1792-003 SOUTHAMPTON COUNTY CHANCERY PAPERS ROCHELL and Wife, et al. vs. GILLIAM'S EXTOR 3/1792

See also Gilliam vs. Peete, Extr. of Clements, etc, 1792-12

other surnames: Butts, Hutchings, Blow, Rochelle

Rochester
vs
Gilliam. } Bill

Nov 1769
Bill filed Time
Def. come to answ.

March 1792 decree

To the Worshipful Justices of Southampton Court
sitting in Chancery

John Rockell & Judith his wife, William Bates & Mary his wife
Humbly Shew,

That your Oratrixs father John Gillian late of
this County deceased. departed this life seised and possessed of
a very Considerable estate in Lands, Slaves & personal Chattels, and
being so seised made his last Will & testament in writing, bearing
date the 25th day of February 1765, and appointed several executors
who proved the said Will in this County and of whom Thomas Gillian
is now the only Surviving and acting executor, That amongst other
things the Testator devised to his son Jemmy at the age of twenty one
one negro boy Called Frank, and at his wifes death or marriage
one other negro boy Called Will to him and his heirs forever, and
also further devised to his Son Thomas Clements at the age of twenty
one years one negro boy Lewis, ~~one negro boy Caesar & Dido~~
~~he paying unto~~ ~~or otherwise~~, That after the death of the said
Testator the said executor Thomas Gilliam delivered up the possession
of the aforesaid negroes to the Guardians of the said devisees, who
received the profits of their Estate and accounted with the Court
for the same. your Orators further Shew that the said Jemmy
and Thomas Clements Gilliam have each departed this life in
their infancy, whereby the said Slaves are descended and Come to
your Oratrixes Judy & Mary the wives of your Orators, the only
Surviving daughters & Coheirs of the said John Gillian the father,
and as the Sisters and Coheirs of the said Jemmy & Thomas Clements
Gilliam the devisees, and thereby your Orators in right of your
Oratrixes Judy & Mary are entitled to partition of the said Slaves
Frank, Will & Lewis ~~& Dido~~ equally between the said Judy and
Mary. Your Orators further Shew, That since the death of the
said Jemmy & Thomas Clements Gilliam the said Thomas Gilliam
the executor has dispossessed himself of the said Slaves, and
so it is may it please your Worships, that altho your Orators
have made frequent applications to the said Thomas Gillian
to deliver up the said Slaves to your Orators that an equal partition
and division may be had, yet the said Thomas Gillian (Combin-
ing & Confederating with divers other persons to defraud and
defeat your Orators of their just right to the said Slaves, whose

names when discovered, your Orators pray may be made partys Respondents to this their Bill of Complaint) wilfully refuses to Comply with Such your Orators Reasonable Request, or to deliver up the Slaves for the purposes aforesaid, pretending and giving out in Speeches, that the Said Slaves are, and always were his own proper Slaves, that the Said John Gilliam your Orators father had no power or title to devise the Same by his Will, altho he well knows that the Said John Gilliam enjoyed the absolute property & possession of the Said Slaves many years before his death, and that the Guardians of the Said devisees under his Will, accounted for the hire & profits of them to this Court annually, for the Support & maintainance of of the Said devisees respectively, all which actings and doings of the Said Thomas Gilliam and his Confederates, your Orators charge are Contrary to justice & equity, and tend to the injury and oppression of your Orators, In tender Consideration whereof and for as much as this worshipful Court is the proper jurisdiction for your Orators to apply for relief, To the end therefore that the Said Thomas Gilliam may upon his Corporal oath, full true & perfect answer make to all and Singular the allegations of this bill as above Stated, but more especially that he may Set forth and discover, whether the Said John Gilliam did not in his lifetime possess the Said Slaves, as of his own proper Slaves, + did he not leave Such Will, and devise the Said Slaves as above Set forth? did not the Said Thomas Gilliam prove the Said Will and qualify himself, as one of the executors of the Said John Gilliam deceased? were not the Said Slaves inventoried and appraised as part of the Slaves whereof the Said Testator died possessed? were not Such Slaves delivered by the executors to the Guardians of the Said Jimmy & Thomas Clements Gilliam the devisees? and by them hired out and accounted for by Such Guardians for a Series of years, as the Slaves of Such infant devisees? what Reason Can be alledge for withholding the Same from the just claim of your Orators? + what has been the annual profits of the labour of the Said Slaves since the death of the Said devisees? what other estate hath Come to the hands, possession or knowledge of the Said Thomas Gilliam, that of right appertains or belonged to the Said infants Jimmy & Thomas Clements Gilliam either as executor of John Gilliam deceased, or guardian to both or either of them, or in anyother manner? and that this Court will decree and order that the Said Thomas Gilliam may be Compelled to make up an account of the profits arising from the labour of the Said Slaves, an account of all the estate that hath Come to his hands of the Said Jimmy & Thomas Clements Gilliam, that this Court will also appoint, Some fit and able persons to make partition & division of the aforesaid Slaves between your Orators, and that the Said Thomas Gilliam be Compelled to deliver up the Said Slaves for the purpose aforesaid & pay unto your Orators all profits arising from the hire of the Slaves aforesaid, and of all estate that may be due your orators as Sisters & Cohairs of the Said devisees, and that this Court will make Such further and other Decree in the premises as may be for the Relief of your Orators. May it please &c

D. Call & Yarbrough } for Complainants

Rochell
vs
Gilliam
} Ans.

To August Ct. 1791

D

The answer of Tho's Gilliam to the bill of complaint of John Rochelle & Judith his wife, William Butts & Mary his wife exhibited against him. This defendant now & at all times hereafter, saving & reserving to himself all & all manner of benefit & advantage to the manifold uncertainties, imperfections & untruths in the complainants said bill of complaint contained, for answer thereto, or to so much thereof as he is advised is material for him to make answer unto, answers & says. That true it is that your respondent was appointed one of the executors to the will of John Gilliam, the father of the complainants Judith Rochelle, & Mary Butts. But this defendant denies ever to have taken the burthen of the execution of the same upon himself; or to have given bond in court for his executorship; which he supposes must have been done, or he could have been no other executor than one in his own wrong. This defendant denies ever to have delivered up the said negroes in the bill mentioned, to the guardians of the devisees; but only suffered the s^d negroes to be hired out, & requested Benj^a Clements, who was the acting executor, not to let his s^d grandchildren want for the want of common necessaries, but rather to furnish them with the money which should arise from the hire of the said slaves. This respondent further sheweth, that after the death of Benj^a Clements the cause he was appointed guardian to the children of the s^d John Gilliam, & to

for from considering the negroes to be the property of the devisees under the will, that he never pretended to hire the same out for the benefit of the children, or in any manner to account for the same; but when he was convinced the children were really in want of necessaries would furnish them out of his own proper estate without making any charge for the same, but merely as an act of charity done for the good of his grandchildren whom he affectionately loved, & whom he knew to be in a distressful situation. This defendant denies that the said John Gilliam the testator had a right to will away the negroes in dispute. For as much as he can recollect in the year of our Lord one thousand seven hundred & fifty eight he made a settlement on the lower end of the plantation whereon he lived, with an intent of his deceased son John keeping a store there for John Austin Finney; & the September in the following year the defendant removed from the house where he lived a negro woman named Hannah & her three children to wit: Will, Frank, & Lewis & settled them on the land which he had lately cleared & improved. That on this plantation the s.d John Gilliam lived about five years, & then removed to a piece of land which he purchased of Henry Harrison late of Sussex county dec.d but did not remove off any of the said negroes. This defendant declares that he did not put him in possession of the lands & slaves in any other manner than as he has stated; never having given them, nor promised them to him at any time. That on the death of the said John this defendant resumed possession of the said plantation & took the said negroes to another plantation where they remained about four years. That if the negroes, to wit, Will, Frank, & Lewis, were inventoried & appraised it was done by Benj.a Clements the executor, without the knowledge of this defendant who can not either read or write. This defendant denies all combination &c. And that there is any other matter or thing in the complainants said bill of complaint contained, & not herein & hereby sufficiently answered, traversed, or denied, this defendant is ignorant of, & prays to be hence dismissed with his reasonable costs &c.

Benj.a Drew for the def.t

(11)

Sworn 13.th 1790

The truth of the above contents & allegations sworn to before me

Geo.e Gurley

Rockville
vs
Gilliam
Decree
&c

Southampton March Session court 1792.

John Rochelle and Judith his wife Will^m Butts and Polly his wife ——— Plff^s

against

Thomas Gilliam sen^r ——— Def^t. } In Chancery

This cause was this day heard on the bills of the plaintiffs, answer of the defendant, depositions of sundry witnesses and the arguments of the counsil on both sides. On consideration whereof it is decreed and ordered that the defendant Thomas Gilliam sen^r do deliver to the plaintiffs the slaves Will, Frank and Lewis in the bill mentioned; and it is further ordered and decreed that the said defendant do make up his account respecting the hire of the said slaves and also respecting the other personal estate of the testator John Gilliam and of the said Thomas Clements Gilliam before John Simmons, William Hines, Mark Nicholson Joshua Fort, Richard Clements and William Chambless or any two of them who are hereby appointed commissioners to state, audit and examine the same, and that the said commissioners do proceed to state the said accounts & and report the balance due for the same to this court in order to a final decree.

A Copy

Teste

Jn^o D Kaufmann D.C.

Rochell Wife &c

v.s. } Spec in Chan.y

Gilliam

24th Aug.t 1769.

Executed

Rich.d Dwyer Dr

The Commonwealth of Virginia To the sheriff of Southampton County Greeting. We command you that you Summon ~~John Rochell & Judy his wife~~ Thomas Gilliam to appear before our Justices of our Court of our said County in Chancery at the Court house on the Second Thursday in November next To answer a bill in Chancery exhibited against him by John Rochelle & Judy his wife and William Batts and Mary his wife, and this he shall in no wise omit under the penalty of £100 — and have then there this writ Witness Sam'l Kello Clerk of our s.d Court at the Court house the 24th day of August 1789 in the 14th Year of the Commonwealth

Sam Kello C.

Rockwood
et al.
vs
Williams
et al.

Dft not answering the bill of complaint
of Jno. Rockwood & Judith his wife & Wm. Bell &
Mary his wife

Exp. Jn. Simmons Sh.

The Commonwealth of Virginia to the sheriff of Southampton County greeting You are hereby commanded to attach Thomas Gilliam so that you have his body before our justices of our said court at the Courthouse on the second Thursday in May next to answer us as well of a certain contempt by the said Thomas Gilliam to us offered as it is said as upon those things which to him then & there shall be objected & further to do and receive what our said court shall consider in this part consider & have then there this writ witness Sam[l] Kello clerk of our said court at the Courthouse the 4th March 1790 & in the 14th year of the Commonwealth

Teste Sam[l] Kello C.

(11)

Rochelle
vs
Gilliam

Ydeed
Protest

Southampton Sct.

The Commonwealth of Virginia to ~~George~~ Wm Allen & Robt Goodwyn Robt Mabry & Hezekiah Edmunds Gentlemen ~~Justices Thomas Ridley~~ & Josiah Vick Gentn Know Ye that We hasting to Your fidelity and providant circumspection in diligently examining John ~~Thomas~~ Blow Capt. and Mary Blow witnesses as well on behalf of John Rochelle and Judith his wife Compts & on behalf of Thomas Gilliam defendant Command You or any two or more of you that at such place and time as you may appoint You cause the witnesses aforesd to come before You & diligently examine them on the holy evangelists of Almighty God & their examination into our court of oyer & said County without delay You send & certify enclosed returning to us also this writ Witness Thos Skelton clerk of our S. Court at ye House the 14th day of January 1791 & in the 15th Year of the Commonwealth.

Skelton, cs

Rachell &c
vs
Gilliam

Dedimus
protestatem

To be sent to Mr Rochelle immediately

Southampton county, to.

The commonwealth of Virginia to
Thomas Ridley & Robt. Goodwyn ——— ———
Gentlemen justices of the peace for the county of Southampton greeting.
Know ye that we trusting to your fidelity and provident circumspection in diligently examining Arthur Gilliam, Elizabeth Gilliam John Hutchings and Agnes Gilliam witnesses as well on behalf of John Rochelle and Judith his wife, William Butts & Polly his wife plaintiffs as on behalf of Thomas Gilliam defendant. Command you or any two or more of you that at such time and place as you shall appoint, you assemble yourselves and the witnesses aforesaid, and diligently examine them on the holy Evangelists of Almighty God and their examinations into our court of our county of Southampton without delay you shall send and certify inclosed, returning also to us this writ. Witness Samuel Hello clerk of our said court at the courthouse the 15th day of February 1792 in the 16th year of the commonwealth.

Jno. D. Hausmann D.C.S.C

Ashton March Session court 1792

sworn to in court

L D Haasjmann D.C.

Mr Thomas Gillam. Take notice that on Friday the 23d Instant (February) I shall proceed to take the depositions of Arthur Gillam, Elizabeth Gillam, Agnes Gillam, John Hutchings & Sarah Gillam at the dwelling house of William Butts in Southampton County, between the hours of ten & seven O'Clock of the same day, in a certain matter of Controversy now depending & undetermined in the said County Court. Witness my hand & seal this 9th day of July 1792

Jno Richards

The within Execution fully satisfyd

Wm. Chamblis, a dpt

J. G. Ft Ds

Rec'd 89 dollars

of Wm Chamblis

The Commonwealth of Virginia to Joseph Foit deputy Sheriff of Ston County Greeting We command you that you expose to sale those goods & Chattels of Thomas Gilliam decd which according to our command you have taken into your hands & which you detain for want of buyers as you have Certified to our justices of our Court of Ston to satisfy John Rochelle & Judith his wife Wilm Butts & Mary his wife £ 671. 8 ll 10 also 535 lb Tob: 101 Cents & 36 whereupon in our said court they have recovered Execution ag[t] the said Thomas Gilliam and that you have the same before the justices of our said Court at the court house on the second thursday in April next to ~~one~~ render to the said John Rochelle & others of the debt & Cost and afores[d] And have then there this Writ Witness Sam Kello Clerk of our said Court at the Courthouse the 7 day of March 1798 And in the 18 year of the Commonwealth.

Sam Kello D[C]

Southampton Cty

This Day John Rochell came before me & made Oath on the Holy Evangelists that John Blow & his Wife Mary are material Witnesses in a Suit depending between the s. Rochelle & Thos Gilliam. Certified under my hand this 14 Day of Jany 1791.

Geo: Gurley

Agreeable to a Dedimus Potestatem from the Worshipful Court of Southampton to us Directed. We have called & caused to come before us John Blow of full age who being first Sworn on the Holy Evangelists of Almighty God Deposeth & Saith that about fourteen years ago last New years day, to the best of his remembrance Thomas Gilliam Senr came to his House, - in Conversation the s.d Thomas Gilliam informed him the Deponant that he had two Negro Fellows the property of James Gilliam, who he then was Guardian for, that he would wish to hire out for the present year, - that one of those Negroes by the name of Will was desirous of living with William Blanchard as he had a wife there, and the other by the name of Frank was desirous of living with him the s.d Deponant that he asked him his price, he answered eight pounds, which he the Deponant immediately agreed to give, at the years end he applied to the s.d Deponant for the Hire of s.d Negro and s.d Will that the before named James Gilliam wanted Cloaths, that if he could not get the money for the Hire of the s.d James Gilliam Negros he could not get him any, that he immediately paid the s.d Thomas Gilliam the Hire of s.d Negro Frank. Further Saith not.

John Blow

Sworn & Taken before us this 13th May 1790 one

Wm Hunt

J.P. Vis

Mem.d Notice proved by the s.d Deponant that he informed the s.d Thomas Gilliam Senr in Writing last Monday week of the time & place of taking the above Deposition

Wm Hunt

Wm Hunt

Southampton Sc

Elizabeth Gilliam of Sd County being first sworn on the Holey Evangelist of almighty God deposeth & say that soon after John Gilliam married, his father Thomas Gilliam Sr. settled him on a part of his land & the following Negroes Jeffery, Jimmy, Will, Frank, Lewis Hannah & Peal, which Negroes she the deponant always thought was given to him the Sd. Jno. Gilliam, & that it was also the opinion of all the Neighbours, and this deponant further sayeth that the said Jno. Gilliam continued on that part of Thomas Gilliam Sr. land four or five Years, after that time removed to a plantation of his own & carried with him the above mentioned Negroes, which Negroes remained in his possession until his death, & this deponant further sayeth, that she hath frequently heard the Sd. Thomas Gilliam call the afore mentioned Negroes John Gilliams Slaves, & this deponant further sayeth, that she understood after the death of John Gilliam that Thomas Gilliam Sr. rented the land, and hired the afore Sd. Negroes, of Benja. Clements who was the only acting Exor. of John Gilliam died and this deponant

Sworn — Certified under Our hands & seals this 23 day of July 1792 —

Thomas Ridley (Seal)

Robt. Goodwyn (Seal)

Southampton Co

John Hutchings a Witness of full
age being first sworn on the Holy Evang-
list of almighty God deposeth & saith
that after the Marriage of Mr. Gilliams
of Thomas Gilliams, in the said County
put into the quiet & peaceable Possession
of the afore said Mr. the following Negros
Jeffery Jim Will Frank Lucy Hannah and
Ned. who remained with him, & was known
as his, the said, John Gilliams Negros as long
as he lived and further this Deponant saith
not

Certified under our Hands & Seals
this 23d day of July 1792

Thomas Ridley (Seal)

Robt. Goodwyn (Seal)

Southampton Co.

Agnes Gilliam of full age being first sworn on the Holy Evangelists of Almighty God- deposeth & sayeth that soon after the Marrage of John Gilliam son of Thomas Gilliam sen.r he the s.d Thomas Gilliam sen.r settled him on Splantation of his, & put him in Posession of the following Negroes (Viz.t) Jeffery Jemmy Will Frank Lewis Hannah & Ned, which Negroes she this deponant always understood afterwards belonged to John Gilliam & that the s.d John Gilliam remain.d in Posession of the aforesaid Negroes as long as he lived & this deponant further saith that she has heard Mrs Gilliam wife of Thomas Gilliam sen.r say, that Thomas Gilliam sen.r had given John Gilliam the aforesaid Negroes, & further this deponant sayeth not

Certify'd under our Hand & Seal this 23.d day of July 1792

Tho Ridley Seal

Robt Goodwyn Seal

Southampton ss.

Arthur Gilliam of full age being first Sworn on the Holy Evangelist of almighty God deposeth and sayeth that after Jno. Gilliam son of Thomas Gilliam Sen.r became Capable of act-ing for himself his Father setled him on a part of his land & the deponant supposed gave him the following Negroes Jeffery, Jimmy Phill, Frank Lewis Hannah & Neal and this deponant sayeth that he was dwelling the life of Jno. Gilliam a neer Neighbour to him & that he never heard of Tho.s Gilliams claiming any part of the Crop or Increase of the above mentioned Negroes and that after living on the aforementioned place four or five Years removed to a plantation which he the said Jno. Gilliam had purchased and carryed with him the said Negroes with their increase & held them in quiet possession untill his death, and this deponant further sayeth that after the death of Jno. Gilliam that the said Tho.s Gilliam ss. did rent the aforesaid plantation & Negroes of Benja. Clements ss. the only Acting Person for the orphans of Jno. Gilliam decd and further the deponant recollects to have heard Tho.s Gilliam distinguish one of the aforementioned Negroes by the name of James Gilliams man Will & further this deponant sayeth not — Acknowledged under Our Hands & Seals this 23d Day of Feby 1792 Thomas Ridley (Seal)

Robt. Goodwyn (Seal)

Report

Dr. Thomas Gilliam Sen.r Exr of Estate of John Gilliam decd — To Jno. Rochel & Judieth his wife & Wm. Butts & Polly his wife & Cr.

1781 Jany 1st	To hire of Will. Frank. & Lewis for the Year 1780	£27	—	—
	To Intt. on £27 — from Jany 1781 till Jany 1792	14	17	—
1782 Jany 1st	To hire of Will. Frank & Lewis for 1781	27	—	—
	To Intt. on £27 — from Jany 1782 till Jany 1792	13	10	—
1783 Jany 1st	To hire of Will. Frank, & Lewis for 1782	27	—	—
	To Intt. on £27 — from Jany 1783 till Jany 1792	12	3	—
1784 Jany 1st	To hire of Will. Frank & Lewis for 1783	27	—	—
	To Intt. on £27 — from Jany 1784 till Jany 1792	10	16	—
1785 Jany 1st	To hire of Will. Frank & Lewis for 1784	27	—	—
	To Intt. on £27 — from Jany 1785 till Jany 1792	9	9	—
1786 Jany 1st	To hire of Will. Frank & Lewis, for 1785	27	—	—
	To Intt. on £27 — from Jany 1786 till Jany 1792	8	2	—
1787 Jany 1st	To hire of Will. Frank, & Lewis for 1786	27	—	—
	To Intt. on £27 — from Jany 1787 till Jany 1792	6	15	—
1788 Jany 1st	To hire of Will. Frank, & Lewis for 1787	27	—	—
	To Intt. on £27 — from Jany 1788 till Jany 1792	5	8	—
1789 Jany 1st	To hire of Will. Frank. & Lewis for 1788	27	—	—
	To Intt. on £27 — from Jany 1789 till Jany 1792	4	1	—
1790 Jany 1st	To hire of Will. Frank. & Lewis for 1789	27	—	—
	To Intt. on £27 — from Jany 1790 till Jany 1792	2	14	—
1791 Jany 1st	To hire of Will. Frank, & Lewis for 1790	27	—	—
	To Intt. on £27 — from Jany 1791 till Jany 1792	1	7	—
1792 Jany 1st	To hire of Will. Frank. & Lewis for 1791	27	—	—
		£413	2	0
	To Balle due as pr Acco Curr.t rendd	£298	6	10
	& Principle & Intt	£711	0	10

Agreeable to the order of the Court of Southampton county. We have stated and settled the accounts of Thomas Gilliam, and find the ballance, as is herein stated, to wit. the sum of Two hundred & ninety eight pounds six Shillings & ten pence due from the said Thomas Gilliam to the estate of John Gilliam, which was recovered, (when ascertained) by Jno. Rochel & Judith his wife, & William Butts & Polly his wife, as also the sum of Seven hundred & thirteen pounds two Shillings for the hire of three negroes, that was recovered by the said Jno. & wife & William & wife, of the said Thomas Gilliam, the whole amounting to Seven hundred & eleven pounds eight shillings & ten pence, being the ballance due by the said Tenancy, as per Acct. from Thomas Gilliam to the said Rochel, Butts & Lewis. given under our hands this 8th day of November 1792.

John Simmons [illegible]
Wm. Lewis

Rochelle
vs
Gilliam

The Commonwealth of Virginia to the Sheriff of Stow You are hereby comm
to take
if he be found within your bailiwick & him safely keep so that you have
before our Justices of our said court at the courthouse of the said county on
a second Thursday in next to Jalis Syus

As well for a fine on
Presentment
for our costs in this behalf expended Whereof convict as appears to us of record
And have then there this writ witness Sam Kello clerk of our said court at the
Courthouse the day 1788 & in the Year of the Commonwealth

The Commonwealth of Virginia to the Sheriff of Stow You are hereby command
to take
if he be found within your bailiwick & him safely keep so that you have
before our Justices of our said court at the courthouse of the said county on
next to Jalis Syus

As well for a fine on imposed by the Justices of our said court on a Presentment made to them in last for
for our costs in this behalf expended Whereof convict as appears to us of Record & have then there this writ witness
Sam Kello clk of our said court at the courthouse the day of
and in the Year of the Commonwealth

The Commonwealth of Virginia to the Sheriff Stow you are hereby command
to take
if he be found within your bailiwick & him safely keep so that you have his body
before our Justices of our said court at the courthouse of the said county on the second
Thursday in next to Jalis Syus.

As well for a fine on imposed by the Justices of our said court on a Presentment
made to them in last for
for our costs in this behalf expended whereof convict as appears to us of record
And have then there this writ witness Sam Kello clk of our said court at the
courthouse the 1 day of & in the Year of the Commonwealth