

1893-04

Southampton County - Chancery Atlantic & Danville Ry Co vs Gordon, P. J. et al

"Injunction"

William D. W.
Sh.

A. S. Watts

Court of Hustings

To the Hon. Justice. Judge of the Circuit Court
for the City of ~~Virginia~~ ^{Southampton} County. In chancery.

Complaining through unto your Honor your Com-
plainant, The Atlantic & Danville Railway Co
as follows. That on the 15th day of November 1890.
one R. J. Dorem brought a warrant against
your complainant. which is as follows.
"Virginia Southampton Co. ^{Trust} vs J. T. Sheffield. Custodian
of said County. I hereby command you to summon
The Atlantic & Danville Railway Company if to
be found in your district to appear at Courtland to
on the 22nd day of Nov 1890 before me or such other
Justice of the said County as may then be there to try the
warrant to answer the Complaint of R. J. Dorem
upon a claim for money not exceeding \$100 exclusive
of interest ^{trust}: for the sum of \$25.00 due by acct.
And then return make return of this warrant.
Given under my hand this 15th day of Nov 1890

R. Bailey. J.P."

And on the 22nd day of Nov 1890 a judgment was
rendered by the said Justice against your Com-
plainant for \$25. and \$2.00 costs. all of which
were more fully appear from a certified copy
of said warrant and judgment herewith filed
marked Exhibit 'A' and pages to be taken as a
part of this bill. That the said warrant was
not executed on your complainant until the
17th day of Nov: 1890. as more fully

appear from a certified copy of said return filed
herewith as a part of Exhibit 'A' and proper to
be read as a part of this bill.

Your complainant avers that there was no
appearance on the part of itself or of any
one authorized to act for it to this warrant,
at any step of the same. The return of the
Constable in this warrant shows that it
was served on an agent of the Co. and
the Statute of Va declares if the process
be served on an agent, it shall be served
at least ten days before the return day.
See Code 1887. Sec 3227. Upon this judgment
an execution of five has been issued,
and the Sheriff of Southampton Co has
levied the same upon one of the freight
Cars of your complainant. Your Com-
plainant is advised that this judgment
is illegal, because rendered without proper
service of process and therefore void. If void,
it is a mere nullity and the proceeding on the
part of the Sheriff is wrongful and of great
hardship to your complainant. Your complain-
ant is advised that the Supreme Court of
Appeals of Va in two cases has passed upon
the question raised by this bill and that in
both instances, their decision has been

favorable to the plea as taken by Complain-
ant. see Warren vs Saunders. 27 Nov 209.
and Lawrence & Jordan vs McCurdy Exors.
77 vs 771-772. Your complainant is informed
that R. J. Darden who has obtained said
judgment & execution is insolvent and that
if he should obtain the money thereon, there
is no chance for complainant to recover
the same back. Wherefore your complain-
ant is advised that the proper remedy in
the cause is to come into a Court of
Equity where such matters are properly
cognizable and to ask that the said R. J.
Darden & J. W. McLean Sheriff of Southampton,
may be made parties defendant to
this bill & compelled to answer the allega-
tions thereof. but answers under oath
are expressly waived. That an order may
be entered restraining and restraining the
said R. J. Darden and J. W. McLean Sheriff
or officers their agents and attorneys.
from proceeding to collect the said
judgment and execution from your complain-
ant. That said judgment may be declared
a nullity. and that your Honor will
grant such other further, special and
general relief as to Equity may seem meet
And as in duty bound, your complainant will

ever pray & may it please the Court to
R. H. Barrett agh
For A & D Ry Co.

Southampton County. to wit:

This day personally before me, B. F. Mc
Lennan, Clerk of the Circuit Court
of Southampton County. R. H. Barrett
Agent of the Atlantic & Danville
Railway Co. whose name is signed
to the writing above - and made
oath that he believes the statements
therein contained are true.
Given under my hand this 17th
day of January 1891.

B. F. McLennan Clk.

Att'y Co

J. W. Williams
R. J. Darden

Sherriff } Darden

On motion of the Plaintiff information
is granted the Plaintiff to restrain and enjoin J. W. Williams
Sherriff of Southampton County and R. J. Darden, their agents
and attorneys from proceeding to collect in any manner a
certain fine issued by J. E. Bailey a Justice of the Peace of said county
in favor of R. J. Darden and for the sum of Twenty five Dollars with
interest from Nov 24, 1890 and two dollars costs and disbursements

The said J. W. Williams Sherriff as aforesaid until the further order of the
Circuit Court of Southampton County. But before the said Plaintiff shall have been
affidavit of this order, it or some one for it shall execute before the Clerk of the Circuit
Court of Southampton County a bond in the penalty of ^{Twenty five} Dollars with
sureties to be approved by said clerk conditioned to pay all costs and
damages in case this information be disproved.

To the Clerk of
Circuit Court of
Southampton County.

A. S. Watts

Sheriff of the Court of Hustings for the City of
Portsmouth.

1890

July 11

The Atlantic & Danville Rail Road Co.

To A. J. Darden

On

For Killing ox

\$25.00

A copy

Teste B. F. McLeavelle S. C.

R. J. Darden

do
A + D. B. R.

Executed the 17th day of
November 1890 by delivering
a copy hereof to B. H. Barrett
an agent of the Atlantic
& Danville R Ry Company
at Courthouse Southampton
County Va, there being no
President, Cashier Treasurer
Genl Superintendent or director
of said company residing
in my county.

J. P. Sheffield
Clerk

A copy

Given B. P. McLeone C. C.

" "
A

Virginia

Southampton County, to wit:

To J. D. Sheffield, Constable of Said County:

I HEREBY COMMAND YOU TO SUMMON The Atlantic & Danville Railway Company if to be found in your district, to appear at Courtland Va

on the 22nd day of November, 1880, before me or such other Justice of the said County as may be then there to try this warrant, to answer the complaint of B. J. Darden

upon a claim for money not exceeding 100 dollars, exclusive of interest, to wit: For the sum of Twenty five dollars; and no cents due by account and then and there make return of this warrant

Given under my hand this 15 day of November, 1880. J. P.

J. E. Bailey
} Courtland Va 22nd day of November, 1880.

JUDGMENT. That the Plaintiff recover of the Defendant Twenty five dollars and no cents, with interest from the 22nd day of November, 1880, till paid, for his costs.

J. E. Bailey J. P.
day of , 188

Judgment having been rendered in this case for cents, exclusive of interest and cost, and the defendant having requested stay of execution upon the said judgment, whereupon said undertook as the surety of the said for the payment of the said judgment, execution is stayed thereon for

days from the date:

Acopy Teste B. F. McLenore G. P.

COUNTY, to wit:

To , Constable of Said County:

I COMMAND YOU, in the name of the Commonwealth of Virginia, that of the goods and chattels of in your county, you cause to be made the sum of dollars and cents, with interest thereon from the day of , 188 , till paid, which in a warrant in debt; and also the sum of has recovered before

cents, which were adjudged to said for costs in prosecuting his said warrant.

Given under my hand this day of , 188 .

J. P.

A. & D. R. R. Co.

Stat. Rules

Williams & Co.

1 book

The Atlantic & Danville
Railway Company - ~~Plffs~~
against
J. M. Williams - Sheriff
of Southampton County.
and R. J. Darden. ~~Defts~~

1891. Feb. 20. Procep ip? to 1st March Rules

" 1st Mich Rules: Procep Executed. Bill & Ex:
filed. deore nisi.

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

As D. R. C.

J. W. Williams Shff

R. J. Darden.

Decree.

On motion of the Plaintiff an injunction is granted the Plaintiff to restrain and enjoin J. W. Williams Sheriff of Southampton County, and R. J. Darden their Agents and Attorneys from proceeding to collect in any manner or a certain Fee: imposed by J. E. Bailey, a Justice of the Peace for said County, in favor of R. J. Darden for the sum of twenty five dollars, with interest from Nov 22. 1890, and Sheriff as aforesaid, until the further order of the Circuit Court of Southampton County. But before the said Plaintiff shall have the benefit of this order, it or some one for it shall give a bond in the penalty of seventy five dollars, with security to be approved by said Clerk, conditioned to pay all costs and damages in case this injunction be dissolved.

Test: B. F. McLemore C. C.

I certify that bond and approved security has been given as required in above order.

B. F. McLemore C. C.

As D. R. C.

J. W. Williams

Williams

1891. 1 Nov. Rules

Per: St.

Specified by returning

a copy of this decree to

J. W. Williams Sept. 8

R. J. Darden.

Mon. 27/9, A. F. C. 1891

for J. W. Williams Shff

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

*J. H. Williams Sheriff of Southampton
County - and R. J. Darden*

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 *March 1891*, next, to answer a Bill in Chancery
exhibited against *them* in our said Court by

*The Atlantic & Danville
Railway Company.*

And this *they* 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 *20th* day of
Feb, 1891, in the 11th year of the Commonwealth.

B. F. McLeMore

C. C.

A. & D. R. R. Co.

Dr. } Deposition
Bond

Williams, Shiff & Co.

Know all men by these Presents, That we *Goodwin Lee and*
R. H. Barrett

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

Seventy five 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 *17th* day of *February* A. D. 18 *91*

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

whereas, the Atlantic & Danville Railway Company has sued out before St. J. Watts Judge of the Court of Hastings of the City of Norfolk Portsmouth and injunction restraining and enjoining J. W. Williams Sheriff of Southampton County and R. J. Darden, their agents and attorneys from proceeding to erect in any manner, a certain writ of Fieri Facias, issued by J. E. Bailey, a Justice of the Peace of said County, against the Atlantic & Danville Railway Company, in favor of R. J. Darden, for the sum of seventy five dollars, seven cents and 25/100, due said, and where as the said injunction Order requires that before the said Plaintiff shall have the benefit of this order, the said Plaintiff or some one for it, shall execute before the Clerk of the Circuit Court of Southampton County, a bond in the penalty of Seventy five dollars, with security to be approved by said Clerk. And where as
Goodwin Lee, as principal and R. H. Barrett as surety, have agreed to sign this bond, and assume all responsibility hereunder. Now, if the said Goodwin Lee, as principal and R. H. Barrett as surety, shall well and truly pay all costs and damages which may be awarded against the said, the Atlantic & Danville Railway Company, 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. }

Goodwin Lee
R. H. Barrett



Darden

ade } Demunster

a + D By Co

25 Grat 146

Darden

Ads } Demurrer

A + D. Ry Co

and the said
R. J. Darden comes to and says the
plaintiff's bill is not sufficient
in law

Shanks for f.d.

A. D. R. R. Lea

Drⁿ } Stat. Const.

Williams Shffoc

Shak Coast in Suit of
A + D A A A or" Williams Shffec

6216

50-50-18-10-18-50-15-15-75 = 301

50-35-36-36-40-25 222

Shff
Lowre

1.00

6.50

12.73

Atlantic & D. Railway
to 3 Diers
3
Williams shff 100

To be entered

C. M. J.

Mar 20 - 1891

Entered

Atlantic & I. Railway Co

vs 3

Decree

William Shuff & als

This day this
cause came on to be heard on the plaintiffs
bill, exhibits filed, injunction awarded in
accordance with the prayer of the bill
Demurrer by the defendant R. I.
Darden to the said bill and was argued
by counsel On consideration whereof
the court doth adjudge order and decree
that the injunction ~~be~~ ^{dismissed} awarded
in this case be ~~dismissed~~ That the
plaintiffs bill be dismissed and that the
plaintiffs Railway pay to the defendants
all their costs about this suit in this
behalf expended

A. D. Ry Co
- 12 } done
Williams Sheriff or

To be entered
Nov 11 Term 1893
C. M. L.

A. J. D. By Co
vs. 3 Deane
Williamus Shenff re

This day this
cause came on again to be
heard on the papers formerly read
and was argued by counsel
on consideration whereof the
court doth order that the
~~same~~ be removed from the
docket