1823-001 SOUTHAMPTON COUNTY CHANCERY PAPERS BRITT et al VS. BOYKIN et al 3/1823

other SURNames: Stephens, Riggan, Cook, Holmes, Bowers, Horn

Britt &c.
vs. } Bill
Boykin &c.

July 1816 Sworn to in Court

June 21st. 1820 Comm: to Take dep.ts

March 18th 1823 dismissed as to d. bonds executed by John Britt Father to Simon Boykin mentioned in the dep. of Edwards Britt filed in this Cause which said bonds are to be credited with three dollars & 1/2 pr. Britt as the same is accordingly dismissed as to the aforesaid bonds with damages & Costs according to Law

To the worshipful Court of Southampton County in Chancery sitting - Humbly complaining
shew unto your worships your orator John Britt, and your orator Benjamin Britt, an infant under
the age of twenty one years, by the said John Britt, his guardian & next friend, that at the last
March term of the County Court of Southampton, a certain Simon Boykin, surviving obligee
of himself and Solomon Holmes dec'd, obtained four several Judgments against your orator
John Britt, and a certain Willis Bowers, and a certain Joseph Britt, their appearance bail, each
for the sum of seven pounds ten shillings, with interest thereon from the 12th day of December
1808 until payment & the costs - that writs of fieri facias were issued upon each of
the said Judgments, against the goods & chattels of your orator John Britt, the said Willis Bowers,
and the said Joseph Britt their appearance bail - and your orator John Britt, with
the said Willis Bowers, and a certain Robert Flora, his securities, executed his forthcoming
or delivery bond, for the delivery of the property, seized by the Sheriff of the said County, by virtue of
the said writs of fieri facias, upon the day and place of sale - that the said forthcoming
bonds were forfeited by your orator John Britt, and notice have been given to him, the said Willis
Bowers, and the said Robert Flora, that motions would this day be made for award of execution
thereupon - your orator John Britt begs leave to state to your worships, that the bonds
or speciallies, upon which the said Judgments were founded, were executed by him and
the said Willis Bowers, his Security, for the purchase of a tract or parcel of land,
sold by the said Simon Boykin, and a certain Solomon Holmes, as Commissioners acting
under a decree of the County Court of Southampton, for the purpose of distribution among
the children of Joseph Britt deceased, who died seized & possessed of the said land - that
the said children were ten in number - to wit - your orator John Britt - Harrison Britt -
Joseph Britt, Solomon Britt, your orator Benjamin Britt, Milly Stephens, late Milly Britt, wife
of John Stephens, Betsey Cook, late Betsey Britt, wife of John Cook, Nancy Piggon, late
Nancy Britt, wife of William Piggon, Catherine Britt and Sally Britt - that your orator John Britt
executed nine bonds, for the purchase of the said land, with the said Willis Bowers,
his Security, each for the sum of seven pounds, ten shillings, as aforesaid, the amount
of a distributable proportion in the proceeds of the said sale - that your orator [illegible]
has fully paid off the bonds for the distributable proportions of the said Harrison
Solomon Britt, Milly Stephens, Nancy Piggon and Catherine Britt - that the aforesaid
bonds or specialties, upon which the said Judgments were founded, are for the dis[illegible]

proportions, in the proceeds of the said sale, of the aforesaid Benjamin Britt, Betsey Cook - Joseph Britt - and Sally Britt - that the said Joseph Britt, hath departed this life, in the said County, of full age, Intestate and without issue - and that no person, as your orator believes, has as yet obtained Letters of administration upon his Estate - that the Equitable title to the money due on the aforesaid bonds or specialties, upon which Judgments have been obtained as aforesaid, is therefore vested in your orator Benjamin Britt - the said Betsey Cook - the said Sally Britt - and the representatives of the said Joseph Britt deceased - although the Legal right to recover the same abides in the said Simon Boykin - that your orator, on the 20th day of March 1816, paid to a certain Elizabeth Harrison, guardian of the said Sally Britt, then still an infant under the age of twenty one years, the sum of thirty seven Dollars, in full of the principal & interest, of the bond for the distributable proportion of the said Sally - as will appear by the receipt of the said Elizabeth Harrison, guardian of the said Sally, marked A, hereto annexed, & to which your worships are referred as a part of this bill - which said receipt, your orator John Britt is advised, operates in Equity, as a discharge of the said bond upon which a Judgment has been obtained as aforesaid - that your orator John Britt is guardian of the said Benjamin Britt, a complainant in this cause, as will appear by an attested copy of his qualification as such, marked B, hereto annexed, & to which your worships are also referred as a part of this bill - and therefore, as the Law never requires the performance of a vain thing, that your orator John Britt should not be required to pay the amount of the bond (upon which a Judgment has also been obtained as aforesaid) for the distributable proportion of the said Benjamin, with one hand, to receive it back immediately with the other - that your orator John Britt, at the request of the said Joseph Britt, purchased for the said Joseph Britt, in his lifetime, from the store of John Urquhart Esq. in this County, goods to the amount of thirteen Dollars & 63 cents, as per account, marked C, hereto annexed, & to which your worships are also referred as a part of this bill - which your orator John Britt will be prepared to establish by testimony - and that your orator John Britt has furnished brandy to the said John Cook, husband of the said Betsey Cook, to the amount of seven [illegible] as per account, marked D, hereto annexed, and to which your worships are [illegible] as a part of this bill - which your orator John Britt will also be prepared [illegible] by testimony - which said accounts against the said Joseph Britt & the said John Cook, your orator John Britt is also advised, operate in Equity, as payment for so much, upon the bonds for their distributable proportions respectively, in the proceeds of the said sale - upon which said bonds, judgments have also been obtained as aforesaid - your orator is advised that they are entitled, each to one equal ninth part, of the remainder of the distributable proportion, in the proceeds of the said sale, of the said Joseph Britt dec^d, as heirs at law, of the said Joseph Britt dec^d so that your orator John Britt is entitled, in Equity, to make the said two equal ninth parts a further offset in the present case - But let it be, as it may, it please your worships, that the said Simon Boykin refuses to allow the said equitable offsets, or any of them - which is contrary to Equity & good conscience, and tends to the manifest injury of your orator John Britt - To the End therefore that the said Simon Boykin, the said Harrison Britt, the said Solomon Britt, the said John Stephens & Milly his wife, the said John Cook and Betsey his wife, the said William Riggon & Nancy his wife, the said Catherine Britt, and the said Sally Britt, & her said guardian, together with the administrator of the said Joseph Britt dec^d, when an administrator shall be appointed & qualified, may be made defendants to this bill, & be compelled, on their corporal oaths, to answer all & singular the allegations herein contained, and that as fully & perfectly as if the same were herein again repeated, and they & each of them, were thereto particularly interrogated - that your worships will immediately upon the said Simon Boykin, his attorney or agent, pay over the proceeds of the said bonds, or deliver the said bonds, until the matters of this bill are fully heard & determined in Equity - to the end, that your orator John Britt may obtain credit for the entire distributable proportion of the said Sally, & for the amounts of his said claims upon the distributable proportions of the said Joseph, and Betsey - and may be permitted to retain the amount of the distributable proportions of your orator Benjamin, in the estates of Joseph Britt dec^d his father, & Joseph Britt dec^d his brother - and that a proper adjustment may be made upon the subject of the costs, which your orator John Britt has been unrighteously subjected by the said Simon Boykin - that the remainder of the distributable proportion of the said Joseph Britt dec^d may be distributed between your orator, & his said brothers & sisters before mentioned - and

in the proportions, required by law - that any other & general relief in the premises, consistent with Equity & good Conscience - may it please the Court to grant the Com moner aforesaid writ of Subpena & Injunction, commanding &c and as in duty bound, your orator will ever pray &c

Sworn to in open court
Rochester Ca

Plaintiff's
Exhibit
No 3
Bills &c

Filed 1816 Sworn to in Court

June 21st 1820 Cons: to Take affidavits

March 18th 1803 Dis charge on a v. from Executor by John Britt Potter to Edmund Bogden

Britt Potter to Edmund Bogden

Deed also Britt files in this cause which said bonds are to be proved with their notices & the proof as to the same is accordingly dispensed with by consent

Deed acknowledged & proved according to law

Aug. 19th 1817
answer filed

James Boyd's
Deeds

Answer

To the worshipful Court of Southampton in Chancery sitting -

The answer of Simon Boykin to the bill of injunction exhibited ~~against him~~ in this Court by John Britt and Benjamin Britt an infant under the age of twenty one years by the said John Britt his guardian and next friend against himself and Harrison Britt, Solomon Britt, John Stephens and Milly his wife, John Cook and Betsy his wife, William Riggan and Nancy his wife, Catharine Britt and Sally Britt -

This respondent now and at all times saving and reserving to himself every benefit of exception to the manifold errors imperfections uncertainties and mistatements in the complainants said bill contained; for answer thereto or to so much thereof as he is advised is material and necessary for him to make answer unto, answering saith.

That the specialties upon which the judgments were rendered, were executed to himself and a certain Solomon Howard deceased as stated by the complainants

That your respondent has no claim to either of the specialties mentioned by the complainants except to two of them. to wit. the one taken for the benefit of Solomon Britt and the other for the benefit of John Cook and his wife. but conceives it to be his duty to enforce the collection of all of them which remained in his hands as far as practicable, whereon the debts owing in all probability have been lost. That it will be seen by reference to an endorsement on one of the said notes that John Stephenson

the guardian of Solomon Britt hampsons as
his intent in the same to your respondent
and the said John Cook hath parted with his
intent in the other to your respondent for
a valuable consideration. This respondent
conceiving himself to be entitled to the effects of
the said two specialties insists upon his right
to the same: and he will further add that
suits would not have been instituted upon any
of the aforesaid specialties until the two which
he claims as his, if there had been any persons
to whom they could have been delivered prior
to the institution of the suits: for it will be
seen that guardians were appointed after legal
steps had been taken to secure the payment
of the money. Your respondent calls upon
the Defendants to support all their
allegations not herein admitted to be true, by
legal evidence - your respondent having
answered pray, to be hence dismissed with his
costs in this behalf most unjustly sustained -
and as in duty bound your respondent will
ever pray &c -

S Boykin

Southampton County to wit.

This day Simon Boykin personally appeared before
a Justice of the peace for the said County, and
made oath to the truth of the foregoing
answer so far as it depends upon his own
knowledge and so far as it depends upon the
knowledge of others he believes it to be true - Given
under my hand this 19th day of August
1817 -

Wm B. Goodwyn J.P.

Boyston &c.
and
Butts &c.

Coms. to
take depositions

Sealed 17th. 1820 Edw.d Butts
Deposition come to hand under seal
Rochester

The Commonwealth of Virginia to John Gray and Silas Summers Gentlemen Justices of the peace for the county of Southampton, Greeting; Know ye, that we trusting to your fidelity and provident circumspection diligently examining Edward Butts a witness on behalf of Simon Boykin and others in a Suit in Chancery, now depending and undetermined in the county court of Southampton between John Britt & others Complts and said Simon Boykin & others defendants - Command you or any two or more of you that on such certain days and at such places as you shall appoint, you assemble yourselves, and the witness aforesaid before you, you call and came to come, and diligently examine on the holy evangelist of almighty god, and their examination had on said court distinctly and plainly without delay you send, and certify enclosed returning, also to us this writ - Witness James Rochelle clerk of our said county court of Southampton at his office the 21st day of June 1820 and 44th Year of the Commd.

James Rochelle C.

The Clerk of the County Court

Southampton

In obedience to the annexed Commission we John C. Gray & Silas Lemmerell have this 8th day of July 1820. between the hours of 10 o'clock in the morning and 4 o'clock in the evening at Reynolds's Store examined Edwards Butts a witness on behalf of Simon Boykin & others in a suit in Chancery now depending and undetermined in the County Court of Southampton between John Butt & others Complainants, & said Simon Boykin & others defendants who being first sworn deposeth & saith, that he was at Simon Boykins house on the 15th day of May in the year 1819, that Simon Boykin asked John Butt what offsets he had against the forthcoming bonds which he had enjoined in the County Court of Southampton, to wit one bond executed to Simon Boykin surviving obligee of himself & Solomon Holmes, by John Butt Robert Horn and Willis Bowers in the penalty of Twenty three pounds eighteen shillings & 0. bearing date 18th april 1816, and one other bond executed as aforesaid, in the penalty of Twenty seven pounds eleven shillings & 8d dated as aforesaid, that Butt states, he had an offset of Three dollars only which Simon Boykin agreed to allow with interest from the 15th Feby 1808 — and further this deponent saith not —

Edw.d Butts

Subscribed & sworn to before us

J. C. Gray

Silas Lemmerell

(A)

Received of John Britt the sum of Thirty seven dollars in full of the principal & Interest due on a bond given by the said John Britt to the Commissioners appointed by the County Court of Southampton to sell the land whereof Joseph Britt Sen. died seized & possessed. — Witness my hand this 20th March 1816. —

John Bowers,

Elizabeth Atkison
as gardiant for Sally Britt

Elizabeth Cook
mark

1810. John Britt bought of Mr. John Urquhart for
— Joseph Britt his Brother —

May 23rd	2	Ps. Nankeen	$ 2.00
1811 Febry 11th	5	yds Thickset	4.79
— Apl 1st	1	Pr. Stockings	1.39
	1	Hat	4.00
	3½	yds Cotton Shirting	1.45
			$ 13.63 Settled

John Cook to John Brite Dr.

1809. For 4 Gls Brandy $4.00

" 1 Barrl Cyder — 3.00

$7.00