1823-012 Chancery Causes: John Barker vs William Smalley

Isle of Wight County

other SURNames: Tynes

To the worshipful Court of Isle of Wight in Chancery sitting, Humbly complaining, Sheweth to the Court your orator John Barber. That a certain William Smelley late of the said County, left this County about the day of November 1807 - and has not since returned, and, from the most authentic accounts and information which can be obtained, the said Smelley has settled in the Mississippy territory or some section of country contiguous thereto, and, that there is no probability of his ever returning to Virginia; he being considerably involved in debt, and has been long since proceeded against as an absent debtor. — Your Orator further states that, at the time of his departure the said Smelley was indebted to your Orator by a writing obligatory, in the sum of Seventeen hundred dollars, and a further sum on account — That, in consequence of Smelleys absenting himself, and becoming, in the eyes of the law, an absent debtor; your Orator sued out a foreign attachment - On which he obtained a decree of this honourable Court, on the second day of January 1809, for Seventeen hundred dollars; but subject to be discharged by the payment of eight hundred and fifty seven dollars and fifty three Cents with interest thereon from the 11th day of november 1807. — That out of the sales of the property attached your Orator received the sum of two hundred and eighteen dollars and twenty Nine Cents, which he has given credit for — Charging at the same time ten dollars for the expence & trouble of keeping the property attached &c. Your Orator further presents, that he has collected from

the est ate of one Wail, for the said Smilley. twenty one dollars and seventy five Cents - Which he has also Credited, and intend against said Smilley on his account Current. Cutain Charges growing out of Smilleys delinquency and the proceedings had thereon - all of Which will more fully appear by reference to a Statement, in the form of an account Current hereunto annexed - and a Copy of the record of the said attachment - all which are prayed to be taken and Considered as a part of this bill. - It is further represented that Smilley has no property, real or personal in Virginia Which is known of to your Complainant, except a small plantation and some wood land attached thereto and that he has no property your Orator has no prospect Whatever of of obtaining the amount due to him from said Smilley, unless it is by subjecting the said plantation and land to the payment thereof - That the said land and plantation has been & is now subjected to the payment of a debt due from the said Smilley to one Henry Tynes, Who, by virtue of a decree of this honourable Court, has enjoyed the profits thereof for several years past, a Copy of Which decree is also hereunto annexed and referred to as a part of this bill - That the debt due to Tynes as aforesaid, is nearly discharged, Which when fully so, will leave the said land & its annual profits subject to the payment of your Orator. In tender Consideration Whereof, and for asmuch as your Complainant is only and properly relievable in a Court of equity having jurisdiction Which this Court has, - he prays your worships will decree the said plantation and land to be rented out by - fit and proper persons to be named and appointed as Commissioners by the Court for that purpose, either annually, or for a term of years, as the Court may judge most Conducive to justice, for the best rent they can obtain taking bonds with approved security for the annual rent payable annually and assign the said bonds to your Orator, until the debt due to Tynes is discharged, and that your Orator further prays that an Order of publication may be granted - and that your worships will make any Other further Order or decree in the premises - as shall more effectually relieve and secure your Complainant - in his behalf. and he as in duty bound will ever pray &c.

P. P.

Barker
vs
Smelley
Bill

Jany 1811 bill filed
& Order for publication

June 1823
Term 6

1807	Mr. William Smelley To John Barber ..... Dr.			Cr.
Nov. 12	To Cash paid Robert Dashiell after your departure		275. 00	
	To error in the account for which you gave bond & J. Powell's memorandum on the acct.		5. 00	
	To 1 pair Pistols and belt		14. 00	
	To Cash sent you & Mr. Thos. Powell's receipt		10. 00	
	To interest on bond &c.		36. 07	
1808. Mar.	By Cash & Mr. John Shivers			1000. 00
26	To Cash paid I. Wilkinson for taking up Davis		10. 00	
	To Int. on bond &c.		12. 50	
June 14	By Cash for Davis	304. 25.		
	Deduct commissions	15. 21.		289. 04
	To Cash paid John C. Colwon Davis sale fees		20. 00	
	To Cash paid for a blanket for Davis & J. C. Colwon		2. 00	
	To Interest on bond &c.		7. 34	
	By Cash for a Still sold	100. 00		
	Commissions	5. 00		95. 00
	To Cash lent the 5th of October omitted & receipt		30. 00	
	To John Monroe's estate Interest on bond & Peden & myself Security		32. 00	
	To Cash paid Bearmer printer, publishing attachment		8. 00	
	To Interest on bond &c.		9. 63	
	To balance put to the credit of bond		892. 47	
	(Carried over)		$1384. 04	$1384. 04

Mr William Smelly on bond To John Barber Dr Cr

To bond. 1700.00

By balance of amount brought over 892.47

1809 July 15 By proceeds of Goods sold under attachment; but this credit is subject to the uncertainty of law. Mr Holladay having also attached them and impleaded me, on which there is a suit depending; on which if he succeed this credit will be void, & I shall have to answer the amount to him 218.29

To expences of keeping said goods 10.00

By a balance rec.d from Neils estate, part of what he owed you, it being all the estate could pay the rest is lost. 21.75

1809 Feby 15 To Interest on balances of bond from 1st Sept.r 1808 to July 15 1809 say on $807.53 38.76

To Interest on ditto from July 15 1809 to Feby 15th 1810 on bal.e thereof say 567.49 19.85

To costs of attachment, Holladays appeal thereon and other proceedings as per Clerks certificate 12.52

Balance due J. Barber 648.72

$1781.23 $1781.23

To balance brought down $648.72

Errors Excepted Joh.a Barber

Feb.y 1810

To amount brought forward $548.72

1810 march. To Cash p.d Blandens, attg at law, Camden, for proceedings against you by attachment 60.00

To Cash paid young Clerk for a ticket 2.98

On this account two Issues 661.80