

1779-001

SOUTHAMPTON COUNTY
CHANCERY PAPERS

GRIZARD & wife vs. AVERY'S EXECUTOR, 6/1779

other surnames: Edmunds

Grizard Wife

17

Acquiesced

Bill in Chancery

March 1779

Decease

June Dismissed

To the worshipful justices of Southampton county sitting
in Chancery.

Humbly complaining sheweth unto your worship, your orator -
Standy Grizard & Elizabeth his wife, That one Richard Avery
your orator's father / late of the said county being seized of a certain
tract of land containing _____ acres, made his last will &
testament which hath been duly proved & recorded wherein he
devised to his son Etheldred Avery the plantation & tract of
land whereon he then lived which he directed to be sold to the
highest bidder at his death & the money arising thereby to be
put out at interest until the said Etheldred should come to the
age of twenty one but in case the said Etheldred should die
before he attained the age of twenty one then his will was, that
the ~~same~~ money his land sold for should go to his daughter
Elizabeth & her heirs for ever - that one ~~James~~ Howell Edmund
the executor named in the said will hath duly proved the same &
taken upon himself the burthen of the execution Your Orators
further shew that since the death of the testator Richard Avery
the aforesaid Etheldred your Orator's brother, hath departed
this life & before he attained to the age of twenty one years -
& before the sale of the lands & plantation in the will aforesaid
mentioned, that your Orators have frequently requested the
aforesaid Howell Edmunds the executor to make sale of the lands -
aforesaid agreeable to the will of the testator & pay the same
to your Orators. But now so it is may it please your worship
that the said ~~executor~~ Howell Edmunds the executor under divers
evasive & frivolous pretences delays & neglects to make sale
of the said lands or in any manner comply with the will of
his testator relative thereto. In tender consideration of the
premises & forasmuch as your Orators are aggrieved ^{without} the
aid of this worshipful court. To the end therefore that the
said Howell Edmunds executor do of the aforesaid Richard Avery devise
may upon his corporal oath, full true & perfect answer make
to all & singular the premises as fully & particularly as if the
same were herein again repeated & interrogated & more
especially that he may set forth & discover whether the said
Richard Avery the testator did not die seized of ~~the~~ ^{such} lands &
plantation, make such will, appoint such executor & devise the
said lands to be sold, & the money to be paid as herein before
is particularly recited, whether the said Etheldred Avery your
Orator's brother hath not departed this life under the age of
twenty one years - whether he hath ~~not~~ sold the lands, put

the money out at interest or otherwise disposed of the same. ~~the~~
& this reason for not complying with the will of the testator in
these particulars, And that your worships will decree & order
that the said Howell Edmunds executor of the said Richard Avery
do make sale of the plantation & tract of land whereon
the said Richard formerly lived for ready money to the highest
bidder & that ^{he} pay the money arising by the sale of the said
Lands to your orators agreeable to the express direction of the
will aforesaid & that your worships will make such further
& other decrees in the premises as may be agreeable to equity
& good conscience they so please be.

Hells for Compt

Grizard & wife

vs

Avery executor

Bill in Chanc

March 1779

Decree

June Dismissed

Edmunds or at
Avery

ad.

Guzard R.

Amor

The answer of Howell Edmunds esqr to of Richard Avery dec'd
to the bill of complaint of Hardy Gray and Elizabeth his wife
This defend. saving to himself all advantages of exception to the many errors
& uncertainties of the complainants bill for answer thereto this defend.
saith that it is true that the said Rich Avery died seized of such land
made such will, & disposed of the lands in the manner in the bill
set forth that this defend. hath proved the said will & taken upon
himself the burthen of the exon thereof, that he doth not think
himself justifiable in making sale of the lands since the death
of the devisee Ethelred Avery without the sanction & directions
of this court. which he prays ^{may} direct what kind of title is
to be made & what estate conveyed to the purchaser in the
lands so directed to be sold as aforesaid. he is willing to submit
himself to the decree of this worshipping court in the premises &
prays to be hence dismissed with his costs on this behalf sustained
without that that be.

Howell Edmunds

Spizard & Co
14
Commons & Co
a Henry

Est.
Wm. M.

The commonwealth of Virginia to the sheriff of Southampton
greeting. We command you that you summon ~~James~~ Howell
Camundo ~~son~~ of Richard Avery, doo to appear before the justices of our
court of Southampton at the courthouse on the second Thursday
in April next to answer a bill in chancery exhibited against
him by Hardy Gizard and Elizabeth his wife & have then there
this writ witness, Sam Kello clerk of our said court at the
courthouse above the 16th day of March in the second year of
the commonwealth

Sam Kello