

1824-027 Chancery Causes: John Gibbs, admr of Ralph Gibbs vs Josiah Gray, executor of Nathaniel
Isle of Wight County Gray

other surnames: DRIVER Tynes
Applewhite, Whitfield, 'Brown'
Howard, Godwin, Applewhaite'

To the honorable court of Isle of Wight, sitting in chancery
humbly complaining sheweth to the court your orator
John Gibbs adm^r de bonis ^{with the will annexed} non of Ralph Gibbs.

That many years ago, the said Ralph
Gibbs intermarried with Polly, the mother of y^r complaint
who was then possessed in her own right of the
following slaves, to wit, Sam, China, Nass, Judah,
Tory, November, Ned and Grace. That the said Ralph
was legally married to the said Polly, lived with
her, until his death and during the whole ^{time} retained
the aforesaid slaves in his possession as his own.
That in the month of May 1791, a certain Jorish Apple-
white intermarried with the said Polly her first
husband (Ralph Gibbs) being then dead; that the
said Jorish Applewhite, contrary to the wishes
of your orator and of Robert Driver the executor
of the said Ralph Gibbs, and contrary to every
principle of Justice retained possession of all the
said slaves from the said 1st of May 1791 till the 1st
May 1794, saying and pretending that the said Polly
had never been legally married to the said Ralph
Gibbs. That in May 1794, the said Jorish Applewhite
died, leaving Nathaniel Gray his executor who under
the like pretence kept the said negroes in his
possession from May 1794 until May 1799. That
the aforesaid Robert Driver discovering the obstinacy
of the said Nathaniel Gray and that the said slaves
could not be gotten without resorting to the law,
instituted a suit in the District court of Suffolk
where the validity of the marriage between the said
Ralph and Polly was fully established, and where
too, he recovered a judgment against the said
Nathaniel Gray for the said negroes, all of which
will more fully appear by an attested copy of
the said judgment hereto annexed and prayed
to be taken as a part of this bill. That in May
1799, the said Nathaniel Gray died leaving the
said Jorish Gray his executor, who in spite of the
aforesaid judgment of the district court kept all
the said negroes from the said month of May
1799 until June 1802. That at this latter period
your orator obtained the possession of the said
negroes, some of which were voluntarily delivered
to him by the said Nathaniel ^{Jorish} Gray. W^o orator

^{that} adds, no lines have ever been received either by the said Robert Driver or by himself for the time the said negroes were thus unfairly and illegally detained from them & that the said Nathaniel Gray now refuses to pay the same. He annexes hereto a reasonable account of the said lines which he prays to be taken as a part of this bill -

In tender consideration whereof, and for as much as your orator is without remedy and in order to avoid a circuit of actions at law, he prays the aid of this court -

To the end therefore he prays that the said Josiah Gray in his own right, and as executor of Nathaniel Gray, and as executor of Nathaniel Gray who was executor of Josiah Applegate may be made a defendant hereto, and that he may upon his corporal oath full, true and perfect answer make to all and singular the allegations aforesaid and that as fully as if the same were here repeated and he thereto particularly interrogated; and more especially that he discover the full amount of the estate of Josiah Applegate and Nathaniel Gray - He lastly prays that your Honorships will decree that the said Nathaniel ~~and~~ Josiah Gray out of the estate of Josiah Applegate pay to him the lines of the said negroes from the 1st of May 1794 until the 1st of May 1799 with interest upon each year's lines; and that he pay out of the estate of Nathaniel Gray the full lines of all the said negroes from the 1st of May 1794 until the 1st of May 1799 with interest also upon each year's lines and that he pay out of his own estate the full lines of the said negroes from the 1st of May 1799 until the 1st of June 1802 with interest as above or that your Honorships will make any other order or decree in the premises for their relief as may seem just & equitable

May it please V.
Richard W. Byrd
p. 2

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76

Bill's Admors.

Bill

Gray Gov. D

November 1803

Bill filed

Oct. 1810

Bill filed

May 1816 Scipio's case
The ship into which
about the case of P. M. P. law had
has been committed - as
Mills v. Gray adm. of Gov.
Gray v. P. M. P. by order adm.
of Scipio Gray died

May 1820 cont.

June 1820 depd. filed

Aug. 1821. Mr. Holliman adm. t.
of Scipio Gray made a party. They
went up to the County & James
in the same service & cont.

the admors. Bill.
is
may --- 3

The answer of Josiah Gray Executor of Nathl Gray who was
the executor of Great Appewrights to a bill of Complaints
exhibited against him by John Gibbs in the County Court
of Sale of Wight in Chancery. — This respondent, having
and reserving to himself now and at all times hereafter
all and all manner of right of exception to the Complain-
ants said bill for and on account of the many errors,
mistatements and untruths in the said bill contained
for answer thereto or to so much thereof as he is advised
is necessary for him to answer unto, he answering
saith that Polly mentioned in the first article of
the bill was not the mother of the Complainants but was
in fact his half sister; that Ralph Gibbs married a
widow Whitfield, the mother of the said Polly — and after
wards had by his said wife the Complainant John.
As this respondent is informed and believes, Ralph Gibbs
after the death of his said wife, connected himself in
a very improper and illegal manner with the said Polly,
his wife's daughter and the Complainants half sister, in
as though they had been married lawfully, which he
the said Ralph — it is said, pretended to be the case, lived
and cohabited together untill his death. — It was in this
way that said Ralph ^{took} possessed the slaves and other property
of the said Polly, as the Complainant saith he did,
during his life; but this respondent cannot say how
many slaves the said Polly had in her name, ages
or qualities, he is however advised that the said Ralph never
did & never could derive any title to the said slaves. —

This respondent admits that the said Polly, after the said Ralph's death, is married with a certain Josiah Applewhite by whom she has two children in lawful wedlock, both of whom are now living to wit Thomas, who is a ward of John Gibbs and Peggy who is the ward of Robert Tynes. The said Josiah Applewhite also held the slaves that were the said Polly's, during his natural life, as his own property. —

The Judgment of Suffolk district Court mentioned by the complainant and referred to in his bill, as obtained by Robert Tynes Executor of said Ralph Gibbs against Nathl Gray Executor of Josiah Applewhite, was obtained at the time the said Nathl was over his death bed and unable to attend to the merits or trial of that or any other Cause at law, from which sickness he never recovered but died, as will at this respondent remembers seen the sitting of the same district Court. — This deft cannot tell what points were put in issue in the said Cause, nor whether the validity and legality of the marriage of the said Ralph Gibbs with the said Polly was then and thereby established; if it be really so the Complainant must have evidence of that fact on record at his command; but to this deft it seems highly improbable, because, as he is advised, no legal marriage could have been had between them.

This defendant denies that he voluntarily gave said Gibbs possession of the said Slaves, for he obtained possession of the greatest part of them by underhand and hidden means; tho' it is true

that after he (Gibbs) had by such means obtained possession of the greatest part of them, and become Guardian to Thomas Applewhite this respondent became more indifferent as to the few remaining Slaves, and indeed this respondent would have been willing at any time to have secured the Slaves to the guardian of the said Thomas & Peggy Applewhite, to whom he confided the power of sale, to sell and distribute. — It is admitted that Nathl Gray held the said Slaves of as the executor of said Applewhite and that this defendant held them as his Executor until deprived of them, possession by John Gibbs the Complainant, and by Robert Tynes the guardian of Peggy Applewhite. — This respondent ~~cannot~~ does not consider himself bound to render accounts of the estates of Josiah Applewhite & Nathl Gray, merely because the Complainant chooses to require it by his bill; but if required by the Court so to do he will hold himself in readiness to comply most cheerfully, & produce them. All which matters and things this defendant is ready and willing to see, maintain and prove, as this honourable Court shall order, and humbly prays to be hence relieved, with his reasonable Costs and Charges in the law, and in this behalf most vigorously sustained. —

J. Barber

Isle of Wight, County of Wilt -

This day I read the following affidavit before me, a Justice of the Peace for said Co. that the foregoing bill contains the truth so far as comes within his own knowledge - and so far as it depends on the information derived from others he believes the allegations to be true. - Given under my hand the first day of October 1810.

Thomas Smully
Justice of the Peace

subscribed

October 1st 1810

at
W. S. D. S.
Deputy

The Commonwealth of Virginia to the Sheriff of Isle of Wight County
Greeting; we command you, that you Summon Jacob Gray
in his own right - & as exor.^r of Nathl. Gray - and as exor.^r of Nathl
Gray who was exor.^r Special Apprehende
to appear before the Justices of our County court of ~~Isle of Wight~~ at their
Courthouse of said County, on the first Monday in November next then
if then to answer a bill in Chancery against him - ~~as exhibited by~~
John Libby administrator de bonis non of ~~Patrick~~ ~~Libby~~
dece

and this he shall in no wise omit under the penalty of \$100
and have then ~~then~~ ^{also} this writ. Witness Nathaniel Gray Clerk of
our said court the 10th day of October 1805 of the 30th
year of the Commonwealth

Nathl. Gray

Admiral

Spain Alley

George Street

Rich^d W. Byrd
Att^y for Compt^r

See enclosed

Henry W. Byrd
of Maryland

Messrs Miles W Gray admr. of Jonah Gray dec'd Edmond
Godwin jr admr of Nathaniel Gray dec'd and
Francis M Boykin late Sheriff and committee of the
estate of Jonah Applebale

Take notice that on Satur-
day the 14th day of the present month June between
the hours of ten o'clock in the forenoon and four o'clock
in the afternoon at Wdron Davis Tavern in the Town of
Smithfield in the county of Guilford; I shall pro-
ceed to take the deposition of Betsey Brown & to be
read as evidence in a chancery suit now depending
in the County of Guilford, where you are ^{Defendant} ~~plaintiff~~
and I am ^{Plaintiff} ~~Defendant~~ - at what time and place
you may attend if you think proper

June 10th 1820

John C

John C
John C

Wm of Wright County. to wit This Day Joseph B.

Whitchard came before me a Justice of the Peace for
the said county & made oath that on the 13th day of
the present month he delivered to the within named
Edmond Godwin a true copy of the within notice; and
on the 14th of the same month he delivered another
copy hereof to the within named Miles M. Gray.

Given under my hand & seal the 23^d

Day of June 1820

Barth. Lightfoot Seal

The Commonwealth of Virginia to John H. Pender and
Edmond Peden Gentlemen Jurors Quoting; know ye that we
trusting to your fidelity and prudent circumspection in diligently
examining: Betsey Brown

as well on behalf of John Gibbs a mor: of Ralph Gibbs ~~and~~ deceased.
as on behalf of Miles W. Gray a mor: of Josiah Gray ~~and~~ deceased. Esmond
Godwin Jun^r a mor: of Nathaniel Gray ~~and~~ deceased. and Francis M. Boykin
late Sheriff and committee of the estate of Josiah Applewhite ~~and~~
Defendants

Command you or any two or more of you that at such certain
day and place you shall appoint, you assemble yourselves and
the Witnesses aforesaid before you or any two or more of you, you
care and cause to come and diligently examining on the holy evan-
gelist of Almighty God, and such examination in writing into
our County Court of Isle of Wight distinctly and plainly without
delay you shall send and certify enclosed. returning also to us
this writ. Witness Nathaniel Young clerk of our said Court
at the Court house the 5th day of June 1820 in the 46th year of
the Commonwealth

Nath^l Young
C

The deposition of Betsey Brown, taken on the 24th. day of June in the year 1812, between the hours of ten O'clock in the morning and four O'clock in the evening of the same day, at the tavern of Wilson Davis in the Town of Smithfield, to be read as evidence in a Chancery cause now depending and undetermined in the County Court of Isle of Wight, in which John Gibb executor of Ralph Gibb dec^d. is complainant, and Miles Mr. Gray executor of Josiah Gray dec^d. Edmund Godwin Jr. executor of Nathl. Gray dec^d. and Francis M. Boykin late Sheriff and committee of the estate of Josiah Applewhaite dec^d. are Defts. — A grand jury to a commission awarded, directed to us, as justices of the peace for the county of Isle of Wight, and a notice giving

This deponent being first sworn upon the Holy Evangelists of Almighty God, deposes and saith —

That the negro's who were received by Robert Driven Executor of Ralph Gibb dec^d. of Nathl. Gray Executor of Josiah Applewhaite dec^d. in the district court of Suffolk, and who are named in the judgment of the s^d. district court, are the same negro's, for the hire of whom, the s^d. Comptt. Dr. Gibb executor as aforesaid is now contending for, against the s^d. Defts. in the said chancery court of Isle of Wight County. — And further this deponent saith not. —

Betsey Brown

Isle of Wight County to wit —

This day personally appeared before us justices of the peace for the county aforesaid, the deponent Betsey Brown, ^{who} made oath to the truth of the foregoing deposition — Given under our hands as justices of the peace, this 24th day of June 1820

J. P. P.

Edmund Pedit J. P.

To the Clerk
of Isle of Wight County

James Thompkins
of

His deposition will be objected
to

Ile of Wight County August Court 1821.

John Gibbs admor: de bonis non of Ralph Gibbs decd

compt

against

In Chancery

Miles W. Gray admor: de bonis non with the will annexed of
Josiah Gray decd. Edmund Godwin admor: of Nathaniel

Gray decd & Thomas Applewhite admor: of Josiah Applewhite decd. Deft.

It appearing to the court that the Defendant Miles W. Gray has departed
this life, on the motion of William Holleman admor: de bonis non with the will
annexed of Josiah Gray decd. he is made one of the defendants in this cause, and by
consent of the parties and with the assent of the court, all matters in difference
between them in this ^{are submitted} suit to the final determination of Thomas Smalley and
James Chalmers and their award, or the award of such persons as they shall
choose for an umpire thereupon is to be made the judgment of the court,
and the same is ordered accordingly.

A Copy Teste Nathl Young Esq.

Gibbs admor:

vs

Grays admor:

Order of

reference

By virtue of a Writ Issued from the District Court
in Suffolk in the State of Virginia bearing date the 25
day of October 1797 Directed to us James Moore and
Isaac Carter two Justices for the County of Hartford and
State of North Carolina requiring us to Cause Clarissa
Howard to appear before us to give evidence on behalf
of Robert Driver Exor. of Ralph Gibbs decd. Plaintiff and
Nathaniel Gray Defendant in a suit depending
in the aforesaid Court &

October the 31. 1797

This day Clarissa Howard aged about
twenty nine or thirty years old being first sworn on the holy
Evangelist of almighty God Deposeth and saith that she
saw Ralph Gibbs and Polly Whitfield of the Isle White
County and State of Virginia leaded up before Shadrack
Rutland Justice of the peace for the aforesaid
County and State and that they was married
according to law &

James Moore }
Isaac Carter } 5

Clarissa ^{her} Howard
mark

Attest Testes

John C Littlepage

At a District Court held at Suffolk May the 18. th 1799
Robert Driver acting exor of Ralph Gibbs - pte }
Against Nathaniel Gray Deft } In Detinue

This day came the parties by their Attornies and thereupon the matters of law arising upon the Special Verdict in this cause being argued It seems to the Court here that the law is for the pte - Therefore It is considered by the Court that the pte recover against the Deft the negroes Sam, China, Stan, Judah, Tony, November, Ned, and Isaac in the Declaration mentioned this costs by him about his suit in this behalf expended & the said Deft in mercy &c. And by Consent of the parties a writ of enquiry is awarded the pte to ascertain as well the value of the said Slaves as to assess the Damages for their Detention.

A Copy Teste
John C Littlepage

15 - 15

The reading of this deposition will
be objected to on the trial -

The Commonwealth of Virginia to the Sheriff of Isle of Wight
County greeting: Whereas John Gibb Administrator of Ralph
Gibb decd. instituted a suit in law here against Josiah Gray in his
own right - and against him as executor of Nathaniel Gray decd. and
against him as executor of Nathaniel Gray decd. who was executor
of Josiah Applewhite decd. that the said suit was so far prosecuted
that the complainant filed his bill, and which bill was answered by
the defendants - but before a final decree was had in the cause the
said Josiah Gray departed this life - and Administration of all &
singular his goods, chattels rights and credits has been committed
to Miles W. Gray - Administration of all and singular the goods
chattels rights and credits of the estate of Nathaniel Gray decd. has
been committed to Edmund Godwin Junr - and Francis McBoyle
Gentleman Sheriff of this county was by the court of this county pursuant
to the act of Assembly appointed to take the estate of the said Josiah
Applewhite into his hands and to dispose thereof according to law,
Notwithstanding a final decree still remains to be made in the said
cause as by the said John Gibb Administrator of Ralph Gibb decd.
we are informed and because those things which in our said court
are rightly done we would have put in our return: we command and
you that you make known to the said Miles W. Gray Administrator
of Josiah Gray decd. Edmund Godwin Administrator of
Nathaniel Gray decd. and the said Francis McBoyle into
whose hands the estate of Josiah Applewhite decd. have been
committed, that they be before the Justices of our said County
court at the court house on the first Monday in July next to show
cause if any they can why a final decree shall not be entered
against them in the said cause: and further to do and receive what
our said court shall in that part consider: And have them there this
write. Witness Nathaniel Young Clerk of our said court at the
Residence the 22^d day of May 1810 in the 30th Year of the
Commonwealth

Nathl Young

I acknowledge the service of the within process

Wm Boykin

Executed in Miles M. Gray & Edmund Godwin
Wm Holloman
Jesse M. Boykin

Gibbs name

W. D. S. J. P.

Apprentices name