

1899-03

Santhampton County Chancery Bishop, J. L. vs. Bryant, G. S. et al

Injunction
Qustrain from
selling real estate to
settle judgment

Williams, J. W. Shuff.

Bunn, B. C. Sep. Sh.

Maare, G. S.
Constable of
S. C.

Bishop
w 3 Pence to
Pryant to

Prince Scher
H.E.

To the Hon Chief Judge of the Circuit
Court of Southampton Co. Li Chancery,
Complaining thence unto your Honor,
your complainant, J. Bishop as
follows. That during the year 1888,
one A. D. Bryant obtained a distress
warrant against one Mrs Doyle for
the sum of \$49.²⁵ including costs and the same
was levied upon the following
personal property to wit - Nine hogs
and one cow -

That after the levy was made the
said Mrs Doyle gave a forthcoming
bond, with your complainant as
his surety, or vice versa being affixed
from a copy of said bond herewith
filed as exhibit "A." That after the
said forthcoming bond was executed,
one Mary Doyle claimed all
the articles levied upon except two
hogs, and by virtue of Section 2953 of
Chapter 140 Code of the Edition 1887,
she obtained from two justices of
the peace a warrant summoning
the said A. D. Bryant & A. D. Moore, the
~~latter of whom was the constable~~
~~who made the levy under the~~
~~distress warrant to appear and~~

show cause why the said articles
levied upon shoud not be released
as will more fully appear from
a copy of said warrant and the
proceeding had thereon, hereunto
filed as Exhibit B. That the said
A.D. Bryant appeared in pursu-
ance of said warrant and contested
the right of said Mary Doyle to said
property, but the same was adjudged
to be hers, and was released
from the said levy, and the said
Mrs. Doyle and your complainant
released from their liability on
the forthcoming bond to the extent
of the value of the released property,
as will appear from the warrant
of the said justices filed hereunto
as Exhibit C. That the said A.D. Bry-
ant was present when these pro-
ceedings were had and contested
the same - and after they had been
done, the said Bryant took no
appeal from any of said
judgments, and that having taken
no appeal therefrom in the time
allowed by law, he was bound by

them. That all these proceedings were had and all the parties heretofore mentioned reside in Newsum's Magisterial District in Southampton Co.

That notwithstanding these proceedings, the said A. D. Bryant gets a justice of the peace from Boykin's Magisterial District to come to Newsum's Magisterial District, and he gives a judgment against the said Wm. Doyle and John Complainant in the said forthcoming bond, without having given the ten day notice required by law and the said justice issues an execution thereon, all of which will more fully appear from copies of the said judgment and execution filed herewith as exhibits "D & E". That the said justice of the peace from Boykin's District had full knowledge of the release of the property mentioned in the forthcoming bond and all of the proceedings had thereon. That the said justice from Boykin's had no jurisdiction to hear and determine this

question and his judgment is a nullity.
That upon the said judgment a writ of
fieri facias has been issued by the
Clerk of the County Court of Southampton
directed to the Sheriff of Southampton
Co. and is now in the hands of B. C.
Bunn deputy Shff. and he has levied
upon certain wood of Complainant
and advertised the same for sale
at public auction on the 13 inst,
all of which will more fully appear
from copies of said writ and notice
of sale filed herewith as Exhibits
"7 & 8". That the sale of said wood
by virtue of said levy would work
irreparable injury to Complainant,
because it would deprive him of
the means of making his crop
during the present year, upon which
he and a large family are mainly
dependent. That the property not
released from the forthcoming bond
by virtue of proceeding, has thereon,
is still in the possession of Com-
plainant and he has offered
and been ready to deliver the
same at all times, and is ready
now.

In Consideration of all which and as your Complaint is without remedy in the premises kept in a Court of Equity where such matters are properly Cognizable, to the end that justice may be done your Complainants pray that O.D. Bryant, J.W. Williams, Sheriff of Smith, Compton Co. B.B. Burn Sheriff of said County, R.D. Moore 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 of said defendants. That your Honor will restrain and restrain the said O.D. Bryant, and J.W. Williams ^{Sheriff} and B.B. Burn Sheriff from and all their agents and attorneys from proceeding to see the writ levied upon by virtue of the writ now in their hands or from any further proceedings by virtue of the judgment rendered by one G.E. Beaton, J.P. on the first coming bond executed by Wm. Doyle & your Complaint until the matters herein alleged can be inquired into. That the said judgment may be annulled and set aside

because it was illegally rendered.
And for such other further, general and
special relief as the Equit may deem
meet or the nature of this case may
require. And as in duty bound, to
beg it please the Court to.

Prima facie &c

J. L. Bishop

Virginia - Southampton Co. Court.

I, B. F. McLeure, a Commissioner in
Chancery for the Circuit Court of
said County do hereby certify that J. L.
Bishop, the complainant in
the foregoing bill in Equit has
made oath before me that
the facts as therein set forth are
true so far as he knows and believes.
Given under my hand
Apr 8. 1889.

B. F. McLeure

Commissioner in Chancery
for Circuit Ct. of
Southampton Co Va.

Exhibit
Bryant

vs.

{ Fl. Fa.

Doyle + Bishop

1889 May Rules.

p. q.

Clerk

\$ 50

Sheriff

Law, &c

\$ 8 50

Mealy

The Commonwealth of Virginia,

To the Sheriff of Southampton County, Greeting:

WE COMMAND YOU that of the Goods and Chattels of

Wm. Doyle & Jas

L. Bishop

late of your bailiwick, you cause to be made

*Forty two dollars with interest
thereon from 21st day of Decr. 1889 till paid, which*

A. D. Bryant

lately in our

Justice

Court of Southampton county have recovered against

them

as well

for a certain debt as for interest thereon; also the sum of

Dollars and

fifty eight

Cents, which to the said

A. D. Bryant

in the same Court were adjudged for

his

costs in that suit expended, whereof the said

Wm. Doyle & Jas. L. Bishop are

convicted, as appears to us of record; and how

you shall have executed this writ make known at the Clerk's Office of our said Court, at the rules to be holden

for said Court on the first Monday in

May

next, and have then there this writ.

WITNESS, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this

26

day of

March

, 1889, in the *11th* year of the Commonwealth.

Teste:

B. F. McLemore

C. C.

B. F. McLemore C. C.

Bishop

vs

In Chancery.

Pr. ant. vs.

On motion of the Complainant - J. L. Bishop, an injunction is awarded, restraining A. D. Bryant, J. N. Williams, Sheriff of Southampton County, and Agents and Attorneys, from proceeding to ~~sell~~ sell the property advertised for sale on the 23rd inst. by virtue of a Fi. Fa. issued by the Clerk of Southampton County on a judgment rendered by one G. E. Beaton J. on a forec. Com. ing bond against Wm. Doyle & J. L. Bishop or from any further proceedings thereunder until the further order of this Court.

but before the Complainant shall have the benefit of this order ~~would~~ he shall enter into bond with approved security before the Clerk of this Court in the penalty of \$100. - Conditioned according to law.

Attest. Teste: B. F. M. Lemmon. C. C.

The above bond and security has been given.

Teste: B. F. M. Lemmon. C. C.

155-
Bishop
vs
Pr. ant. vs.
1889. 2nd chanc. rules.
See of
Executed Apr 18th
1889 by delivering
a copy of the "book"
to each of the within
named parties
B. F. M. Lemmon
for J. N. Williams & Co.

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON *A. D. Bryant, J. H. Williams and*
Sheriff of Southampton County - and B. B. Bunch Deputy Sheriff 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 ^{3^d} ~~first~~ Monday in *April* next, to answer a bill in
chancery exhibited against *them* in our said Court by *J. L. Bishop*

And this *they* shall in no wise omit; and have then there this writ.

Witness, *B. F. M. Lemmon*
~~J. B. PRINCE~~, Clerk of our said Court, this *12th* day of *April*
188*9*, in the *11th* year of the Commonwealth.

B. F. M. Lemmon cly.

C. C.

Exhibit C

we have by order the release of J. D. Bishop and
William Doyle. From the fact coming from
to R. D. became constable so far as the
log and name came. Evidence by Mary J. Doyle
which we judge to be Mary J. Doyle's property
in a suit taken by us to day
Dec. 15th 1888

J. A. Bishop & P.
C. C. Ferguson & P.

Exhibit G.

Notice

I will sell at public
Auction on Saturday Apr 13th
1889 at 9 o'clock A.M. one
lot of Sweet gum & Poplar
wood lying at Rochelle
old Station on S & R Road.
The wood will be sold where
it is now lying to satisfy
an execution now in my
hands vs Dayell & Bishop
March 27th/89

B Le Bunn Depy Sheriff

100
\$20
80

Exhibit C.

Handsome Dec 15th 1888

Each hand and judgment that
the within property be released from the
within name & long and defendant to pay
three Dollars & Cent

J. A. Bishop J.P.

A. C. Ferguson S.T.

J. R. Williams
Constable
Handsome Defeat

Exhibit
"B"

Very Given under my hand and seal this 8 day of
December 1888
J. A. Bishop J.P. Good

Exhibit B.

Southampton County to wit:-

To J. B. William Constable of said County-
Whereas it appears to me J. A. Bishop a Justice of the
Said County upon the application of Mary J. Doyell
that an execution awarded by E. H. Beal, a Justice of
the said County, upon a judgment rendered by him on a
Warrant in favor of A. D. Bryant plaintiff against
William Doyell defendants has been levied on seven
hogs and one cow or yearling by R. D. Moore a Constable
of the said County and that the said property is now adverti-
sed to be sold by the said Constable on the 21 day of
December 1888 to satisfy the said execution and whereas
the said Mary J. Doyell claims the said hogs and
cow levied on as her property and avers that the
same is not liable to said execution and it appear-
ing to me that the said property is not of greater value
than twenty Dollars. I hereby command you, in the
name of the Commonwealth of Virginia to summon
the said A. D. Bryant and William Doyell both to
appear before me at Handsams Depot in the said County
on the 15 day of December 1888. to show cause why the said
hogs and cow should not be discharged from the said

Bishop ~~155~~ 176

Stat. Rules 178

Bryant & also

J. L. Bishop - Pltff

②

A. D. Bryant. J. Williams,

Sheriff of Southampton Co.

+ B. C. Dunn, Depty Sheriff

of Southampton County. } Defts

1889. Apr 12. Sum: to 2 Apr Rules:

" 2^d Apr Rules: Sum: ret^d? Executed.

Bill + Ex: filed.

decrea nisi.

" 1 May " Bill taken for Confessed -
+ Cause set for hearing.

In Chancery

State of Virginia

Southampton County Court.

Upon the motion of Albert D. Bryant for award ~~of~~ judgment and execution on the within forthcoming and delivery bond of ~~Wm~~ Doyle and Jas. L. Bishop in favor of the said Albert D. Bryant for the sum of forty ^{two} dollars, Upon hearing testimony on the same and the said bond being declared forfeited, judgment is granted the said Albert D. Bryant vs. said Wm. Doyle and James Bishop for the sum of Forty two dollars and interest from the 21st day of December 1889 till paid.

Given under my hand this 14th day of February 1889-

George E. Beaton J.P.

State of Va.

Southampton County Court.

I command you that of the goods and chattels of Wm. Doyle + James L. Bishop, you cause to be made the sum of Forty two dollars, with interest from the 21st day of December 1889, till paid, which Albert D. Bryant has recovered before me George E. Beaton, a Justice of the peace for the County aforesaid, and that you render unto the said

Albert D Bryant the debt aforesaid, and
make due return thereof.

Given under my hands this 14th day of Feby
1889.

George C. Peaton J.P.

To
R. D. Moore Constable of South
ampton County Va or any other con-
stable or Sheriff of said County.

Attest
Jesse B. F. McLemore CC.

P. Bryant

ads 73

Donner

Bishop

Bryant

Ads 3

Bishop

Demmer

The defendant says that the
plaintiff is not sufficient in law

Bayard
Ads 3 Amer
Bishop

The answer of A. D. Bryant to a bill in
chancery in the circuit Court of Southampton
by J. L. Bishop against him

This defendant for answer to the
said bill or as much thereof as he is advised
to answer, answering says that he does get
a judgment as alleged in the bill against
Mrs Doyle for \$49.21 etc in 1888 and that
an execution issued thereon and was levied as
stated and that Mrs Doyle gave to
forthcoming bond with J. L. Bishop as security
that subsequently under the proceedings mentioned
in the bill a portion of the property ^{bond} levied
on and included in the forthcoming to wit
one cow and some hogs were released from
the levy but that two hogs were not released
and the court did not order it but that they
remained in the custody up to the defendant
at the time the bond was forfeited and at
the time the judgment was given on
the forfeited forthcoming and delivery bond
that he did not appeal from the order
of these two justices but took a judgment
on the delivery bond at Newbern in the
district where the plaintiffs resided given
by a justice of the peace of the county
whose jurisdiction in civil and criminal

matter and cases entered are on the county
and he has stated arms and charges that
the judgment rendered by George & Beaton
against Mr Doyle and the said J. L. Bishop
was not appealed from in ten days the
time allowed by law that in fact it
never has been appealed from and is a
finality in all the courts of Virginia
now This defendant has got to learn
that where a portion of the property named
in the bond to be forthcoming at the day
of sale has been ^{in the defendant's possession} ~~there~~ from that time to
this will not warrant the plaintiffs
in making this motion on the bond and
taking a judgment against the principals ^{and his co-defendants}
who did not appear after the legal notice
to contest the same but let judgment
go by default and never was appealed
from George & Beaton's decision For
these reasons and many others appearing on
the face of the plaintiffs bill and his papers
This defendant asks that the injunction
may be dissolved The plaintiffs bill
dismissed at his costs and as in duty
bound This defendant asks to be dismissed
with all the costs incurred by him

signed
A. D. Bryant

Shanda Wilson J. A.

Somerset County To wit.

Know all men by these presents that we Wm Doyle and Jas. L. Bishop are held and firmly bound to Albert D. Bryant in the sum of Forty two dollars to be paid to the said Albert D. Bryant his Executors, administrators or assigns; for the payment whereof we bind ourselves jointly and severally, firmly and our several heirs executors and administrators

Sealed with our seals and dated this 21st Nov. 1888.

The Condition of the above obligation is such that whereas A.D. Bryant has obtained from E. L. Seale a Justice of the said County, a warrant of distress for rent against the goods of the above bound Wm Doyle, directed to R.D. Moore Constable of said County which warrant with the legal costs attending the same amounts to the sum of Forty nine and $\frac{5}{100}$ Dollars - Whereas R.D. Moore constable

as aforesaid by virtue of the said warrant has taken the following property to wit:- three hogs and one Cow belonging to the said Wm Doyle to satisfy the said warrant and costs, and the said Wm Doyle being desirous of keeping the said property in

his possession until the day of sale. There is
 has tendered the above bound Jas. L.
 Bishop as his surety for the forthcoming
 and delivery thereof on the day and at
 the place of sale. Now if the above bound
 Wm Doyle and Jas. L. Bishop or either of
 them do and shall deliver the said property
 to the said R.D. Moore Constable aforesaid
 at Newsoms Va. in Southampton County,
 within 30 days then and there to be sold
 to satisfy the said warrant of distress
 in favor of said A.D. Bryant then the
 above obligation to be void otherwise to remain
 in full force and virtue.

Witness

R. C. Brown

William ^{his} Doyle Seal
 Jas. L. Bishop ^{his} Seal

Copy Teste J. J. H. Moore J. J.

Doyle & Bishop
 To Forth coming
 Bonds &c.
 Bryant

Allopy

Exhibit -
 "B"

Bishop

② { Exjunction
Bond

Bryant

1889. April 12. filed.

Know all men by these Presents, That we
Thos. A. Bishop

Jas. L. Bishop and

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

12th day of April

A. D. 1889

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

J. L. Bishop, who has ~~been~~ obtained from the Judge of the Circuit Court of Southampton County. An Injunction restraining and enjoining A. D. Bryant, J. H. Williams, Sheriff of Southampton County, B. B. Rumm Deputy Sheriff of Southampton County, their Agents and Attorneys, from proceeding to collect sell the property advertised for sale on the 13th Inst. by virtue of a Fi. Fa. issued by the Clerk of Southampton County on a judgment rendered by G. E. Reaton, J. P. against Wm. Dyer & J. L. Bishop. Shall well and truly pay all costs and damages which may be awarded against him or sustained by any person, by reason of the suing out of the ~~for and injunction~~, in the event the same shall be dissolved.

~~shall faithfully discharge the duties of~~
or else to remain in full force and virtue.

~~office or trust~~ according to law, then the above obligation to be void,

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

Jas. L. Bishop
Thos. A. Bishop



Bishop
no 3 Decree
Bryant & Co.

To be entered
C. W. Stei
April 11. 1849.

Bishop $\frac{3}{4}$ In vacation, he
or Myant &c.

Upon the motion of the Com-
plainant, J. L. Bishop, an injunc-
tion is awarded to restrain and
enjoin A. O. Bryant, J. W. Williams,
Shuff of Southampton, B. C. Brown
Deft Shuff of Southampton Co.
their agents and attorneys from
proceeding to sell the property
advertised for sale on the 13th
inst by virtue of a fieri issued
by the Clerk of Southampton Circuit
Court on a judgment rendered by
one G. E. Beaton, J. P. on a writ Com-
ing bond against Wm Doyle and
J. L. Bishop, or from any further
proceeding thereunder until
the further order of this Court.
But before the said Complainant
shall have the the benefit of this
order, he shall enter into bond
before the Clerk of this Court to the
the penalty of \$100- with security to
be approved by said Clerk, conditions
according to law.

To the Clerk of the
Circuit Court of
Southampton Co }

C. W. Hill

Bishop
vs 3 Duerr
Bryant vs

To be entered
C. M. H. C.
May 9, 1880

Entered

Bishop

vs 3

Deane

Bryant & als

This day This cause came on again to be heard on the papers formerly made the summons and answer of the defendant A. D. Bryant and general replication thereto and was argued by counsel on consideration whereof the court doth adjudge order and decree that the injunction entered in vacation on the 11th of April 1889 restraining and enjoining A. D. Bryant, J. W. Williams sheriff and B. C. Barnes deputy sheriff from proceeding to sell the property the property advertised for sale on the 13th inst by virtue of a f.p.a. issued from the clerk's office of Southampton be dissolved and that the defendant A. D. Bryant be decreed to recover from J. L. Bishop his costs about this suit in this behalf expended

Birch

23 Final Deere

Bryant re

To be entered

Oct (3rd) Term 1900

Arthur N. Mills

22 Entered 331

Birch

vs 3 Final Decree

Bryant &c

This day this cause
came on again to be heard on
the papers formerly read, and
was argued by Counsel, and it
appearing to the Court that there
is nothing further to be done
in this cause, ordered that the
same be removed from the
docket