

L761-002

SOUTHAMPTON COUNTY
CHANCERY PAPERS

JACKSON & ux vs. FORT, S/1761

other surnames: Pinnington,
King, Foaster, Sharpe, Andrews

Jackson & Co.

Bill
of
Forfeiture

to the
AA Mar 1760

Time to Ant

May.

Ant & Time

On 1760

Rep & 1600.

Det. 1760.

Cont

May. 1760.

Dis in place.

Red Nov 1767

To the Worshipfull Court of Southampton sitting in
Chancery

Humbly complaining sheweth unto your
Worships your Orator and Oratine Thomas Jackson of Brimwich
County and Elizabeth his Wife (which said Elizabeth is eldest
Daughter of Holliday Fort of this County) That your Oratines's
Grand Father Elias Fort late of Surry County, being seized and
possessed of a considerable real & personal Estate made his last Will &
Testament bearing Date the twentieth day of September in the Year
of our Lord One thousand seven hundred & thirty two & therein among
other Things devised as follows "I give & devise to my Son Holliday
Fort all that Tract of Land & Plantation whereon I now live to him
& his heirs forever. I also give unto my said Son Holliday my
Negroe Woman Nell and all the Children which she shall have
hereafter during the Term of his Natural life and after his Death
to his eldest Daughter & her heirs forever." And of his said Will
appointed his said Son Holliday whole & sole ^{who took upon himself the Burden} Executor and afterwarde
departed this Life, As by the said Will remaining of Record in the
County of Surry & which your Orator & Oratine pray may be taken as
Part of this their Bill of Complaint Preference being thereto had will
more fully appear. Your Orator further sheweth unto your Worships
That sometime or about the day of 17
your Orator made his Addresses to, & with the Consent and Approbation
of the said Holliday, intermarried with Elizabeth, eldest Daughter
of the said Holliday as aforesaid, & by Virtue of his Intermarriage
became entitled to the Reversion of the said Nell & her Increase
after the Death of the said Holliday pursuant to the Limitation
in the aforesaid Clause of the Will of the said Elias Fort Grandfather
to the said Elizabeth. Your Orator & Oratine further shew unto your
Worships That from the Date of the said Will to the Time of exhibiting
this their Bill the Increase of the said Negroe Woman Nell and
her Descendants ^{Southampton} to in Number but what their
Names are your Orator & Oratine cannot possibly discover
the said Holliday Fort having ever since your Orator & Oratines's
Intermarriage behaved to them with the greatest Contempt
& Injustice, & never would suffer your Orator or Oratine to have
the least Conneccion with him, or to be made acquainted with
his Affairs, or the Number & Names of the Increase of the said
Negroe Woman Nell, altho your Orator & Oratine have always
carried themselves towards the said Holliday with the greatest Marks
of filial Duty & Affection. Your Orator & Oratine further shew unto
your Worships That the said Holliday Fort being far advanced in
Years, your Orator in the most friendly ^{respectful} manner applied to the said
Holliday

requesting him to give your Orator a list of this ^{P. Nell's} Increase together with their Names in Order that your Orator might be the better enabled to possess himself of the same without litigation or controversy after the Death of this ^{Holliday} But now it is May it please your Worships the said ^{Holliday} with great ^{expressing himself} with indignation against your Orator & Oratrix refused the same & combining & confederating with divers Persons to your Orator & Oratrix unknown whom when discovered your Orator & Oratrix pray may be made ^{rather} Respondents to this their Bill of Complaint & more particularly with one of the Province of North Carolina, hath actually & bona fide sold & delivered to this ^{one of the Slaves the Increase of this P. Nell}

& ^{these} as your Orator & Oratrix are well informed threatens, or actually has transported this ^{Slave} to the West Indies, in order to prevent your Orator's Recovering the same after the Death of this ^{Holliday} without great Difficulty & Expence. And your Orator & Oratrix doth expressly charge that this ^{Holliday} hath often very solemnly declared that he will use all manner of Means to prevent your Orator & Oratrix's being benefited of this ^{P. Nell's} Increase by shipping them away, & selling them in some foreign Parts unknown to your Orator, or will procure some other Person to do it in his Behalf. All which Actings & Doings of this ^{Holliday} are contrary to Nature, Equity, & good Conscience & tend to your Orator & Oratrix's utter Ruin & Impoverishment In tender Consideration whereof & for as much as your Orator & Oratrix are ^{meddles} at Law, & only reasonable in this Worshipful Court of Equity where matters of Fraud in Violation of the Bond of Natural Affection are properly cognizable

To the End Therefore that the said Holliday may on his Corporal Oath full true distinct & perfect Answer make to all & singular the Premises as fully as if the same were here again repeated & interrogated & more particularly that he may set forth & discover whether your Oratrix's ^{P. Grandfather} Elias Fort did not make such Will & Disposition in Favour of your Oratrix as is herein before set forth? Whether this ^{Holliday} did not possess himself of the said Negroe Woman Nell so as a ^f devised to him for Life? Whether the ^{P. Nell} had any & what Increase from the Date of the Will to the Death of the Testator & how many since, their Names & Sex & Age? Whether your Orator did not intermarry with Elizabeth eldest Daughter of this ^{Holliday} with his Consent & entire Approbation? Whether this ^{Holliday} hath not sold one of the Descendants of this ^{P. Nell} to

as aforesaid & for what Consideration and on what Motive? Whether your Orator & Oratrix have not always behaved to the ^{P. Holliday} with all due Respect & Duty? Whether this ^{Holliday} hath not often declared that he would dispose of this ^{P. Nell's} Increase irrecoverably to your Orator & Oratrix & what are his Reasons for such Declaration? And that this ^{Holliday} may by Decree of this Worshipful Court be compelled to exhibit an Inventory of this ^{Slaves} with their Ages Names & Sex, &

give Security that the same shall be forth coming to your Orator & Oratrix at the Decease of this ^{Holliday} And that your Orator & Oratrix may have such further & other Relief in the Premises as is agreeable to Equity & good Conscience May it please your Worships to grant unto your Orator & Oratrix his Majesty's most gracious Writ or Writs of Supremacy

Rich^d. Stark for Or

Southampton I.

The within Answer was
given to before me.

April 10. 1760.

Tho^r Williamson

Took
ad. } Ans.
Jackson & Co

10 to 100

pt. May 1760

The Answer of Holliday, Fort Defendant to the Bill
of Complaint of Thomas Jackson and Elizabeth his Wife
Complainants

This Defendant now and at all Times hereafter
saving and reserving to himself all manner of Advantage
and Benefit of Exception to the many Untruths Errors
Uncertainties and other Imperfections in the said Bill
of Complaint contained for Answer thereunto or to so
much thereof as this Defendant is advised is material
for him to make Answer unto he this Defendant answers
and saith That he admit it to be True that Elias Fort
this Defendants Father did make such Will and Disposition
in Favor of the Complainant Elizabeth as in the Bill is
mentioned but this Defendant expressly denies that the
said Elias had any legal Right to make such
Disposition of the Negro Nell and her Increase as
therein is mentioned having some Years before the making
the said Will given the said Negro Nell to this Defend.
without any Limitation or Remainder In the presence
of divers Witnesses vizt. Jacob Sharpe Faithy Shing and
A. Anney Andrews which said Witnesses are since
deced and immediately delivered the possession of
the said Nell to this Defendant; In Virtue whereof
this Defendant hath ever since been quietly possessed
of the said Negro Nell and her Increase and conceive
and is advised that he is thereby also well intitled
to sell or dispose of the said Slaves at Will and not
obliged to render any Act of the Increase of the said
Slaves to the Complainant And this Defend. denies
all and all manner of unlawful Combination and
Confederacy &c in and by the Complainants Bill
charged against him Without that that &c
Holliday ^{his} Fort
Mark

Jackson & Chap
v
Tort. f Chan

Aug. 1759
Time to time

2d by J. P. & N. Jackson & Co.

George the second by the Grace of God of Great Britain
France and Ireland King Defender of the Faith &c
To the Sheriff of Southampton County Greeting We
Command you that you Summon ^{Helday} ~~Helday~~ ^{Helday} ~~Helday~~ to
appear before our Justices of our said County Court
in Chancery at the Courthouse of the said County
on the second Thursday in August next. to answer
a Bill in Chancery exhibited against him by
Thomas Jackson & Elizabeth his wife And this
he shall in no wise omit under the Penalty of
£100 And have then there this Writ Witness
Richard Kelto Clerk of our said Court at the Courthouse
the Twenty eighth Day of July In the thirty
third Year of our Reign

R. Kelto
Clerk

Fort
as
Jackson

Deja

George the second by the Grace of God of Great
Britain France & Ireland King Defender of the Faith
To William Sherrin John Bellamy & Samuel
Lanier and John Jones
Gent Greeting Know ye that We Trusting to your
Fidelity & Provident Circumspection in diligently
Examining whatsoever Witnesses as well on behalf
of Tho: Jackson & Elizabeth his Wife Plaintiff as on
behalf of Holliday Fort Defend: Command you or
any two or more of you that at such certain Dais
& Places as you shall appoint you assemble
yourselves & the Witnesses aforesaid before you or any
two or more of you ^{your} Call or Cause to Come &
diligently examine on the Holy Evangelist too of
Almighty God & their examination into the Court of
our County of Southampton without delay you
shall send & Certify inclosed returning also to us this
Writ Witness Rich: Wells ~~clerk~~ Clerk of our said Court at the
Courthouse the twenty fifth Day of November. In the
thirty third year of our King

R Wells

The Deposition of Mary Dunnington of full age
Being first sworn on the holy Evangelic of Almighty God
the Truth to say as well on behalf of Thomas Jackson
and Elizabeth his wife plaintiff as on behalf of
Holladay Fort Def. do poverth and saith

That as well as this deponent can remember
Sometime in the year 1738 or 1739 this deponents Mother
(who was daughter to Elias Fort the present def.
father) was sent for to her father and on her Return
home told this deponent that Elias Fort her father
had given the present defen^t three Negroes & 3^d
^{an negro woman} Nell and two Children which said Negro Nell is
Mother and Grand Mother to the Negroes now in
dispute and further this deponent saith Not

The Plaintiff and Def^t
Being present the above
Deposition was taken at
The Mansion House of
Samuel Lanier this
23^d of December 1760
before us

John Bettway
Lemth Lanier
John Jones

Mary — ~~her~~ Dunnington
mark

The Deposition of Christopher Toaster of full age
Being first sworn on the holy Evangelist of Almighty =
God the Truth to say as well on behalf of Thomas Jackson
and Elizabeth his wife plaintiffs as on behalf of
Holladay Fort Def. do depose and saith

That as well as this deponent can remember
Sometime in the years 1788 or 1789 Holladay Fort
the present Def. who was then removing was at
the house of Mary Toaster with three Negroes.
To wit. A woman named Nell and two Children which
said Negro woman is mother and Grand mother to
the Negro now in dispute and that one Jacob
Sharp was present at the same time and that this
deponent heard ^{him} the S. Sharp say that he was called
upon ~~and~~ ^{and} ~~to~~ ^{to} ~~bring~~ ^{bring} when Elias Fort the father of the
present Def. gave and believed the said Negro woman
Nell and two Children to the present Def. and
for this this deponent saith Not.

Christopher ^{his} Fort
mark

The Plaintiff and Def.
being present the above
Deposition was taken at
the Mansion House of
Samuel Lanier this
23rd of December 1790
before us.

John Pettway
Lemth Lanier
John Jones

Surry County, Virt,

The Deposition of Thomas
King of the County of Surry Planter aged thirty
of ^{last year} years taken in a suit in Chancery depending
in Southampton County Court between Thomas
Jackson & Elizabeth his Wife Pl.^{ts} & Monday
Fort Def.^t by virtue of a Decree to us
directed from the Court of this said County of
Southampton. Said Thomas King being first
from deposed & sworn that he went with his
mother who is since dead to the Home of the
Def.^t a few days before he removed out of
the County of Surry to where he now lives
& there saw the Def.^t Father Elias Fort take
a Negro Wench named Nell & her two children
named Pat & Jane & give & deliver them
to the Def.^t that this said Elias called him
Moses & Jacob Sharpe and Arney Andrews
were witnesses this Def.^t being present with
his said mother who was the Def.^t sister saw
the same as above related that this was
about two year or month before Elias Fort
died and after the making his Will.

And further this Deponent faith not
his

Thos X King
Mark

Sworn 17th Dec. 1760 The above Deposition taken by
Witness of the Commission before recited & hereto
annexed in presence of the Compt. & the
Attorney for the Def. & by their consent

John Budge
Richard Cocke,
Robert Goay

The County of the County
of Southampton

Jacksonville (Albany) To
Vol 1

Fort. *J. D.*
201
Jackson *f. Post*

George Mervand by the Grace of God of Great Britain
France and Ireland King Defender of the Faith &c To
John Ruffin Rich: Cooke & Robert Gray
Gent Greeting Know ye that we trusting to your fidelity
& provident Circumspection in diligently examining
whatsoever Witnesses as well on behalf of Thomas Jackson
of Widdowesth his wife Plaintiffs as on behalf of Stolliday
Tort Defend: Command you or any two or more of you
that at such Certain Dates & Places as you shall appoint
you assemble yourselves & the Witnesses aforesaid before
you or any two or more of you You call & cause to come
& diligently examine on the Holy Evangelists of Almighty
God & their examinations into the Court of our County of
Southampton without delay you shall send & certify
inclosed returning also to us this Writ Witness Richard
Kelso Clerk of our said Court at the Courthouse the Twenty
eighth Day of November In the Thirty fourth Year of our
Reign

R. Kelso Clk