

1890-15

Southampton County Chancery - Sykes, Joseph

vs Myrick, W.A. et al.

sum for restraining order or
injunction until dispute can
be settled.

Williams, J.W. (sheriff)
Moore, R.D. (Deputy S-)
Bunn, B.C. (constable)

20

The Hon: E. M. Hill, Judge of the Circuit Court for the County of Southampton.

Humblly Complainin', sheweth unto your Honor, your Complainant, Joseph Sykes, that, on the 4th: day of September 1889, Wm. A. Myrick recovered, before E. M. Darden, a Justice of the Peace for the Magisterial District of Newsoms, in Southampton County, Virginia, a judgment against him for the sum of Fifty Six ^{and 50/100} Dollars, with interest thereon from September 4th: 1889, till paid, and \$1.⁰⁰ costs, which said judgment was, on the 4th: day of September 1889, duly docketed in the Clerk's Office of Southampton County, a copy whereof, duly certified by the Clerk of said County, is herewith filed, marked exhibit "A", and prayed to be read as a part of this bill; that, on the 28th: of November 1889, a writ of fieri facias was issued on said judgment directed to J. W. Williams, Sheriff of said County, and that, on the 3rd: of December 1889, the same was levied by R. D. Moore, Deputy for the said J. W. Williams, Sheriff, in the following chattel property, to wit: About 100 shocks of peanuts in house, 12 chickens, 8 shoats, Corn-sheller, bridle and saddle and farming implements; a sale of which said property is

advertised to take place at Newsome on the 20th instant; that the bond and evidence of debt upon which the said judgment was obtained was executed for the original sum of One hundred and ten and $55/100$ Dollars and was reduced below that amount to the sum of Ninety Six and $80/100$ Dollars by payments endorsed thereon at different and subsequent times; a certified copy of which said bond and evidence of debt is herewith filed as exhibit "B", and prayed to be read as a part of this bill; that the warrant, sued out by the said W^m A. Myrick and directed to Benj. L. Bunn, Constable of said County, requiring him to summon your Complainant to appear and answer the Complaint of said Myrick, was made returnable to Newsome, Va, instead of being made returnable to some place in the Magisterial District of Boykins where your Complainant, the defendant in said warrant, resided; a certified copy of which said warrant is herewith filed marked exhibit "C", and prayed to be read as a part of this bill; that your Complainant is advised, and therefore, alleges that, the said Justice, E. M. Darden, had no jurisdiction to determine the question in controversy, because the origi

nal amount of the bond for which judgment was given was One hundred and Ten and $55\frac{1}{100}$ Dollars and could not by payment be reduced below that amount for the purpose of depriving Courts of record of their jurisdiction, or your Complainant of his right to a trial by jury; and, because also, the warrant was returnable to a District wherein the defendant did not reside. Your Complainant further sheweth unto your Honor that not even so much has the "poor debtors law" been set apart to him to which he is clearly and absolutely, as a man of family, entitled. But all the property, which by hard toil he has been able to gather, has been levied upon and is now advertised for sale, even the Chickens raised by his wife in the barn-yard. For the reasons stated herein your Complainant charges that the judgment recovered by the said Wm. A. Myrick is a nullity and should be so declared.

In consideration whereof and as your Complainant is without remedy in the premises save in a Court of equity where such matters are properly cognizable, to the end therefore that justice may be done, your Complainant prays that Wm. A. Myrick, J.W.

Williams, Sheriff, R. D. Moore, Deputy, and
Benj: L. Brun, Constable of said County, may
be made parties defendant to this bill and
compelled to answer the same, but answers
on oath are expressly waived as to all said
defendants; That the said J. W. Williams,
Sheriff, R. D. Moore, Deputy, and Benj: L.
Brun, Constable of said County, their agents
and attorneys and all other persons be en-
joined and restrained from proceeding to
sell, or in any manner interfering with the
property levied on by virtue of the fi fa now
in their hands until the dispute herein
can be adjusted; That the said judgment
may be annulled and set aside because it
was not legally rendered; and that such
other, further, general and special relief
may be granted as to equity and the nature
of the case may require. And as in duty
bound your Complainant will ever pray - May
it please the Court.

Wm. H. Parker & Co.

J. Joseph Sykes

Sykes
to $\frac{1}{2}$ Bill and
Myrick Exhibits.

142

Wm. H. Parker, P.F.

Virginia. Southampton County, to wit:

This day personally appeared before me, the undersigned, a Justice of the Peace in and for said County of Southampton, Virginia, and made oath, ^{that} the statements in the foregoing Bill, so far as made of his own knowledge, are true, and, so far as made upon the knowledge or information derived from others, he believes them to be true.

Given under my hand this 19th day of December 1884. J. E. Bailey J. P.

An Injunction is awarded the Plaintiff-Jos. Lyles-
 restraining & enjoining J. W. Williams Shff. R. D. Morris
 Deputy Shff. B. C. Dunn, Constable, & their Agents & Attorneys and
 all other persons. from selling the property advertised for sale
 Decr 20. 1889, by virtue of a Fiire Facias issued by the
 Clerk of the County Court of Southampton on a judgment
 rendered by one E. M. Darden. a Justice of the Peace,
 or from any further proceedings thereunder, or in
 any manner from interfering with the said property
 until the further order of this Court. But before the
 said Complainant shall have the benefit of this order, he
 shall enter into bond before the Clerk of this Court, in the
 penalty of \$100. Conditioned according to Law.

Teste: B. F. McLennan C.C.

I hereby certify that the Bond required under the above
 order has ~~not~~ been given.

B. F. McLennan C.C.

Deputy
 B. C. Dunn
 Sheriff
 Myraids & Co.

1890. 1 Jan'y Rules
 C. J.

Executed Jan'y 3rd
 1890 by delivering
 a copy of same to
 each of the within
 named parties

B. C. Dunn
 for J. W. Williams Shff

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON *W. A. Myrick* *J. H. Williams*
Sheriff *R. D. Moore* *Deputy Sheriff* and *R. C. Burr* *Constable*
of Southampton County—

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for
the said Court on the *1st* Monday in *January* next, to answer a bill in Chancery
exhibited against *them* in our said Court by *Joseph Lykes*.

And this *her* shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this *25th* day of
Dec, 18 *89*, in the *114* year of the Commonwealth.

B. F. McLemore C. C.

In Southampton Justice Court,
Sept Term, 1889.

M. A. Myrick
Against

Plff.

In Debt.

Joseph Sykes

Deft.

Judgment for the Plaintiff against the Defendant for \$ 96.80 with
legal interest thereon from 4th day of September, 1889, till paid,
and costs, \$ 1.00 subject to credit of \$ 38.72 paid Dec. 20. 1889.

Extract.

Teste:

B. F. McLemore C. C.

Sykes
" 3
" 3
" 3
Myrick

Exhibit
"a"

Rec^d March 22/84 Nine and
70/100 Dols on the within

Wm. A. Myrick

Rec^d April 30/84 of Jos. Sykes
Ten and 50/100 Dols, in Bacon
Name on the within

W. A. Myrick

Received March 26/88 of Jos.
Sykes twenty five Dollars in
part of within, for Bal due:-

A copy

Wm. A. Myrick

Teste: B. F. Mc Lennan C. C.

Exhibit
"C"

Myrick
to
Sykes

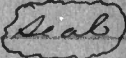
\$110. 55-

On demand with interest from the 1st day
of Jan'y 1884 I promise to pay unto W^m. A. Myrick
the just and full sum of One hundred and ten and
⁵⁰/₁₀₀ Dollars for value received, and I do hereby
waive the benefit of my Homestead Exemption as
to this debt.

Witness my hand and seal this 12th day of Jan'y
A. D. 1884.

Witness:

M. F. Rives.

Joseph Sykes 

A copy- Test: B. F. McSimore C. C.

Held up by order of
Plaintiff

B. C. Bunn
Const.

Dykes
3
3
Myrick

Exhibit
"6"

Corrected Aug 29th 1889.
By reading this & unman
to for Dykes
B. C. Bunn Const.

Given under my hand this 4th day of Sept 1889.
E. M. Gordon J.P.
To my Constable of the
County of Howard.

Attest.

D. J. McAdams C.C.

Summons - Judgment - Execution -

State of Virginia, Southampton County, To-wit:
Summon Joseph Sykes to appear before me, or some
other Justice of the Peace for this County, at Newsums
va on the 4th day of Sept 1889, at to answer the
Complaint of Wm. A. Myrick of a plea of debt, for
the non payment of Ninety Six & ⁸⁰/₁₀₀ Dollars, with
interest, said to be due by Note and then there
make due return of this warrant.

Given under my hand this 29th day of August
1889.

To Benja. C. Bunn Constable
of the County aforesaid.

E. M. Darden J.P.

Judgment is granted the Plaintiff for the sum of
Ninety Six Dollars & 80 Cents, with interest from the
4th day of Sept 1889, till paid, and one dollar Costs.
Given under my hand this 4 day of Sept 1889
E. M. Darden J.P.

State of Virginia, Southampton County, To-wit:
I Command you, that of the goods and Chattels of
Joseph Sykes you cause to be made the sum of Ninety
Six & ⁸⁰/₁₀₀ Dollars, with interest from the 4th day of
Sept 1889, till paid, and one dollar Costs, which was
recovered before me E. M. Darden a Justice of the
Peace for the County aforesaid; and that you render
to the said W. A. Myrick the debt aforesaid, and make
due return thereof within sixty days.

Sykes

Mr.  Myrindino Bond

Myrick + als:

1889 Dec 28. Filed.

Know all men by these Presents, That we *Joseph Sykes - R. I. Lewis*
John K. Britt and Wm Ridley - Thos. Cloyd Geo. W. Cloud

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of

one hundred

Dollars, to the payment whereof, well and truly to be

made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. And

we, the obligors herein, hereby waive the benefit of our homestead exemption as to this obligation, and also waive any claim, right or privilege to discharge any liability arising under said bond in any currency, funds, counter-claims, or offsets

other than legal tender currency of the United States.

Sealed with our seals and dated this *23* day of *December* A. D. 18 *89*

THE CONDITION of the above obligation is such that if the above bound

Joseph Sykes, who
has sued out of the Circuit Court of Southampton County,
before the Judge thereof in vacation on or about the 19th
day of December 1889, in the Chancery Cause depending
in said Court, in which Joseph Sykes is Plaintiff
and Wm. A. Myrick & others are Defendants. An injunction
enjoining and restraining J. H. Williams, Sheriff, R. D. Moore
Deputy and B. C. Bunn, Constable, of Southampton County, their
Agents and Attorneys, and all other persons from selling
the property advertised for sale on the 20th day of December 1889, by virtue
of a Fieri Facias issued by the Clerk of Southampton County Court, on a
Judgment rendered by one E. M. Darden, a Justice of the peace, or from
any further proceedings thereunder, or from any manner interfering with the
said property, until the further order of this Court. Shall well and truly pay
unto Wm. A. Myrick, J. H. Williams, Sheriff, B. C. Bunn, Constable, the
judgment, proceedings on which are there enjoined, and all such
costs and damages as may be awarded against him, the
said Joseph Sykes, in case this injunction shall be dissolved.

~~shall faithfully discharge the duties of~~ office or trust according to law, then the above obligation to be void,
or else to remain in full force and virtue.

Signed, sealed and delivered }
in presence of the Court. }

Joseph Sykes
John K. Britt SEAL
Thos. Cloyd SEAL
Geo. W. Cloud SEAL
William Ridley SEAL

Cykes

3

no. 4 Deane

3

Myrick also.

To be returned

CWS

Apr 7, 1890

Ent

Sykes

v. 3 Nat'f. Deced

Myrick & Co

This cause came on this day
to be ~~again~~ ^{further} heard upon the papers formally
~~advised~~ and was argued by Counsel.

On consideration whereof upon the
motion of the complainant it is ordered
that this cause be dismissed from
the docket.

Apkew
vs 3 Deere
Myrick et-als.

Southampton Circuit Court—

May Term 1890

Sykes

vs.

Decree

Myrick et als.

On the motion of the Complainant, it is ordered that a rule be issued against Wm. A. Myrick and R. D. Moore, Deputy Sheriff of Southampton County, two of the defendants in this cause, requiring them to appear here, at the next term of this Court, to show cause, if any they can show, why they should not be fined and attached for their Contempt in disobeying a certain injunction order awarded in this Cause on the 19th day of December 1889, restraining R. D. Moore, Deputy Sheriff of Southampton County, as aforesaid, et als, their agents and attorneys, and all other persons, from selling the property advertised for sale December 20th 1889, by virtue of a fieri facias issued by the Clerk of Southampton County on a judgment rendered by one E. M. Darden, a Justice of the Peace, or from any further proceeding thereunder, or from interfering in any manner with the said property until the further order of the Court; and a copy of this order is directed to be placed by the Clerk into the hands of the Sheriff, who shall serve the same and make report to Court.

A copy. Test: B. F. McLemore c. c.

Sykes

vs 3 Decred

Myrick

1889 Dec 20 filed -

Sykes
^{vs}
Myrick In Vacation. Decree.

Upon the motion of the Complainant, Joseph Sykes, an injunction is awarded to restrain and enjoin J. L. Lilliam, Sheriff, R. D. Moore, Deputy, and Benj. L. Bunn, Constable, of Southampton County, their agents and attorneys and all other persons from selling the property advertised for sale December 20th 1889, by virtue of a fieri facias issued by the Clerk of Southampton County Court on a judgment rendered by one E. M. Darden, a Justice of the Peace, or from any further proceeding thereunder, or in any manner, from interfering with the said property, until the further order of this Court. But before the said Complainant shall have the benefit of this order, he shall enter into bond before the Clerk of this Court in the penalty of \$100— with security to be approved by said Clerk, Conditioned according to Law.

To the Clerk of the
Circuit Court of South-
ampton County.

Dec. 19th 1889.

C. W. Steele

Southampton Circuit Court.

Special Term: January 7th 1890

Sykes

et

} Decease

Myrick, et: als:

On motion of the Complainant, it is ordered that a rule be issued against Wm. A. Myrick and R. D. Moore Deputy Sheriff of Southampton County - two of the defendants in this cause - requiring them to appear here at the next term of this Court to show cause, if any they can why they should not be fined and attached for their Contempt in disobeying a certain injunction order awarded in this cause on the 19th day of December 1889. restraining R. D. Moore Deputy Sheriff of Southampton County as aforesaid, et: als. their Agents and Attorneys and all other persons from selling the property advertised for sale Dec 20. 1889. by virtue of a Fieri Facias, issued by the Clerk of Southampton on a judgment rendered by one E. M. Darden. a Justice of the Peace, or from any further proceedings thereunder or from interfering in any manner with said property until the further order of this Court. And a copy of this order

is directed to be placed, by the ~~clerk~~, into
the hands of the Sheriff, who shall serve
the same, and make report to Court.

A Copy. Test:

B. M. Leonard Ck.

Duplco Copy of
(at) m. Received

Myerck st. als.

1890. May Term

Cir: St.

Executed April 4th
1890 by Attorney a
Copy of this return
to W. H. Myrick & Co.

Wm

J. H. Williams
Ck.

Sykes
vs 3 Decem
Myrick et al.

May 1890.

To be entered.

C McKee

Jan'y 7. 1890-

Sykes

3

Decree.

Myrick et al.

On the motion of the Complainant, it is ordered that a rule be issued against W^m A. Myrick and R. D. Moore, Deputy Sheriff of Southampton County, two of the defendants in this cause, requiring them to appear here, at the next term of this Court, to shew cause, if any they can shew, why they should not be fined and attached for their contempt in disobeying a certain injunction order awarded in this cause on the 19th day of December 1889, restraining R. D. Moore, Deputy Sheriff of Southampton County, as aforesaid, et al., their agents and attorneys, and all other persons, from selling the property advertised for sale December 20th 1889, by virtue of a fieri facias issued by the Clerk of Southampton County in a judgment rendered by one E. M. Darden, a Justice of the Peace, or from any further proceeding thereunder, or from ~~any~~ interfering in any manner with the said property until the further order of the Court; and a copy of this order is directed to be placed by the Clerk into the hands of the Sheriff, who shall serve the same and make report to Court.

Sykes 150

W. J. Stat: Rules

Myrick + ali:

1 Jan'y

Jos Sykes —

Pliff

W. A. Mycilio - J. H. Williams
Sheriff - R. D. Moore Deputy Sheriff

and B. C. Binn, Constable of Southampton
County.

Deft.

1889. Dec 25. Procep ip? to 1st Jan'y Rules.

1890. 1st Jan'y Rules. Procep ret? Executed. Bills +

Ex: filed. decree nisi

" 2 " " Bill taken for confessed
and cause set for
hearing.