solemn form on oath in reply to any interrogatories that may be propounded by any other party opposed in interest, and in like manner to produce any books, documents, or papers in his possession, power or control. And the said Commissioner is directed to report the accounts so reformed, to the Court, together with any special statement of any matter which he himself, may deem pertinent, or either of the parties may require. And the Court doth further adjudge, order and decree, that the defendant, Jeremiah Jarrell, out of the goods and chattels of Jeremiah Jarrell, deceased, in his hands to be administered, pay to the said Commissioner Walker, fifty-four dollars, and seventy-five cents, the amount of his bill for the former report in this cause.

A Copy. Teste,

BELFIELD CAVE, C. C.

The parties to the foregoing suit, will take notice, that I have appointed Monday, the 26th day of February, 1838, for commencing the investigations directed by the foregoing decree, at Mr. William N. Rose's tavern, in the county of Madison, at 11 o'clock A. M., where they are required to attend, with the necessary documents and evidence.

WILLIAM WALKER, Comr.