1773-007 SOUTHAMPTON COUNTY CHANCERY PAPERS BASDEN vs. BASDEN's admrx al 9/1773

other surnames: Baisden, Lowe

Baden
v
Gwin &
Baden
Jan.y 1772 bill
filed &c
40 exd 200
Sep.r 1773.
Decree &
Injn

Bill

To the worshipf[illegible] ustices of Southampton
county sitting [illegible] Chancery.

Humbly complaining Sheweth unto your worships
your oratrix Martha Barden of this county That one
Joseph Barden your oratrix brother sometime about
the year of our Lord 1741 departed this life having first
declared & published his last will called a Nuncupative
will whereby he declared that he gave one half of
his estate to his brother Robert Barden & to his sister
your Oratrix Martha Barden and the other half of the said estate
to Ledbetter & Lebourne Lowe which said will was
duly proved & recorded in the court of the county of
Isle of Wight & administration with the said will
annexed was granted unto one James Barden your
oratrix father who gave bond in the said Court with
one James Barden jun[r] for his security in the penalty
of £ for the due & faithful administration
of the said estate & performance of the will & whereby
& to [illegible] himself the executor thereof. Your Orat[rix]
further sheweth that some short time after the death
of the said Joseph Barden one John Lowe as the father
& next friend of the afsd Ledbetter & Lebourne Lowe
the legatees in the said will commenced & prosecuted
a suit in Chancery in the said court of Isle of Wight
against the said James Barden the admor afsd
for the recovery of the moiety of the said Joseph Barden
estate so devised to them as afsd in which suit
before the said Court such proceedings were had that
each legatee part of the said estate was settled &
ascertained to which said will bond & proceedings
in Chancery your Orat[rix] begs leave to refer & prays
the same may be taken as part of this her bill
Your Orat[rix] further sheweth that it appears from
the final decree in the aforesaid suit that
your Orat[rix] was entitled to have recd from the s[d]
James Barden the admor the sum of eight pounds
ten shillings in the year 1744. Your Orat[rix] further
sheweth unto your Worships that she was then
an infant & very tender years & incapable of

making any Demand of the afsd Sum of money &c
nor could she with any Propriety as the said James
Baden was her Father & natural guardian that
the said Sum remained in the hands of the said James
Baden until he arrived to the age of twenty one years
that your Orator continued to live & reside with
the said James his Father
& that after his slaves were dead
& the rest of his Children removed from him &
hath been for many years obliged by her labour &
motives of parental Duty to assist in procuring
him even a maintenance, until the time of his
death which happened sometime about the month of
in the year of our Lord . That your orator was
withheld from legally demanding the afsd Sum of
L8. & interest as the said James the father always
acknowledged the same as a Debt due your Orator
& that he would by his will or in some other manner
amply satisfie your Orator as well for what he was
justly owing & also in an acknowledgment for her
Tenderness & care of him in his Sickness which
acknowledgments & promises your Orator thought
were sufficient from a Father to his Child & the more
especially as the same was frequently repeated before
his neighbours & friends as witnesses. Your Orator
further sheweth that the said James hath
departed this life intestate without making any
provision for the payment of the said legacy & other
sum due & owing to your Orator as afsd. That letters
of Administration hath been duly granted of the estate of the
said James Baden into
& security in the
Court of Prerogative Rights for the administration of
Baden's estate. which said
by virtue of his administration
at law entered into all the Lands whereof the said James
the father died seized as also possessed himself of all
his personal Estate & Chattels & to whom your Orator hath
applied for
& as a security in the bond given to secure
the afsd legacy to your Orator & the said
Baden & requested the payment of the said L8. &

interest. But now so it is
worships that the said
Baden bound himself
the said estate of the said
himself as the heir at
the Father of all his
& other
& that the said James Baden
is now of
& that your Orator
reasonable request
hath got some discharge or Receipt from the said
Orator which if he hath your Orator charges the same
hath been obtained from him by undue & unfair &
unlawful means & that now Such can be produced
since he hath attained his age of discretion at
other times that he must administer the estate of his
intestate according to the Dignity of the Debts due owing
& that your Orator is not of Dignity to be considered
before the Estate is exhausted & who he is sensible
that the estate real & personal was at any
debts due to your Orator
& therefore
would submit to & as
All which actings doings & pretences of the said
are contrary to equity & good conscience & tend to the
utter ruin & impoverishment of your Orator & to
render consideration whereof & forasmuch as your Orator
is remediless & only relievable in this honourable
Court to the end therefore that the said John Gwin
the Administrator of the said James Baden dec'd & the said
James Baden as his heir at law may upon their
respective corporal oaths full true & perfect answer
make to all & singular the allegations of this bill
as fully & particularly as if the same were here
again repeated & interrogated & more especially that
they may set forth & discover whether the said Joseph
Baden did not depart this life, & make just will &
disposition as before set forth, Whether the said Jas
Baden the elder did not administer on the
& Joseph's estate & give for his security the said James Baden
this Son. Did the said James Baden
Joseph Baden's was not your Orator demanded & legacy &
settled in the year 1744 as L8. to be the husband of the said

Baden G
ad
Baden f Ainr

The Joint and seperate Answers of James Basden Son and heir of James Basden dec'd & John Lyon sur: to the Bill of Complaint of Martha Basden &c

These Defendants saving & reserving to themselves all Manner of Benifit & Advantage of Exception to the many Errors Incertainties and Imperfections in the Complaints said Bill of Complaint contained for Answer thereto or to so much as they are advised materially concerns them to answer answer and say that True it is the said Joseph departed this Life about the Time and after making such Nuncupative Will as in the Bill set forth and that the said James Basden the Elder Administred upon the Estate of the said Joseph with the said Will annexed And the said James Answering saith he does not recollect his being Security for his Father James faithfull Administration of the Estate of the said Joseph, but rather believes that Joseph Basden & Mathew Griffen were the said James further answering saith that the Complainants part of her Brother Joseph's Estate was liquated to the sum and about the Time in the Bill mentioned that the said Martha lived with her Father til the time of his Death which happenned about the twentieth Day of July one Thousand seven hundred and seventy but instead of contributing her filial Assistance towards his Support and Maintenance in the Manner set forth in the Bill he verily believes she was rather a Burthen on Account of her having had two Bastard Children of such a Complexion as tho almost induced the said James her Father to expose her to the Blame and Contempt of the world but in Compassion to her misfortunes his parental Affection was engaged in her and their preservation he further saith that during the Time the said Martha lived with her father he was unable to maintain himself and must have fallen in the End of his Days as a charge upon the parish had he not been supported by this Respondant That the said Martha in Consideration her Father would Allow her to stay with him and bring up her Children she released all her Claim and Demand to the said sum of money and afterwards to confirm her said Consent gave a Written Release to her Father as Administrator of his Son Joseph

bearing Date the twenty fourth Day of Febry one thousand seven hundred and forty nine to which both these Respondents beg leave to refer. The said James further Answering saith that he verily believes his father never promised the Payment of the said sum of money to his Daughter upon his Death Bed or ever promised any thing else & the Reason might be because of her unfortunate Behaviour. That he is Heir at Law to his Father and justly intitled to his Land and altho he had considerable Claim against his Estate for which his personal Estate was liable, yet he was was satisfied with the Land and gave up the Rest for the Benefit of the Creditors. The said John Gwin Answering saith that true it is the said James died intestate and that he administred upon his Estate altho not as a Creditor. That the said Estate amounted about the sum of twenty eight Pounds eighteen Shillings and eleven Pence, the greatest Part of which he hath paid away for funeral Charges and in the Discharge of Bond Debts, That a Demand of the said Legacy had been by the said Martha, but he thought he would not be justifiable in neglecting other Creditors whose Claims were certain and pay her Legacy for which she had given to her Father a full Release and Discharge in his Life time, They both deny all unlawfull Combination and pray to be hence dismissed with their reasonable Costs &c.

Copy

R Keith

Barden

Basdex Gwin
ads & Answ.
Basdex ____ &

September 1772 Ans
fyled and time

Ca. 21 dets &c
Nov Rule Com
73 Feby Cont for Depon
May Cont. for depo.

1772
56
1716
16
1732

The joint & separate Answers of James Basden Son & Heir of James Basden dece & John Gwin Senr to the Bill of Complaint of Martha Basden Compl

These Defendants saving & reserving to themselves all Manner of Benefit & Advantage of Exception to the many Untruths Uncertainties & Imperfections in the Complainants said Bill of Complaint contained, for Answer thereto or to so much as they are advised materially concerns them to answer, answer & say, that True it is, the said Joseph departed this Life about the Time & after making such Nuncupative Will as is in the Bill set forth & that the said James Basden the Elder administred upon the Estate of the said Joseph with the said Will annexed, And the said James answering saith, that he does not recollect his being Security for his Father James's faithfull Administration of the Estate of the said Joseph, but rather believes that Hugh Basden & Matthew Griffin were. The said James further answering saith, that the Complainants Part of her Brother Joseph's Estate was liquidated & to the Sum about the Time in the Bill mentioned & That the said Martha lived with her Father till the Time of his Death which happened about the twentieth Day of July one thousand seven hundred & seventy, but, instead of contributing her filial Assistance towards his Support & Maintenance in the Manner set forth in the Bill, he verily believes She was rather a Burthen, on Account of her having ~~ha~~ two Bastard Children of such a Complexion as to add almost in excuse the said her Father to expose her to the Blame & Contempt of the World, but in Compassion to her Misfortunes his parental Affection were engaged in her & their Preservation He further saith, that during the Time the said Martha lived with her Father, he was unable to maintain himself, & must have fallen in the End of his Days as a Charge upon the Parish had he not been supported by this Respondent. That ~~the~~ the said ~~Jame~~ Martha in Consideration his Father would allow her to stay with him & bring up her Children she released all her Claim & Demand to the said Sum of Money & agreed to confirm her said Release by a Written Release to her Father as Administrator of his Son Joseph bearing Date the twenty fourth Day of February one thousand seven hundred & forty nine fifty to which both these Respondents beg Leave to refer. The said James further Answering saith that he verily believes his Father never promised the Payment of the said Sum of Money to his Daughter upon his Death or ever promised any thing else, & the Reason might be, because of her unfortunate Behaviour. That he is Heir at Law to his Father & legally intitled to his Land, & altho he had a considerable Claim against his Estate for which his personal Estate was liable, yet he was satisfyed with the Land & gave up the Rest for the Benefit of the Creditors.

The

The said John Gwin answering saith, that true it is the said James dies intestate, & that he administred upon his Estate, altho not as Creditor, that the said Estate amounted about the Sum of twenty eight Pounds eighteen Shillings & eleven Pence, the greater Part which he hath paid away for funeral Charges & in the Discharge of Bond Debts, that a Demand of the said Legacy had been by the said Martha, but he thought he would not be justifyable in neglecting other Creditors whose Claims were certain & pay her Legacy for which she had given to her Father a full Release & Discharge in his Lifetime, They both deny all unlawfull Combination & pray to be hence dismissed with their reasonable Costs &c.

Gwin
&c
Bowden
September 1772 Ans
filed and time

Copy of Case
for Rule Plaintiff
Delay Court Session
May Court Defendant

1772
9/16
1793

Barden
vs
Gwin &c. } Sha
Barden } Chan

Eq.

J Simmons

Sept. Cont
May 1772
Com. to exam
Wits
Jun Cont Sea.
Sept.
June Cont. to depo
June 1773 Cont.
Sept. depos
July Dep. pub.
Sept Jan Mary

George the third 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
John Irvin administrator of James Barden
dec'd James Barden son & heir at law of the
said James Barden dec'd to appear before
our Justices of our said county court at the court
house of the said county on the second Thursday
in July next to answer a bill in chancery
exhibited against them by Martha Barden
& have then there this writ witness Richard
Kello clerk of our said court at the courthouse
aforesaid the eighteenth day of June in the
eleventh Year of our Reign

R Kello (S)

The execution of this Commission appears by the depositions of John Lowe & Rebecca his wife hereto annexed.

Baron } Exd
Baron } Foster

Southampton St

George the third by the grace of God of Great Britain
France and Ireland King defender of the faith &c

To Thomas Williamson & Elias Herring

Gent. Greeting Know Ye that We trusting to your fidelity
and provident circumspection in diligently examining
whatsoever witness as well on behalf of Martha
Barden plt as on behalf of John Owen Adm. of Jas
Barden dec'd & James Barden son & heir at law
of the aforesd Jas Barden dec'd defendt Command
You or any one or more of You that at such
certain day, and place as you shall appoint you
assemble the witness aforesd before you
or any two or more of You and cause to
come and diligently examine on the holy
evangelists of Almighty God & their examinations
into our Court of our county of Southampton
without delay you seal and certify unto us
returning also to us this Writ Witness Richard
Kello clerk of our said Court at the courthouse
aforesaid the 14th day of November in the 13th
Year of Our Reign

R Kello Clk

James Basden decea (Did [illegible] your Oratrix live with the
said James Basden until she arrived to 21 years of age, & she
thath she not since that period lived & resided with the
said James the father until the time of his death & lent her
assistance towards his support & maintenance, both as
a Nurse & a Child. Hath not the said James frequently
in his latter days declared his intentions of providing for
your Oratrix as a satisfaction for the debts & has ac-
acknowlegment of her care & affectionate behaviour in
the latter years of his life. Did not the said James prefore
doing the same by will, what were his reasons for not
carrying his intentions into execution, & not the said
James Basden his eldest son & heir become intitled to
all the real estate, whereof the s[aid] James the father by
means of his dying intestate; what is the value of such
estate? Did not the said John Lywin administer on the said
James's personal estate, & intermarry with the
the said James Basden the son — was he a Creditor of the
said James the father — what is the amount of the said
personal estate. — That your worships will Decree &
Order that the said John Lywin the admr pay & satisfie
unto your Oratrix the aforesaid sum of £8. 10. & interest from
the time the same was settled & allowed to be in the hand
of the s[aid] James Basden the elder. to wit. from the year 1744
if so much estate there may be in his hands. to be administred
but if not that the said James Basden may be compelled
by process for Security for the said James Basdens the fathers
due & faithful administration of the s[aid] Joseph Basdens
estate or as his heir at Law to whom all the Lands are
descended of the s[aid] James the father / to pay & satisfie to
your Oratrix the aforesaid sum of £8. 10. with interest as aforesd.
or that your Oratrix may in some other manner be
relieved by this worshipful Court as may be agreeable to
equity & good conscience May it please &c.

John Lowe of full age being first sworn deposeth & saith that he was very intimate in the family of James Barden having married one of his daughters that the plt. for a great number of years lived with her father particularly in the last years of his life that she chiefly supported him by her industry & labour & was dutiful & obedient to him and more so as this deponent believes owing to her desire of obtaining his forgiveness for the former errors of her conduct. That not long before the said James departed this life this deponent at sundry times mentioned to him the affair between him & his daughter respecting the legacy of her brother Josephs to her which had been received by the said James. when the said James told this Deponent that he acknowledged that he owed her the money but that he had it not, yet he would give her the full worth of it & that he would give her a piece of land to live upon, the bed upon the ground a bedstead a Cedar chest. a young horse to keep make her bread, that this conversation this Deponent communicated to the plt Martha & advised her to accept of them. but she answered that what she was her Money she wanted. and further she saith not

John Lowe

June 8. 1773

Sworn to before me

Elias Herring

Rebecca Lowe aged fifty six years being first Sworn deposeth & saith that she is daughter to James Barden deced that this deponent remembers that the plaintiff was born about three months before the marriage of this deponent that the birth of the plt she thinks was about the 12 day of July 1732 & this deponent was married on the second day of November following & in the year. 1732. and further she saith not

June 8. 1773

Sworn to before me

Elias Herring

her
Rebeckah Lowe
Mark

Barden & Dohn

Barden

Tom

Southampton County Lightbourn Lowe of full Age being first Sworn saith that he asked Martha Basden the Reason of her giving a discharge to James Basden the Elder her Reply was Because her Father let her live with him to raise her Children and further saith not

Lightbourn Lowe

June 30. 1773 Sworn to before me

Elias Herring

Southampton County Thomas Jones of full age being first Sworn saith that he was at James Basdens & he heard the said Baisden say he Intended to give his Daughter Martha Basden 1 feather bed and Chest the said Martha Replyed and said she wanted her Money and Demanded a bond of her Brother James Baisden which he Refused to give and further saith not

June 30th 1773 Sworn to before me

Elias Herring

Thos. his mark Jones

Low ... } Copy
vs } Finals Decree
Basden } and Costs

For

Pltfs Ouheal

Decree 17:0:0
Attys fee 15:0
Clerk . . . 1 18 to
Shff 55
473
Witnesses . 375 Nett

At a Court Cont.d & held for Isle of Wight County June 26: 1744

Libuen Low an Infant by John Low his Father and next Friend. And the d.e John Low Adm.r &c of Ledbetter Low Decd ..... Plt.s

vs

James Bayden ..... Deft

In Chancery

Joseph Gray and John Dunkley Gent this day returned their report and Settlem.t of the Estate of Joseph Bayden decd in these Words Viz.t In Obedience to an Order of this Worshipf.l Court of Isle of Wight County bearing Date the 26.th Day of March 1744 We the Subscribers on the fourteenth Day of Apr.l 1744 at the House of John Dunkley in the County aforesd did Settle and Examine an Account Current of the Estate of Joseph Bayden deceased produced to us by James Bayden Adm.r of the d.d Joseph, having first given Credit in the d.d Account for the Sum of Thirty Pounds as by the d.d Order is directed. And do find that the Sum of Eight Pounds Ten Shillings is due to the Complainant Libuen Low as his proportional Part of the Estate of the d.d Joseph Deceased. And also that the Sum of Eight Pounds Ten Shillings is due to John Low as Administrator of Ledbetter Low in Right of the representatives of the d.d Ledbetter Low as their proportional part of the d.d Josephs Estate as may appear by the Account hereunto annexed. In Consideration whereof It is Ordered and Decreed by the Court That the d.d James Bayden Adm.r &c of Joseph Bayden deceased do pay unto John Low Adm.r &c of Ledbetter Low decd Eight Pounds Ten Shillings. And also one other Sum of Eight Pounds Ten Shillings to the d.d John Low as Father and next Friend to his son Libuen Low together with his Costs by him in this behalf expended. And it is further Ordered that the d.d John Low do give the Court Security to indemnifie them for the Sum aforesd

The

The Costs

Clk's Fee

Subpana 15 Bill 10 Docketing Cause 5 enter Atty 5 file papers 10 Continuance 15 Cont.ce 15 Copy Basdens Answer 16 file replica: 10 Order 10 Dedimus 25 Examine Witnesses Cont.ce 15 Cont.ce 15 file 5 Depositions 25 Cont.ce 15 Copy Order 10 file 1 Dejon 5 Sup.a 10 Swearing Witnesses 10 Enter Decree 15 Subp.a 4 Witness 40 Cds for 3 Witnesses Attendance 30 Copy Decree 10 Tax Costs & Copy 11 Copy Orders for 3 Witnesses Attendance 30 Enter final Decree 15 Copy & Decree 10 Tax Costs and Copy 11 2 against Basden

£ Sols. 418

Sheriff's Fee

Serving Subpana in Chancery 15 Summoning 4 Witnesses 40

55

Witn: Att.

William Jones 125 £ Sols for five Days Attendance, Sarah Jones 125 for five Days Attd.ce Rob.t Johnson 125 for five Days Attendance

£5 N.o 375

Lawyer's Fee 15/. or 150 Sols.

Copy Test Rt. Baker Clk

Pro. ... £
Copy
vs
Basden Final Decree
and Costs

Pltfs Counsel

Pltfs Proctor

Decree ... 17:0:0
Atty fee ... 15:0
Clerk ... 4:10:0
Sher. ... 55
173
Witnesses ... 3:75 Cts

Baldon ? Chan.d Pet.s —
vs
Quinn et al.s

Know all Men that We Robert Barden and Martha Barden, Son and Daughter of James Barden, have had and Receiv'd each of us Severally from the above named James Barden Administrator of Joseph Barden Son of the said James Dec'd the Sum of £. 14 Ten Shillings Current Money of Virginia in full payment & Satisfaction of all Demands or Claims in either Law or Equity, that We the said Robert and Martha have or may hereafter have against the said James Barden Administrator of the said Joseph Barden Deceas'd. As Witness our hands this Day of February 24 Anno Dom 1749/50

The mark of Jacob [illegible] Martha Barden

Isle of Wight Ss

This Day Jacob Jones of the County of Bute and Province of North Carolina came before me and Made Oath on the Holy Evangelist of almighty God that the Instrument of Writting hereunto annexed, Whereof he is a Witness was Agreed to by the Partys and Executed in his Presence and that he the Sd Jacob Jones was Called on as a Witness Between the Parties Certified from Under My Hand this 19th Day of February 1771

John Eley Jr

Baudemberg le
admon de Jan.
Baudemont

1742

Know all men by these presents that We James Bayden
James Bayden Junr. and Mathew Gaskin are held and
firmly bound unto Thomas Gale gent the first Justice present
in the Commission of the Peace for Gloucester County for
and in behalf and to the use use and behoof of the Justices of
the said County & their Successors in the sum of one
hundred [redacted] and fifty Pounds. To be paid to the said
Thomas Gale his exors Admors & Assigns - To the which
Payment well and truly to be made We bind ourselves
and every of us our and every of our heirs executors
and Admors. Jointly & severally firmly by these presents
Sealed with our seals. Dated this 24th day of August
1742.

The condition of this obligation is such that if the above
bound James Bayden administrator with the non
supatur will annexed of all the goods Chattells and credits
of Joseph Bayden Dcd do make or Cause to be made
a true and perfect inventory of all and singular the
goods Chattells & Credits of the said deced which have or
shall come to the hands possession or knowledge of
him the said James Bayden or into the hands or
possession of any other person or persons for . and the
same so made do exhibit or cause to be exhibited into
the County Court of Gloucester at such time as
he shall be thereunto required by the said Court &
the same goods Chattells & Credits shall other the goods chattells
& Credits of the said Deced at the time of his death which
at any time after shall come to the hands or possession of
the said James Bayden or into the hands and possession of
any other person or persons for him do well and truly
administer according to Law: And further do make a Just
and true account of all actings & doings therein when thereto required
by the said Court and all the rest and residue of the said Goods
chattells & credits which shall be found remaining upon the said
admors Account the same being first examined and allowed by
the Justices of the Court for the time being shall deliver and pay
unto such person or persons respectively as the said Justices
by their Order or Judgment shall direct Pursuant to the Laws in
that Case made & provided & if it shall hereafter appear that
any last Will & testament was made by the said Dece and and
the exors. therein named do exhibit the same into the said Court
making request to have it allowed and approved Accordingly if
the said James Bayden being thereunto required do render &
deliver up his Letters of admon approbation of such testament
being first had & made in the said Court Then this
obligation to be void & of none effect or else to remain in
full force power & virtue.

Sealed & Delivered
in presence of

James Bayden L S
Mathew Gaskin L S
James Baydengaw L S

Copy Teste. Baker C