

1813-014

Chancery Causes: John Barber vs William Smelley

Isle of Wight County

other surnames: Tynes,
Smelly

Barber vs. Snellly.
Bill & Exhibits. —
Dec^r 1853

December 1853

Dec^r 1853

Isle of Wight County - December - The ^{6th} 1853. John
Barber personally appeared before me, a Justice of the
peace in and for the said County, and made oath to
the truth of the allegations in the foregoing bill, to the
best of his knowledge, understanding and belief.

Arthur J. Smith J. P.

Barber } acct. Court
as }
Smalley } bal. \$49.65

that in virtue of the said decree the Commissioners therein named, have rented out the premises therein mentioned, untill the rents have amounted to a sufficient sum - to discharge the debt and interest which were due the said Tyndal, or very nearly so - in consequence whereof the said land and appurtenances are again subjectable by this worshipfull Court, to the payment of your Orators debt aforesaid, from the period, at which the said Tyndal's Decree has been or shall be satisfied. In tender Consideration whereof and forasmuch as your Orator is remediless in the premises except by the intervention and aid of this worshipfull Court, he prays that your Worships will decree the said land and appurtenances to be rented or leased out by Commissioners by the Court to be appointed for such sum of money as they may be able to get, taking bond or bonds with good and sufficient security for the same, payable annually, and assign the said bond and or bonds as the case may be, to your Orator. That the said Commissioners, or their successors, in case of the death or removal of them or either of them, or other Commissioners to be by the Court from time to time appointed, in case of the refusal of any of those now or hereafter to be appointed, continue, at the expiration of each term of rent or lease of the said premises, to rent out or lease the said premises, ^{again} and take bond or bonds & security as aforesaid and assigne them to your Orator his Executor, administrators or assigns, from time to time untill his said debt, and interest on five hundred and ~~seventy~~ forty five dollars & seventy five Cents; being the unpaid part thereof which is founded on the former decree of this worshipfull Court - shall be fully paid, discharged and satisfied. And your Orator prays that an order of publication may be granted, and any other or further order or decree may be entered for his relief, as may be consistent with equity. And he, as in in duty bound, will &c

Mr William Smalley

In acct with John Barber

Dr Cr

1807	Nov ^r 11 th	To balance due this day by decree of				
		Isle of Wight Court - fine decree	807	53		
1809	July 15	To interest on the above balance, & Decree				
		from the 11 th of Nov ^r 1807 - untill now	70	71		
"	"	By Cash for the success of the sale of				
		Your property sold under attachment	218	29		
"	"	To necessary Care, Storage and attention				
		to the attached property - untill sold	12	-		
Dec	15	By this sum received for your former Ward				
		estate	23	75		
1810	Feb ^y 15 th	To interest on \$567.49, the balance of bond				
		from the 15 th of July 1809 - to this date	23	36		
		To Costs, of Holladays attachment, appeal				
		thereon and other subsequent proceedings	52	62		
		in Isle of Wight Court				
March 21		To Cash paid, by Thomas Holladay to Mr Blandin				
		a Lawyer in London, for proceedings	10	10		
		attainted against you then				
April 17		To Nathl Young Clerk Isle of Wight for				
		Tickets, & his acct two times	2	98		
1811	Nov	To interest on ~~\$567.49~~ the balance of bond				
		~~from the 15th of July 1809~~ to John Morrison	36	49		
		in which I was security & paid the debt: the				
		last of which is now paid. & Statement 1813				
1813	Dec	To interest on \$567.49, the balance of				
		decree from the 15 th of July 1809, till	115	90		
		now - is 3 years - 4 mo ^s & 20 days				
			1089	69	240	54
		To Balance due John Barber (here)			849	65
			\$1089	69	1089	69
1813	Dec	To balance due now, as above stated	849	65		

To the Worshipfull Court of Isle of Wight County, in
Chancery sitting, Humbly Complaining Sheweth unto
your Worships your orator John Barber, That a certain
William Smalley, formerly of this County, stands
indebted to your orator in the sum of Eight hundred
and forty nine dollars and sixty five Cents, the greatest
part of which is due and owing, on a decree of this
Worshipfull Court, bearing date the 2nd of January 1809,
and the interest accruing thereon, all which, together
with the other Charges, making the said sum of 849.65 now
due, will more fully appear by reference to an account Court
stated by your orator, between him and the said Smalley,
a Copy whereof, is here unto annexed & prayed to be taken
and considered as a part of this bill. — Your orator
represents to your Worships, that the said Smalley, from the
best accounts which can be collected, has settled his
residence in some very distant western territories
of the united States, and there is little or no probability
of his ever returning to Virginia. — Your orator further
states that when the said Smalley left Virginia, he left
a small personal property, which has been all exhausted
in the payment of his debts, and that your orator has
no prospect whatever, of obtaining the amount of his
claim or any part thereof, unless it is by subjecting a
tract of land with the plantation and mill thereon, of
which the said Wm Smalley was seized and possessed
at the time of his departure from this State. Your orator
begs leave here to remark, for the information of the
Court, that, One Henry Tynes, of this County, being a Creditor
of said William Smalley, at the time of his departure,
brought his bill in this Worshipfull Court, for the subjugation
of the said land, to the payment of his said debt, and
interest — and at the March term of this Court in the
year of our Lord eighteen hundred & nine, obtained
a decree, in his favour, a Copy whereof is hereunto annexed
and prayed to be taken and considered as part of this
bill, or an exhibit thereto. — Your orator now states

as aforesaid
And so on from term to term, untill the
rents shall amount to a sufficient sum to
pay, satisfy and discharge the debt, ^{aforesaid} due to the
Said John Barber - and the interest accruing
thereon - as aforesaid, and also all reasonable
Costs - ~~which~~ attending this suit - or other ^{legal, or equitable} measures
which may become necessary, in the prosecution
of his interest in this behalf. - And it is further
Ordered and decreed that the Commissioners
acting under this decree shall make report
annually, of their proceedings to the Court -

Barber
vs
Smalley } form of
a decree

Ish. of Wright County Court. December 1813.

John Barber ——— Complainant }
against } In Chancery
William Smalley } Defendants }

On the motion of the Complainant by his attorney, this cause came on this day to be heard on the bill, and other exhibits, whereupon it is decreed and ordered that James ^{et al} Boulton, ~~Robert Dapheille~~ ^{Henry W. Smith} ~~John Wells, Parker & Co.~~ or any two of them, do lease out to the highest bidder at public auction, from the first day of January — in the year of our Lord eighteen hundred & fourteen, for and during the full term of five — years thence next ensuing, the tract of land, plantation and mill, whereof the defendant William Smalley is seized, at a stipulated rent to be paid annually, taking bond and sufficient security of the lessee, conditioned to keep the premises in repair, not to commit or suffer waste to be committed during the term, and ^{five other bonds with like security} for the due and faithful performance of payment of the rent on the last day of every year in the term, And ~~when the said term shall expire, it is further ordered assign~~ the bonds so taken to the Complainant John Barber. And it is further Ordered and decreed that the said Commissioners or any two of them, or in case of their ~~refusing to~~ refusal of them or either of them to act — or in case of the death or removal of them or either of them, such other Commissioners as the Court shall appoint from time to time or any two of them, At the expiration of the term aforesaid let out the said premises, on similar terms, for the further period of five years, thence next ensuing, taking bonds and assigning them to Complainant, his Executor, adm^r or assigns.

Isle of Wight County December court 1813

John Barber

against

William Smelly

Complainant

Defendant

In Chancery

On the motion of the complainant by his attorney, this day this cause came on to be heard upon the bill and other exhibits; Whereupon it is deemed and ordered that Francis M. Boykin, Robert Dashiell and Henry Willis Mills or any two of them, do rent or lease out for the best price, the tract of land with its appurtenances, whereof the defendant, William Smelly, is seized in fee, until the rent or lease so made amounts to a sufficient sum to discharge the debt due to the complainant of eight hundred forty nine dollars and sixty five cents with interest on five hundred and sixty seven dollars and forty nine cents past thereof from the ^{15th} ~~15th~~ day of ~~July 1813~~ ^{Decr 1813} till paid and the costs of this suit, and that they take bonds with sufficient security for the payment of the rent or lease annually; and assign the said bonds to the complainant, till the debt, interest, and costs aforesaid shall be fully paid and discharged