1820-034 Chancery Causes: Henry Whitfield vs Dinnery Driver et al

Isle of Wight County

other SURNAMES: Gibbs, Norsworthy, Gray, Bevan, Southall, Drew, Godwin, Hall

Affidavit
& 3 Cops
Summons
June 1818 Date filed

Bill filed

vs

Bill

Drever &c.

June 1818 bill filed & order of
Publication

June 1818

Misi decree

June 1818 Misi decree vs Gray
& Bevan

August 1818 Ans.r of Bevan
files Misi decree vs Gray

May 1820 contd for defl.

July 1820 Jud: for $65. 7 7/9
with int. from the 23d. June. 1814
till paid; But to give bonds &c. see
minutes

Costs $16.47

Robert [illegible] That the said
Drury [illegible] is a son and heir of said
defendant and consequently entitled to a share of
the widows third which upon her death vested to
the heirs of said Robert Driver the father of said
Drury Driver. your complainant being) remediless except
by the intervention of this Court of Equity in which
matters of this nature are properly cognizable, and
as relief in the mode thereof is provided by an act
of the general assembly of Virginia in that case made
and provided prays the aid of your worships —
To the end therefore he prays that the said Drury Driver & Thomas Gray husband of Nancy Driver infants of Robt Driver
as also the said Robt Driver as well as Guardian of Charlotte Driver
and Thomas Bacon be made parties to this suit.
That they be compelled upon their corporal oaths to
say whether any estate belonging to said Drury Driver or
which may belong to him upon a division of said
their of Robt Driver's estate be in the hands or
possession of him or either of them. what amount
shall be remaining in their hands - and that his
Court will make such order in the premises for his relief
as may seem just & equitable - & your Compt as in duty
bound humbly prays &c —

Atkinson p.q.

The allegations in the foregoing bill are this day sworn
to before me - July 4th 1874
Francis H Boyd (C)

To the Worshipful Court of the County
in Chancery petition humbly complaining, shews
to your Honours your orator Henry Whitfield
that on or about the day of Anno Dom 180 a
suit was instituted in this County Court against
one Drury Driver then a citizen resident of this County,
on an action of debt brought by John Gibbs admr
of Thompson Nonworthy - Your complainant
through motives of tenderness and humanity
was induced to become the appearance Bail
for said Drury Driver who did not comply with
the tenor of said Bail bond, consequently your
orator as appearance bail was bound together
with the said Drury Driver to the discharge of
the said debt - Suiting made himself security in
the case - The suit progressed to a judgment
which was obtained at Court 1813 upon
which a Fieri facias issued against the goods
and chattels of said Drury Driver and your
orator Henry Whitfield (his appearance bail)
Driver (having) left the state of Virginia and carried
with him all the goods and chattels which
he had in possession your complainant was
compelled to satisfy the said execution which is here-
-into annexed and prayed to be taken as a
part of this Bill - Your orator begs leave to state
that on the death of Robert Driver the father
of Drury Driver one third part of said Robert
Driver's estate was allotted to the widow of said
Robt Driver as her dower for life by Commissioners
appointed by the Court of said County, that the
said Widow Lowry lately departed this life, the
wife of a certain Thomas Gray of this County,
that a certain Thomas Bivar has lately become
administrator de bonis non on the estate of said
Robert Driver, to whose heirs the life estate of said

Thomas Bevan.
ads Answer
Henry Whitfield

Grantees
&c.

in bonds, and in the amount of his own purchase, at the sale, a sum equal to $878:70- which sales were due about the 20th of November 1814; which they reported to Court, as the amount of the sales of the slaves- and which sum of money has been distributed and accounted for among all the Heirs except the share of Drewry, the payment of which was by this Hondle Court, directed to be suspended, until their further order. Your respondent thinks that the share to which Drewry is entitled is about, One hundred and seventy five dollars and seventy four cents- " " "

And your respondent further answers and says that he has received about the sum of two hundred and forty dollars, in obligations due to the estate of his intestate, which remained uncollected in the hands of the bonds of the previous administrator; that the same have not been fully collected. That he is ready and willing to account for his transactions on his Intestate's estate, in any manner this worshipful Court shall direct; that he has little doubt, but there will remain a surplus, in his hands after the payment of the debts and charges of administration but to what amount he is unable to say, whenever the balance if any shall be ascertained, the said Drewry will be entitled to his part or share together with the other distributees, who are five in number

And your respondent further answers and says, that he has been very considerably harassed, and put to much trouble and been compelled to advance and expend monies, in defending various suits brought against him by the creditors of the said Drewry, which sums of money your respondent humbly conceives will be decreed to be retained by him out of the funds in his hands before the same shall be paid to the prevailing party in this or other such suits

And your respondent further answers and says, that many other persons charging that they are creditors of the said Drewry Drover have instituted their suits also against him among whom are James B. Southall Benjamin Drew, Junr. & Godwin adm's and one Thomas Gray the latter has (as absolutely gotten a judgment in this court for $12. with Int. from 4th July 1814. he paid Costs $3.82. including a lawyers fee of $2.50 on an attachment) and also that the said Thomas Gray claims the land aforesaid, under a deed of Conveyance, and demands to have said the same. Your respondent is so situated from these conflicting demands, as to be utterly unable to determine or judge, to which of the respective claimants, the sum aforesaid belongs or is payable, nor to which of them securely, and with safety to pay the same. - Your respondent prays that this Honorable Court will settle the rights and demands of the contending parties, in order that he may be enabled to pay the same with safety, and be saved harmless, from all loss and liability out of his own estate; and that the party or parties prevailing in this suit, shall be compelled to execute refunding bond with security, according to law.-

And this defendant being unacquainted with the demand of the pltff. as he requires the same to be proved according to Law.- And this defendant denies all unlawful combination in the bill charged without that there is any other matter or thing material or necessary for this defendant to make answer unto, and not herein or hereby sufficiently unto, confessed or avoided, traversed or denied is true

Nansemond County to wit:

Thomas Bevan adm.r de bonis non of Robert Drover appeared before me a Justice of the peace for the county aforesaid, who made oath, that all the matters and things contained in the foregoing answer are true, so far as they depend upon his own knowledge and belief- and so far as they depend upon the knowledge and belief of others he believes them to be true. Given under my hand this 18th day of July 1818-

The Answer of Thomas Bevan administrator de bonis non of Robert Driver dec'd to a bill of complaint exhibited against him, and others in the worshipful Court of Isle of Wight, by Henry Whitfield which bill of complaint charges the said Thomas Bevan with having funds in his hands belonging to Drewry Driver an absent debtor.

The Respondent now and at all times hereafter saving, and reserving to himself all benefit and advantage of exception to the many errors uncertainties, and false allegations in the complainants said bill contained, for answer thereto or unto so much thereof as he is advised it is material or necessary for him to make answer unto, answers and says.

That he is not individually indebted unto the said Drewry Driver late of this county, but who is now stated, to be a resident of South Carolina. That it is true your respondent has become the adm'r de bonis non of Robert Driver dec'd left unadministered by Charlotte Gray formerly his widow and relict and the second administratrix the estate having been first represented by Emanuel Wills. That the land and slaves which had been held by the widow and relict who afterwards intermarried with one Thomas Gray, one of the defendants in this suit were upon her death by a decree of the county court of Isle of Wight pronounced in the year 1840 directed to be sold by certain Commissioners for the purpose of effecting a division and distribution of the proceeds of the sales among those persons entitled thereto. That the said Drewry was one of the distributees and entitled to a full share in the land and slaves. That it appears from the proceedings which were had in the suit in chancery for the sale of the land and slaves, that the proceeds of the sale of the land were divided among the Heirs, and the said Thomas Gray who represented the share or interest of the said Drewry Driver, by a certain conveyance in writing. That it appears that the said Commissioners, allotted to the said Thomas Gray the sum $278.33 cts being the proportion which was due Drewry, in the land - and that the said Commissioners were directed under the decree aforesaid, to pay over the amount of the sales of the slaves unto your respondent as adm'r &c. He admits that the Comm'rs did pay over to him principally

Executed on Thos. Bevan & Thos. Gray
Drowry Driven no. Inhabitant

Wm. Holleman Dep. Sh.
James Johnston Sh.

Hardin Co.
vs.
Thos. Bevan
Thos. Gray
Drover Returns

The commonwealth of Virginia to the Sheriff of Isle of Wight County greeting We command you to summon Drewry & Davis and Thomas Gray — and Thomas Bevan Assrs of Robert Devin decd. to appear before the justices of our county court at the court house of the said county on the first monday in June next to answer a bill in Chancery of complaint exhibited against them by Henry Whitfits and have then there this writ Witness Nathaniel Young clerk of our said court at the court house the 21st day of May 1814 In the 38th Year of the commonwealth

Nath. B. Young

Not executed

Wm Wallerman Atty
for Francis Wm Boyston Esq

June Session 1816

Isle of Wight County to wit,

Benny Whitfield ... complainant

against

In Chancery

Drewry Driver, Thomas Gray and Thomas Bevens administrators of Robert Driver dec'd ... defendants

The defendants having failed to file their answers to the bill of complaint against them by the complainant in this cause.

It is ordered that unless the said defendants appear here at July court next and file their answers, a decree will be entered for the complainant against them agreeable to the prayer of the said bill.

Test Wm. H. Young, Clk.

Not executed for want of time

[illegible]

Boy Wm Legg

June Court 1818

Oswego County, ss.

Henry Whitfield ..... Compt.

against

Dewey Driver Thomas Gray and Thomas Brown admors } Defts
of Robert Driver dec ..... } In Chancery

The defendants having failed to file their answer to the bill of the complainant, as by the rules of this Court required, and it appearing to the satisfaction of this Court that due process has issued against the said defendants, and that they appear here on the first monday in August next and file their answers, that the prayer of the said bill be granted against them, agreeable to the prayer of the said bill.

Test David Hubbell
Clk

a copy of this notice proven by the
oath of Mr Hollenback to have been
legally given - in Open Court -

Nath. Young Cl.

Affidavit of the notice & Affidavit of the
Letter mentioned given 16 Feb Term 1815
Phila. Common Pleas Feb Term 1815

Phillips & Co
vs
Hollenback
Devier & Co

Isle of Wight County August Court 1818 —

Henry Whitfield ——————— Complainant

against

Drewry Driver Thomas Gray & Tho. Bevan admor of Robert Driver dec ——————— Defendants

In Chancery

The defendant Thomas Gray having failed to file his answer to the bill of the complainant exhibited against him & the other defendants by the complainant in this cause — It is ordered that unless the said Thomas Gray appear here at September court next and file his answer, that judgment will be entered for the complainant against him agreeable to the prayer of the said bill —

Teste David Dick D.C.

To
Whitfield

Esqr

Isle of wight County, to wit,

John Gibbs administrator of Thompson Ironworthy against Penny Driver and Henry Whitfield his appearance bail, In debt fieri facias for $ 614. 32 Cents but to be discharged by the payment of three hundred and seven dollars and sixteen cents with 6 p Cent interest from the 19th day of August 1812 till paid and 6 3/5 cents costs —

Issued 6th September 1813

returnable to Nov. following — I return, to wit, Sept. 13th 1813 rec.d of Henry Whitfield the sum of $ 144 in part of the within execution — John Gibbs

His execution satisfied by Henry Whitfield —

Wm. Hollowell D.Sh.ff

for James Johnson Sheriff

Mosby Tate D. Clerk I.C.

2.10
1.14
1.20
70
40

5.54
63
30

6.47
10.—

16.47

$ 12:00.
4.32.
3.82.
$ 20.14

11655

Thomas Hall . . . . . Pl

against

Drury Driver & Thomas Bevan garnishee Defts } on attachment

Judgment for plaintiff for Twelve dollars with lawful interest from the 4th day of July 1814 till paid and $3.82 including lawyers fee of 2.50 Cts

Test Nath[l] Young Cl

452

W. A. Atkinson
Smithfield
$5. —

Mr. Archibald Atkinson

To James O'Connor Dr

1814

July 13 To adv'g Suit in Chancery, Whitfield
against Driver, Gray's and Bevan
2 months $5.—

Rec'd Pay J O'Connor
By Tho G Broughton

Certificate

I Certify that the Notice of a Suit in Chancery by Henry Whitfield against Drury Drewer Thomas Gray and Thomas Pervan, was advertised in the Norfolk Herald for the term of two months

Pat. O'Connor

Isle of Wight, }
Nov. 6th 1815 }

Dy Thos. O'Briangh[illegible]

Letter
from
H. Whitfield

Sir 24th 1814

I hope that my [illegible] in sending you this statement — will have no bad effect, I cannot even now lay my hand on any paper that shows the full amount of the Execution but I am certain this statement are correct which can be known by going to the office

Your most humble Servant
Henry Whitfield

The amount of Execution $343-87
The amount of the Sale of Drivers Goods &c taken 277-9 3/4
$65-77 1/4 Ballance due me
the 23rd of Jan. 1814 - - -

Balance due for price to Whitfield — 5

Whitfield &c

to Bond

Bevan

Know all men by these presents That we Henry Whitfield and
Samuel Whitfield are held and firmly bound to
Thomas Bevan — in the just and full sum of Two hundred &
Seven dollars & Ninety Cents to the true & faithfull
payment whereof to be made to the said Thomas Bevan — his heirs
Executors and administrators we bind ourselves, our and each of our
heirs executors and administrators jointly & severally firmly by these
presents; Sealed with our seals and dated this 31st day of July 1820
The Condition of the above obligation is such that Whereas in
a suit in chancery instituted in the county court of Isle of Wight
by the above bound Henry Whitfield complainant against
Drury Drewry an absent debtor, and the said Thomas Bevan
the administrator de bonis non of Robert Drewry — dec'd which said
Robert Drewry was the father of the said Drury; — a judgment was
rendered against the said Drury Drewry and the said Thomas Bevan
it appearing to the court that the said Bevan in his repre-
sentative capacity as aforesaid having money in his hands which
the said Drury Drewry was entitled to, as one of the distributees of the said
Robert dec'd, and it appearing to the court, that the said Thomas
Bevan as administrator as aforesaid under the Law of this State
of Virginia, had the same right to require a refunding bond
from the said Whitfield as he would have to require one from
the said Drury Drewry as a distributee, was he, to receive his proport-
tion in person, decreed that the said Henry Whitfield should execute
such a bond, Now therefore if the said Henry Whitfield his heirs,
executors, and administrators, shall well and truly pay, or refund,
to the said Thomas Bevan his heirs, executors and administrators
the ~~aforesaid~~ Two hundred & Three dollars & Ninety five Cents
sum or a due proportion thereof, as the proportion that
the said Drury Drewry would have to do, to meet any debt or
debts, dues or demands which may hereafter be recovered against
the said Robert Drewry dec'd Estate as he shall be legally required
then the said obligation to be void or else to remain in full force
and virtue

Witnes
Nath. Young

Henry Whitfield Seal
Saml. Whitfield Seal

Whitfield &c

to Bond

Drury Drury

Know all men by these presents that we Henry Whitfield and
Samuel Whitfield are held and firmly bound to Drewry Drewer
in the just and full sum of Two hundred & Seven Dollars & Ninety Cents
to the true payment whereof to be made to the said Drewry Drewer
his heirs, executors, & administrators, we hereby bind ourselves our and
each of us, our & each of our heirs, executors & administrators Jointly
and severally firmly by these presents, Sealed with our seals and dated
this 31st. day of July ——— 1820

The Condition of the above obligation is such that whereas in
a certain Suit in chancery instituted in the county court of Halifax
by the above named Henry Whitfield plaintiff against Drewry
Drewer an absent debtor and Thomas Bevan administrator
de bonis non of Robert Drewer ——— and Judgment was had & given
held for the said county, the third day of July 1820 granted to the said
Henry Whitfield against the said defendants ——— for One
hundred & three dollars & Ninety five Cents including Interest
& Costs to this day ——— ——— ———

With a condition that the said Henry Whitfield should give bond
and security to the said Drewry Drewer as is directed by Law in such
cases made & provided; Now therefore if the said Henry Whitfield
his heirs executors and administrators shall well and truly perform
the future orders or decrees which may be made or entered in favor
of the said Drewry Drewer his heirs Executors or administrators for
restoring the aforesaid amount according to law, then the above
obligation to be Void or else to remain in full force and Virtue.

Witnp
Nath. Young

Henry Whitfield (Seal)
Sand Whitfield (Seal)

This day personally appeared before me Thomas G. Broughton one of the Editors of the Norfolk and Portsmouth Herald who made Oath that the annexed Order was inserted in that newspaper and published therein for two months successively

Given under my hand at Norfolk this 11th day of July 1818

J. Taylor

At a Court held for Isle-of-Wight County the 6th day of June 1814,

Henry Whitfield Complainant,
against
Drewry Driver, Thos Gray, and Thomas Bevan Defendants,

In Chancery.

THE Defendant *Drewry Driver*, not having entered his appearance, and given security for performing the decree in this case, according to the Act of Assembly, and the Rules of this Court, and it appearing to the satisfaction of the Court that he is not an inhabitant of this State—On the motion of the Complainant, by his Council, *It is Ordered*, That unless the said Defendant appear here on the first day of September Court next, and answer the complainant's bill, the same shall be taken as confessed as to him, and that, a copy of this order be forthwith inserted in one of the Newspapers published in the Borough of Norfolk, for two months successively, and posted at the front door of the court-house of said county.

A copy. *Teste,*

DAVID DICK D. C.

At a Court held for Isle-of-
County, the 6th day of June, 181

Henry Whitfield, Complainant,
against
Drewry Driver, Thos Gray, and Thomas Bevan, Defendants,
In Chancery.

THE Defendant *Drewry Driver*, not having entered his appearance, and given security for performing the decree in this case, according to the Act of Assembly, and the Rules of this Court, and it appearing to the satisfaction of the Court that he is not an inhabitant of this State—On the motion of the Complainant, by his Counsel, *It is Ordered*, That unless the said Defendant appear here on the first day of September Court next, and answer the complainant's bill, the same shall be taken as confessed as to him; and that a copy of this order be forthwith inserted in one of the Newspapers published in the Borough of Norfolk, for two months successively, and posted at the front door of the court-house of said county.

A copy *Teste,*
DAVID DICK, D. C.

All Available Text Successfully Captured

I certify that the above notice was first inserted in the Portsmouth Herald for two months successively in the year 1814

J. L. Sloan

Mr. Allison

Mr. Foster at same time had the notice you allude to published — The Expense of the above is Six Dollars — in haste

Portsmouth Nov 3

J. L. Sloan

Arch. Atkinson, Esq