

1790-002

Chancery Causes: Josiah Applewhite vs Robert Driver, executor of Ralph Libbs

Isle of Wight County

Oath full true and perfect Answer make, to all and Singular the allegations
herein contained, and that as fully and Sufficiently as if the same were
again herein Repeated and Interrogated, but shew especially whether the
said Ralph Gibbs did not defraud this, Life leaving such will as is here
mentioned, is not the said Robert the only acting Executor, is not Patsy
Gibbs the residuary Legatee, is not your Orator, her Guardian, hath not
the said Robert in his hands belonging to the said Estate more than
will Satisfy all the claims against him as executor, What Reasons hath
he for not settling the Estate, and paying to your Orator, the Residue
in right of his Ward, hath he not brought his Suit recovered Judgment
and issued Execution against your Orator for the Debt aforesaid due to the
said Estate, and that this worshipful Court will injoin the said Judgment
until a Settlement takes place and decree the said Robert without Delay
to render an account of his Administration to this Court, and pay ~~over~~
over all Money, Bonds and other Estate, to your Orator in right of his ward
Patsy, after discharging the Debt and other Legacies of his said Testator
And make such other and further ~~provision~~ ^{provision} for the said your Orator
and his ward as may be agreeable to Equity May it please the

Yarborough for sample

Isle of Wight County Va

Josiah Applewhite made oath before me that the allegations
in this Bill is true to the best of his knowledge, Given under my hand this 6th
Day of August 1790. —

So. Wilson

Happy Test from: Young J. B. said.

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Applewhite
in Copy from
Docket for the

To the Worshipful Justices of Isle of Wight County in Chancery sitting Humbly
complaining sheweth unto your Worships your orator Josiah Appleton
that a certain Ralph Gibbs late of this County, after first having first made
his last Will and Testament, departed this life in which said Will the said Testator
nominated and appointed his Widow and Petrel Polly Gibbs, and a certain Robert
Driver his Executors. The latter of which obtained probate and was duly qualified
as will appear from the Records of this Worshipful Court, Your orator further
sheweth unto your Worships that the said Testator after making provision in his
Will for his said Widow (with whom your orator hath since intermarried)
he devised to his Infant son, John Gibbs on certain Conditions all his Lands
together with two Slaves Viz, and to his Infant Daughter Patsy Gibbs (being the
only Children the said Testator left) the residuary part of his said Estate, which
was considerable Consisting of Slaves and other personal Chables, that some time
after the Decease of the said Testator, this Worshipful Court appointed the said
Robert Driver Guardian to the said Infant John, and your orator Guardian
to Patsy Gibbs, which will also appear from the Records of this Court, Your
orator further sheweth unto your Worships that he hath frequently called
upon the said Robert Driver to settle the said Estate, by first paying
the Debts, and then the Legacies but it may with precision be ascertained
what part of the said Estate and how much belongs to your orators Ward
Patsy, and that the same may come to your orators possession as her
Guardian (but the said Robert (who your orator prays may be made defendant
to his Bill of Complaint) delays to do the same, or to give up to your orator any
part of his said Wards Estate, but instead thereof in order to injure and
oppress your orator, hath brought a Suit and Recovered a judgment against
Your orator for a Debt of Ten pounds and Interest which your orator was
indebted to the said Gibbs's estate, and which your orator conceives to be a
part of the said Estate which his Ward Patsy is entitled to, the said Robert
as your orator believes having much more of the Estate in his hands than
a Sufficiency to discharge every Claim against him, as Executor of the same
all which ^{callings &} ~~doings~~ of the said Robert are inequitable and oppressive, In Consideration
whereof and for as much as your orator is remediless in the
premises, by the strict rules of the Common Law and only relievable in
this Worshipful Court of Equity where matters of this sort are cognizable
to the end therefore that the said Robert Driver may upon his Corporal

Applewhite
by } Bice
Driver Edward
Gibbs

Sept. 1790
Bice filed a Injunct. Sp.
grants on getting land in
Clark's Office &c.
Novemb. 1790
Injunct. Disolved &c.

The matter was
not before the jury,
have not, but
did not receive

from Const. & Tru. of Dr.
has it been made apper
that Mr. Bice has
money enough.

Let him come as he
deems direct

Orator any part of his said Ward Estate, but instead
thereof in order to injure & oppress your Orator, hath brought
a suit and recovered a judgment against your Orator
for a debt of Ten pounds interest which your Orator was
indebted to the said Gibbs's estate, & which your Orator
conceives to be a part of the said Estate which his ward
Patsy is entitled to, the said Robert as your Orator be-
lieves having much more of the Estate in his hands than
a sufficiency to discharge every claim against him as
executor of the same, all which suitings & doings of the
said Robert are inequitable and oppressive, In tender
Comediation whereof, and for as much as your Orator is
Timid in the premises by the strict rules of the Common
Law and only Relievable in this worshipping Court of E-
quity where matters of this sort are Cognizable, To the
end therefore that the said Robert Drive may upon
his Corporal Oath full true & perfect answer make, to
an and singular the allegations herein contained, &
that as fully & sufficiently as if the same were again
repeated & interrogated, but more especially
whether the said Ralph Gibbs did not depart this
life leaving such will as is here mentioned, is not
the said Robert the only acting executor, is not Patsy
Gibbs the Residuary Legatee, is not your Orator her
Guardian, hath not the said Robert in his hands be-
longing to the said Estate, more than will satisfy all
the claims against him as executor, what reasons
hath he, for not settling the Estate, & paying to your Orator
the residue, in right of his ward. Hath he not brought
his suit. Recovered Judgment & issued execution against
your Orator for the debt aforesaid due to the said Estate,

and that this worshipping Court will injoin the said
Judgment until a settlement takes place, and Drive
the said Robert without delay to render an account
of his administration to this Court, & to pay over all
moneys, bonds & other estate to your Orator in right of
his ward Patsy, after discharging the debts & other le-
gacies of his said Testator, and make such other
or further order or decree for the Relief of your Orator
this Ward as may be agreeable to Equity, May
it please the

Yours brought for Comfort

Iste of August Twenty for

Joseph Applegate sworn before me
that the allegations in this Bill are true
to the best of his knowledge. Given under my
hand this 6th day August 1790.

So. Wilson

To The Worshipful Justices of Isle of Wight County
in Chancery Telling, Humbly Complaining Sheweth
unto your worships your Orator Josiah Applewhite,
That a Certain Ralph Gibbs late of this County, after
having first made his last will & Testament departed
this life in which said will the said Testator nomina-
-ted and appointed Polly Gibbs his widow & Relict Polly
Gibbs, and a Certain Robert Driver his executor, The
Letter of which, obtained probate and was duly qualified
as will appear from the Records of this Worshipful Court,
your Orator further Sheweth unto your worships, That the
said Testator after making provision in his will for
his said widow (with whom your Orator hath since inter-
-married) he devises to his infant son John Gibbs on Certain
Conditions, all his Lands, together with two Slaves vest,
and to his infant daughter Patsy Gibbs,
(being the only ~~two~~ Children the said Testator left) the Tari-
-ous part of his said estate, which was Considerable,
Consisting of Slaves & other personal Chattels, That some
time after the decease of the said Testator, this Worshipful
Court appointed the said Robert Driver Guardian to
the said infant John: and your Orator Guardian to
Patsy Gibbs which will also appear from the Records of
his Court, your Orator further Sheweth unto your worships
that he hath frequently Called upon the said Robert Driver
to settle the said estate, by first paying the debts, and
then the Legacies, that it may with precision be ascertain-
-ed what part of the said estate & how much belongs
to your Orators ward Patsy, & that the same may Come to
your Orators possession as her Guardian, but the said Robert
Cares your Orator prays may be made defendant to this bill
of Complaint) delays to do the same, or to give up to your

which he hitherto hath not been able to do, and prays to be
hereafter to be dismissed with his costs &c.

per ore te before me

Applicant
at
Liddle's

The Answer of Robert Driver to the Bill of Complaint of Josiah Applewhite

This Defendant saving & reserving to himself all manner of benefit & advantage to the many errors and imperfections in the Complainant's bill contained & for answer unto or so much thereof as he is advised is material for him to answer unto answereth and saith true it is that Ralph Gibbs late of this County after having first made his last Will & Testament departed this life in which said Will the Testator nominated and appointed his Widow and relict Polly Gibbs (this defendant his Exeutor: that this defendant obtained Probate and was duly qualified as doth appear by the Records of this Honourable Court that true that the Testator after making provision in his Will for said Widow with whom the complainant intermarried ~~true it is~~ that the Testator did devise his Estate in his said Will in manner and form as the Complainant hath set forth and that John & Patsey were his only Children and that the residuary part consisted of Real and other Personal Chattles and this defendant ^{was appointed} Guardian to John as the Complainant to Patsey by this Honourable Court that this deff denies that the Complainant frequently called upon him to settle the Estate or that he wishes to invade or oppress the Complainant or that he has money enough in his hands belonging to the Testator ^{But on any day mentioned before the Court to pay the debts of the deceased} to satisfy and pay the debts of the deceased ^{that he would pay} true it is that the Complainant purchased at the sale of the decedant's goods the amount of Ten Pounds and gave his Bond for the same to this deff as Exor & can that after the Bond became due he applied to the Complainant for Payment and after several disappointments he instituted suit recovered judgement & issued Execution and that at the time of bringing suit he believes that the complainant was not appointed Guardian to the said Ralph and if he had this defendant conceives that the debts ought to be paid of before the Legacies that there is several suits now unfinished & many debts unpaid and that this deff humbly hopes that this Honourable Court will not put a bar in his way so as to prevent his recovering the debts of his Testator, and grant him such time to settle the said Estate as he may have it in his power to finish the suits and collect the debts so as to enable him to pay of those against the Estate

the next day 1000 and he would pay the debt on 1000. such from the estate

Applewhite

vs.

Driver Exp
of Gilb. - - -

Injunct.
Bond

Sep. 30. 1790 ~

Know all men by these presents that we Josiah Applegate and
Richard Williams are held and firmly bound unto Robert Driven
Esq. of Ralph Gibbs in the just and full sum of thirty five pounds
Current money of Virginia to the which Payment we and
truly to be made ~~and due~~ to the said Robert Driven or his Heirs or
Assigns. We bind ourselves our Heirs Executors, Jointly and Severally
firmly by these presents sealed with our seals and dated this 30th Day of
September 1770.

The Condition of this Obligation is such that whereas the said Robert
Driven Esq. of Ralph Gibbs hath Obtain'd Judgment at Common
Law against the said Josiah Applegate & Josiah Wells in the County
Court of Isle of Wright for ten pounds 5s. with Int. from the 1st Jan'y 1787 till paid
and Costs and the said Josiah Applegate hath Obtain'd an injunc-
tion to stay the Execution of the said judgment untill the hearing of the
matter in Equity upon a Bill for that purpose filed. if therefore the said
Josiah Applegate shall Satisfy and pay the said Judgment
at Common Law, and all costs and Damages that shall be awarded
to the said Robert Driven in case the said Injunction
shall be Dissolved then the above Obligation to be void or else to
remain in full force & Virtue

Sealed & Delivered

In presence of

Francis Young

Josiah Applegate

R. D. Williams

Applicants

or

Drivers for

against
Spa

Excluded

James Watts

The Commonwealth of Virginia To the Sheriff of Isle of Wight County
and to Robert Driver Executor of Ralph Gibbs and his Counsellors attor-
neys Solicitors and agents and every of them Greeting Whereas it hath been
represented unto the Court of the County of Isle of Wight in Chancery on
the part of Josiah Applewhite who hath prayed that he may have our
writ of Injunction for stay of all further proceedings at Common Law until
hearing of his Cause in ~~Chancery~~, We therefore in Consideration of the
Premises aforesaid, Do strictly enjoin and Command you the said Sherf:
Robert Driver &c. and all and every the persons before mentioned that you
and every of them do absolutely desist from all further proceedings against
the said Josiah Applewhite on a Judgment obtained in our said
County Court of Isle of Wight against him by the said Robert Driver
Esqr &c. until the hearing of the said Cause in Chancery Witness Francis
Young Clerk of our said Court at the Court house the 30th Day of Septem:
1790 in the 15th year of the Commonwealth ———
Francis Young