1796-003 SOUTHAMPTON COUNTY CHANCERY PAPERS BRYANT et al vs. NEWTON 11/1796

. other SURNAMES: Harris, McMials, McMial

To the Worshippul Court of Southampton County in chancery
sitting. humbly complaining shew unto your Worships. your
Orators and Oratrixes, Jonas Bryant in right of his deceased
Wife Elizabeth, James Harris & Anne his Wife, Andrew McMicals
and Mary his wife, Benjamin Newton, William Newton, Amos
Newton, & Sally Newton infant children of John Newton dec.
by Jonas Bryant their next freind.

That a Certain William
Newton the elder late of the County aforesaid, in his life time
and at the time of his decease was among other things possessed
of one Negro Woman Called & known by the name of Kate who
is since deceased leaving a daughter Rachall, & two grand
Children, Sam. & Nate. That the said William Newton the
elder departed this life intestate on or about the Day of
1762. leaving a Widow Newton & five Children, to
wit Elizabeth the late wife of Wm Bryant, Anne the Wife of James
Harris, Mary the Wife of Andrew McMical, John Newton
father of the infant Complainants, & Shadrach Newton,
That the said the Widow aforesaid possessed herself of
the said Slaves & their increase, & held possession thereof
till the time of her decease to wit; the day of March
1783, after which time Shadrach Newton the eldest
Son of the said William took all the Slaves aforesaid
into possession and refuses to deliver them up for par-
tition & division to be made, or to pay to your Complai-
nants their Several proportions of the appraised value of
the Slave Kate, and interest thereon. which your
Complainants conceive to be wrong unjust &

In tender Con-
sideration whereof, and for as much as your Orators

and Citations are without remedy only in a Court of equity

To the end therefore that the said Shadrach Nevison (unto your Complainants pray may be made defendant to this their bill of Complaint) may upon his Corporal oath fully true & perfect answer make to all and singular the allegations herein Contained, and that as Copiously as if the same were again herein repeated and interrogated

And that your Worships will decree that the said defendant pay to your Complainants from fifths of the appraised value of the said Slave Cato with the interest from the time of the said William Nevisons decease for the legacy bequeathed among your Complainants, or in default thereof to distrain up all the increase of the said Cato that partition & division may be legally made of them or make any other or further decree for your Complainants relief as may be consistent with equity

May it please &c

Yours &c for Compts

(54)

Chas. Pinckney
Notes Pldg annexed
& dismd accordingly

5°

Newton

adv. } Answer

Bryant Sal.

Febry 1796 answer
5 filed.

The answer of Shadrack Newton, Defdt, to the bill of Jonas Bryant, James Harris & anna his wife, andrew McMeals & Mary his wife, Benjamin Newton, William Newton, amos Newton & Sally Newton infants by the said Jonas Bryant their next friend, Complts. The Defendant, saving to himself every exception to the bill of the Complainants, answers thereto as follows —

The Complainants are correct in stating that the Defendant's father William Newton, the elder, died intestate in the year 1762, & that he had a slave called Kate; but in other parts of their bill they are not only inexplicit, — but have fallen into very considerable errors. They have omitted to mention that the Decedent William had only one slave at the time of his death, — the children of Kate having been born since. They have said that the Defendant's father left but five children. — Here they have erred. He had seven children living at his decease, — Shadrack, Elizabeth, John, William, Mary, Benjamin, & anna. His wife survived him & died sometime in the year 1783, as the Complainants have mentioned, having held possession of Kate & her children until her death, when the Defendant took them under the operation of the Law existing at the decease of his father in relation to such property. Under these circumstances it must plainly appear, that instead of 4/5 of the appraised value of Kate, the Complainants cannot possibly be intitle to more than 6/7 of 2/3 thereof, — the Defendant having an exclusive right to the reversionary interest,

which was created by the Defendant on the 1/3 given by the law to the Widow for her life. But perhaps the children of the Defendants Brother John are not intitled to come at any part of the appraised value of Kate in the way, in which they are now proceeding. The Defendant is advised that this claim can alone be made by the executors or administrators of John, — but if he can with safety to himself get clear of this demand by a payment immediately to the children of John, he is far from being unwilling to do it. The appraised value of Kate was £45, & taking it as a guide he is anxious to settle with the persons intitled to proportions thereof, — but in this he has been interrupted by their demanding more than the Law gives them, or in justice they had a right to expect. From the death of the Defendants father in 1782, ~~to~~ until sometime in March 1783 Kate remained in the possession of the Widow, & was employed for the general benefit of the family left by the Deceased, which consisted of his Widow & seven children as above mentioned. Now as the other children shared with the Defendant in the Labor & use of Kate from the death of their father until 1783, when she came to the hands of the Defendant, — he conceives it unreasonable in them to demand of him interest upon their respective proportions of her appraised value from 1782 to 1783, — nor does he think that they ought to have interest from the latter period of time to this date, because he always has been & yet is ready to settle with them agreeably to the directions of the Law & the rules of justice. It is not perhaps improper to add that the Defendants father left his family in such a situation as to the means of maintenance as to impel his Widow to hold Kate in order to provide necessaries & some accomodation for his children, who were then all in a state of infancy.

And finally this Defendant, denying so much of the bill of the Complainants as he has not herein before answered unto, admitted, or denied, ~~[illegible]~~ prays hence to be dismissed his costs in this case most wrongfully expended —

Southampton County, to wit,

This day Shadrach Newton made oath before me a Justice of the peace for the County aforesaid that the foregoing answer so far as it contains facts & circumstances within his own knowledge is true, — & that so far as it rests upon the knowledge of others or other evidence he believes it to be true.

Given under my hand this 11th day of February 1796.

Benj. B. Leach

Bryant & others

vs ? Order to refer

Newton

August 1796.

Southampton August Session 1796 74

Jonas Bryant, James Harris and Ann his wife, Andrew M.c Grial and Mary his wife, Benjamin Newton, William Newton, Amos and Sally Newton infants of John Newton by William Newton their next friend ——— Complts.

against

Shadrach Newton ——— Defend.

S. Chancery

By consent of the parties all matters in difference between them in this cause are referd to the arbitration, final end and determination of James Gee, Samuel Edmunds, Lazarus Cook, John Kindred and John Underwood or any three of them whose award is to be made the judgment of this court

A Copy Teste Jno. D. Kaufsmann D.C.C

(247)

Bryant &c
as
Newton

Spa
in
Ch. J.

To Augst 1794

Executed
Jno Lewis D. Sh.

The Commonwealth of Virginia to the Sheriff of Southampton County greeting You are hereby commanded to summon Shadrach Newton if he be found within Your bailiwick to appear before the justices of our said county court at the courthouse of the said county on the second thursday of August next to answer a bill in chancery exhibited him by Jonas Bryant, Jas. Harris and Ann his wife, Benj.a Newton, William Newton, Amos & Sally Newton infants of Jno. Newton by Wm. Newton their next friend & this he shall not omit under the penalty of £100 & have then there this writ witness Samuel Kello clerk of our s.d court at the Courthouse the 18th day of May 1794 and in the 18th Year of the Commonwealth

S. Kello, Cl

(332)

Bryant dab
vs
Newton
} Attn for answer

Ju March 1795

Not Exed for want of Time

P. Winston Jr

The Commonwealth of Virginia to the sheriff of Southampton

You are hereby commanded to attach Shadrach Newton so that you have his body before our justices of our said court at the Courthouse on the second thursday in March next to answer us as well of a certain contempt to our offices by the S.d Shadrach as it is said as upon those things which to him then ~~shall be objected & that you have then there~~ & there shall be objected & further to do & receive what our S.d court shall in this part consider & have then there this writ witness Sam.l Kello clerk of our S.d court at the Courthouse the 20.th of November 1794 & in the 19.th Year of the Commonwealth

Sam.l Kello C.

11

For not appearing to answer a bill ~~of Complaint~~ exhibited agst him by Jonas Bryant. Sam.l Harris & Ann his wife Andrew McMiae & Mary his wife Benj.a Newton. Wm. Newton. Ann & Sally Newton infants & of the Newton by Wm. Newton their next friend

Deputy Clerk of Court

Bryant & others
vs
Newton
Award
Novbr 1796.

Whereas at a Court held for Southampton County August Session 1796 a cause in said court depending between Jonas Bryant, James Harris & Ann his wife, Andrew McNeal and Mary his Wife, Benjamin Newton, William Newton, Amos and Salley Newton infants of John Newton by William Newton their next friend Plaintiffs and Shadrach Newton defendant by consent of parties was referd to James Gee, Samuel Edmunds, Lazarous Cook, John Kindred and John Underwood or any three of them to hear and determine all the said differences, now we the said Samuel Edmunds Lazarous Cook and John Kindred in pursuance of said Order or Rule of Reference having heard both the said parties, their allegations and Answers touching the matters in difference between them and having thoroughly considered of the same do award order and adjudge of and upon the premisses in manner & form following We do award that Shadrach Newton pay or cause to be paid unto Jonas Bryant, the Sum of ten pounds one Shilling & five pence, to James Harris the same sum, to Andrew McNeal the same, to Benjamin Newton the same to William Newton the same to Amos & Salley Newtons infants of John Newton the same and further that the said Shadrach Newton shall pay all legal costs, attending the prosecution of this suit, and we do also award that upon the said Complainants receiving the above mentioned sums shall execute to the Shadrach Newton a General release of all matters to us referd In Witness Whereof we have hereunto set our hands this thirteen day October 1796.

Sam^{l} Edmunds

Lazarus Cook

John Kindred