

1838-011 Chancery Causes - Emily Fulgham vs Jesse Fulgham

Isle of Wight County

Petition of Emily Fulgham

other SURNAMES: Tomlin, Westray,
Battin, Pruden, Turner

Fulgham

in 2
Bill
Fulgham

July 5th at Rules 1837
Bill filed & Count^d

August Rules 1837
Count^d — aff^d

September Rules 1837 exhibits
A. & B. with other papers filed

Oct^r Rules 1837 C. Fulgham's petⁿ
to sue as a poor person filed —

Nov^r Rules 1837 count^d

Dec^r Rules 1837 count^d

January Rules 1838 Dep^t
Fulgham's Ans^r filed by J. Holliman
acc^d

ATP.

be he compelled to answer justly to your
notice. And that you will grant him such
relief as may comfort with equity & shepherds
the coats: until of a man

A. Alford, or p. 5

To the Judge of the Circuit Superior Court of Law
and chancery for the County of Wright County,
I hereby complain - shew to the Court
your complainant Emily Fulgham of
said County - that some years ago, she
and her mother whose name was Hollan
Fulgham and James Fulgham and
one Leff Fulgham her two brothers
being very poor, lived together in the
said County upon a small piece of land
of about 60 a/c, which belonged to
her mother the said Hollan Fulgham,
it was undertaken and agreed among
them all, that they should go to work
and that what their combined services
would produce over and above the
expence of support, should be laid out
for their joint benefit, use and advantage,
that they laboured hard together, and
sold a good deal in the course of
their being together - The principal
sales were made by the said Leff, but
what he got for the sales, made by him,
and what was recd. by the others when
they sold, was put together from time
to time in a chest in the house and
considered to be a joint stock. Being
lacking some money, and believing they
could in due time raise the balance
on a day, they agreed to purchase from
James Tomlin a tract of land situated and
being in the County of Wright County containing by
estimation 50 a/c, and the said Leff Ful-
gham was by consent of them all to
buy the said land for the benefit of
them all say your oratrix, her mother,
the said James & Leff Fulgham - The said

Leffe purchased the said tract of land, but instead of having the deed executed to them all, so as to give them a joint estate therein, he took a deed for the said land from the said James Fulgham & wife to himself only, or with appar by a copy thereof which is hereto annexed, marked A. It is prayed to be taken as part of this bill. Some time after the said deed was given, the said James Fulgham died intestate in said County under the age of 21 years unmarried, and without issue, leaving some oratrix and his mother the said Leffe Fulgham his heir at law entitled to his interest in the property aforesaid. After the death of the said James Fulgham, the said complainant and her mother and the said Leffe, having paid the money for the said land and a negro woman elderly and several other things, they agreed to buy another piece of land from one Levy Westray to be paid for out of their joint funds, and to be purchased and held for the benefit of them all, accordingly the said Leffe as the principal actor, purchased on their behalf, of the said Westray, a tract of land of 87 acres in the said County for the sum of \$330 as appar by the deed, but instead of having the deed made to them all jointly and for their joint benefit, the deed was made to the said Leffe Fulgham only, or with appar by a copy of the said deed which is hereto annexed, marked B. It is prayed to be taken as part of this bill - and your oratrix states, declares that it was, not entire shortly before the death

of the said Hollam, the mother, that it was found out by you oratrix & her the said Hollam, that the two deeds had been so made as to convey the legal title to the said Leffe to the exclusion of the other - and when it was ascertained and complaint made to the said James that he had done them injustice, he declared that he did not intend to claim more than his proportion, and that he would not wrong your complainant out of one cent after his mother's death. After the purchase of the said two pieces of land, your oratrix worked hard, or she had some labor, weeding corn and doing other work within the crops upon the said lands as well as land cultivated upon rent, and expected to reap, at the death of their mother, an equal share with the said Leffe Fulgham. - About the year - the said Hollam Fulgham departed this life intestate, leaving her heirs at law, the said oratrix and the said Leffe Fulgham - your oratrix charges that when working together, they by industry, endeavor to get together a good deal of property for herself or poor as they could, and seeing the death of their mother, the said Leffe has taken possession of the land belonging to their mother at her death, rented it out and appropriated the same to his own use - has sold and taken to his own use, ^{namely} all that was then at the death of the old lady, and all that was at the other places, and he has refused to permit your oratrix to participate either in the chattel or personal property, and claims the whole as his own, except

the plantation upon which the old lady
lived and which was, undoubtedly
her own estate - and the rents of it
is appropriated to her own use. And
you or other charges that the said lady and
herself are the only heirs at law of the said
Holland their mother, who died intestate, &
that her interest in the two tracts of land so
as afore said conveyed to the said Jesse Fulham
has descended to the said Jesse - and himself
and that the lands conveyed to him by
Lemmy, Myrtay and James Tomlin as well as
that which belonged to their mother at her
death ought to be divided equally
between them the said Jesse and you or other,
but the said Jesse intends to defraud you
complainant out of her just right, never offers
to allow her any part of said real estate,
and claims the whole as belonging to him
except that part which was their mother's,
and that he holds without giving her one
moiety thereof - all which is contrary
to equity - he tends consideration whereby
more or much or less without seeming
in the premises, except in this Court, she
prays, that the said Jesse Fulham be made
a defendant hereto and that he be compelled
upon his corporal oath, full, true, and
direct answer to make to this Plea, that
he set forth and give a true account
of the profits of their joint labour & trading,
that he say whether it was not out of the
joint funds of you or other, mother & other
brother and himself, that he purchased
the lands of Myrtay and Tomlin? Did
they not contribute towards paying for the
said lands and is it not true that he
was to buy it for the benefit of them all?
and that he come to a division with you
or other of the said lands so as afore said
purchased from Tomlin Myrtay, and that

Tulgham
in 2 petition
Tulgham

to be filed in 1st
of Emily Tulgham
in 2nd Tulgham
Sup. & ch

Oct. Rules 1837
peto. filed

To the Judge of the Circuit Superior Court of
Law and Chancery for the County of Shelby
Mississippi - The petition of Emily Fulgham
of the County of said respect sheweth
that she has instituted in the said Court
a suit in Equity to recover from her
brother Leff Fulgham property to which
she is entitled in her opinion, to enforce
the performance of an agreement between
them - that she is destitute of the means
of paying the expenses attendant upon
a suit, and she prays that she may be
allowed to prosecute her suit in the
form of a poor person, ~~without being~~
~~subject to~~ and that you be so
kind as to make an order allowing her the
necessary process, nothing paying for the
same and as in duty bound she
will pray &c -

Teste
J. H. Purdie

Signed
Emily Fulgham
mark

Shelby County to wit: This day came
before the subscriber, Emily Fulgham, who
made oath that the foregoing statement
is substantially true. Given under my
hand and as a justice for said County this
27th of August 1837 -

J. H. Purdie - (Sp)

Wesley county to wit

This day Jesse Fulgham
personally appeared before me a justice
of the peace of the county aforesaid and made
oath that the foregoing answer and the
matter therein stated and contained
are correct and true. Given under
my hand this 14th day of ~~the~~ ^{July} ~~the~~ ¹⁸³⁸ eight
two hundred & thirty ~~eight~~ ^{eight}

David Roberts J.P.

Jesse Fulgham

answer to

Emily Fulgham - Bill

W. Land. 1838 files

otherwise improved the poor spot of land
on which they lived so as to make
provisions for the use of the family; things
went on in this way until after
your respondent arrived to the age
of twenty one years, when he began
to think it was time to do something
for himself, and from time to time
he received from his ^{own} land earnings
money enough to buy a small piece
of land, which was purchased about
nine years ago and is the land
mentioned in the complaint,
bill and in the deed filed therewith
marked A. your respondent utterly
denies that he ever agreed to buy
the land for the family jointly, and
he denies that the complainant
raised or was entitled to any part
of the money given for the land.
The money was raised from the
rent of his own house, after he
had already laboured for the support
of his aged mother and his now
unthankful and dissipated sister;
By unceasing labour and industry
your respondent afterwards raised
and laid by this money, and about
three years past bought another tract
of land, which is the land alluded
to in the complaint bill and
mentioned in deed marked B filed
therewith. This land like the former tract
was purchased with his own money
in his own name, and for his own
~~benefit~~ benefit, ~~and~~ the complain
ant is entitled to no part thereof
for the money worked for, or was

entitled to any part of the money given for
the land. your respondent in like manner
has bought other property and still holds
the same as his own, but he lays no
exclusive claim to any part of his mother's
estate either real or personal, the com-
plainant has already received one half
of the latter estate of their mother, and
he is entitled to one half of the little
tract of land on which they lived.
your respondent has never refused
to permit the complainant to have and
enjoy her portion of her mother's estate
he claims only one half of it, and has
proposed to her to sell or divide
the ^{60 acres} land, which he has always been
ready and willing to do at any mo-
ment. he denies that there was ever
any agreement to put their money together
to buy land or other property for their
joint benefit, the said land was not
bought by the joint funds of the family
nor for the benefit of all of them, but
with his own money and for his own use,
he denies all fraud in the matter,
~~and~~ all the obligations charging him
therewith, and calls for strict proof thereof.
he claims only the fruits of his own to-
ment industry, after having done all
in the power of a dutiful son to sus-
tain the declining years of his aged
and beloved mother. Having thus
announced he prays leave to be dismis-
sed with his costs in this behalf ex-
pended &c

Yigard
Jesse J. Yigard

The answer of Jesse Hurlglace to a bill
exhibited against him in the circuit
superior court of law and chancery
for the county of Independence by
Emily Hurlglace

This respondent having and
reserving to himself all advantages of
exceptions to the many errors and in-
sufficiencies of the said bill for answer
herein thereto answers and says, that
his father died intestate in the year
1814 and was so poor that no
administration was ever had upon
his estate, he left a small tract
of land containing about 60 acres
which was miserably poor, and a few
articles of clothed property of little value
he left a widow Holland Hurlglace
and three children to wit the respondent
and Jesse, the complainant Emily,
and James Hurlglace who afterwards
died under the age of 21 years; at
the time of his father's death, your
respondent Jesse (who was the oldest
child) was still under age, and
the burden and responsibility of main-
taining the family devolved on him
~~and~~ but for his exertions he never
believes his mother could not
have supported the family and
would in all probability have been
compelled to apply for support and
maintenance from the parish.
As soon as he was able he went
laboriously to work, learned to make
shoes and from the proceeds of his
labour bought and planted out
apple trees, built houses and

Fulgham

vs.

Fulgham

Sp. in Chy.

To July Rules 1837

For p. n. y.

Sup. Court.

Entered 24 June 1839
Chas. W. D. Smith

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of *Isle of Wight* County, GREETING:

WE COMMAND YOU to summon

Jesse Fulgham —

to appear before the Judge of the Circuit Superior Court of Law and Chancery for the County of Isle of Wight,
at the Court House of said County, on the first Monday in *July* — " — next,
being Rule day, to answer a bill in Chancery in the said Court exhibited against *him* by *Emily*
Fulgham —

and if *he* shall fail to answer the Bill within four months thereafter, the Court will take the said Bill
for confessed, and proceed to decree the matter thereof accordingly. And have then there this Writ.—Witness
NATHANIEL YOUNG, Clerk of our said Court at the Court House, the *12th* day *June* —
1837, in the *01st* — year of the Commonwealth.

Nathl. Young
Co

this is to Sustain that I have been acquainted
with Miss Milley Fulgham from a small girl
we lived not more then half a mile apart and
I never know any thing about her being any
thing like being distracted in my life and
I did think that she was striving for a liv-
ing she worked in the house and out dore
and I thought that she was very saving too
for I lived with them one year and she worked
in the Cornfield apple orchard cotton and
potatoes and any where else May 3^d 1837

Newson Turney

41
 31
 21
 101

61
 11

To Archibald
 - Thomson by
 Milley Fulgham

457 1/2 38

201.
 209
 8501
 51
 10201
 2176.75
 515
 5796.5
 1060
 0901
 089

We the undersins do Certify that we have been acquainted with miss Milly Fulgham from her infancy up to the present time and never knew her to be in any state of derangement and do think the report to be a base falsehood, And do Consider that the report was published on account to shut her out of her own right, we further Consider that she has as much right to the estate of her parents as her brother Jesse as the estate has never been divided since the death of parents and believe she has never received any right whatsoever given under our hands this 4th day of May 1837

John Whetray & wife
Mary Batten
Lucas Fulgham
James B Batten
Joseph Pruden

This may certify that I ^{have} been acquainted with Milly
Fulgham from her infancy and never knew or heard
of being ^{any thing else} than a sensible gentle and industrious girl
and ought to her half of her parents estate she was
the cause the estate multiplying as much so as her
brother I fear the reason of my being certain of
the above is that she is my niece and have been
acquainted ~~in~~ with the family from its commencement
and further has been living in my family for for the last
five or six months given under my hand this 15th day
of may 1837

Mary ^{her} Patten
marks

Fulgham

7 1/2 new
Fulgham

Joseph Pruden

John C. Pruden

James Cornlin to ~~James~~ Fulgham
and 8 to 15 years ago

1832
Seymour since the other, say
1833-1834- or 1835 —

Emily Fulgham

Edw. Fulgham

not to ever be heard

Fulgham

This Indenture made this 17th day of July in
the year of Christ eighteen hundred and twenty
eight, Between James Tomlin and Eliza his
wife of the county of Isle of Wight and state
of Virginia of the one part, and Jesse Gulgham
of the said county and state of the other part,
Witnesseth, that, the said James Tomlin and Elizabeth
his wife for and in consideration of the sum
of one hundred and fifty dollars, lawful money
of Virginia to them the said James Tomlin and
Elizabeth his wife in hand paid by the said Jesse
Gulgham, the receipt whereof is hereby acknow-
ledged, by them the said James Tomlin and Elizabeth
his wife, have granted, bargained, sold, aliened,
enfeoffed and confirmed, and by their presents
do grant, bargain, sell, alien, enfeoff and
confirm unto the said Jesse Gulgham his heirs
and assigns forever, one certain tract or parcel
of land situate, lying and being in the county
and state aforesaid, containing by estimation
fifty acres, be the same more or less, and
bounded by the lands of John Herring, Amy Mc-
teay, Willis Johnson decd. and Newsum Sum-
terham and to hold the aforesaid tract or parcel
of land with all and singular the appurten-
ances thereto belonging or in anywise ap-
pertaining unto the said Jesse Gulgham his
heirs and assigns forever, reserving the said tract
of land and appurtenances the present year, 1828,
to and for the only proper use and behoof of him
the said Jesse Gulgham his heirs and assigns forever
and the said James Tomlin and Elizabeth his wife
for themselves their heirs &c. the aforesaid tract
or parcel of land and appurtenances unto the

said Jesse Tidgman his heirs &c the right and
title will warrant and forever defend against
themselves the said James Tomlin and Elizabeth
his wife and against all and every other per-
son or persons whatsoever claiming in the
premises whereof the said James Tomlin and
Elizabeth his wife have hereunto set their
hands and seals the day and year first above
written

signed, sealed & delivered in presence of us) James ^{his} & Tomlin ^{mark}
Jordan Parr

Rena K. Chapman

Elizabeth ^{her} & Tomlin ^{mark}

Hardy Chapman

Isle of Wight County to wit, We James Johnson and
Jordan Parr justices of the peace in the county aforesaid
in the state of Virginia, do hereby certify that Elizabeth
Tomlin wife of James Tomlin parties to the within
and bearing date the 17th day of July 1828. personally
appeared before us in our county aforesaid, and being
examined by us privily and apart from her husband
and having the deed aforesaid fully explained to
her, the said Elizabeth Tomlin acknowledged the same
to be her act and deed, and declared that she had
willingly signed, sealed and delivered the same
and that she wished not to retract it &c Given
under our hands and seals this 17th day of July
1828.

James Johnson

Jordan Parr

Isle of Wight County Clerk's office August 4th 1828. The foregoing
and was acknowledged by J. Tomlin and with the justice
certificates thereto annexed as to the privy examination
of Mrs. Tomlin was admitted to record

Attest
A copy Teste
J. Young & Co. Math. Strong

Whereover a In witness whereof the said Surg^y Westray
has hereunto set his hand and affixed his seal
the day and year first above written. c
Signed, sealed & acknowledged } Surg^y Westray D.C.
in presence of }
Jordan Parr }
Clarence Ballin }
John ^{his} Westray }
mark }

Schofield's county clerk's office May 4th 1833. The foregoing and was acknowledged and admitted
to Record. Litch

Attest George ed.

a copy Litch

Attest J. Young D.C.

Attest

To

Gulgham

copy of deed

exhibit B -

Gulgham

Gulgham

This indenture made this 7th. day of April in the year of Christ eighteen hundred and thirty five, between say
 Mestay of the county of Shropshire and state of
 Virginia of one part, and Jeph Fulgham of said
 county and state of the other part; Witnesseth that
 the said Jeph Mestay for and in consideration of
 the sum of three hundred ^{and thirty} dollars, Lawfull money
 of Virginia to him the said Jeph Mestay in hand
 paid by the said Jeph Fulgham, ~~etc~~ and before the
 making and delivery of these presents the receipt where
 of is truly acknowledged, hath bargained, sold, aliened
 conveyed and confirmed and by these presents do
 grant, bargain, sell, alien, convey and confirm
 unto the said Jeph Fulgham his heirs and assigns
 forever, one certain tract or parcel of land situate,
 lying and being in the county and state aforesaid
 containing by estimation eighty seven acres, be
 the same more or less, and bounded by the lands
 of Jeph Fulgham, Matthew Johnson, Wiley Patton
 John B. Young and John Herring. To have and
 to hold the aforesaid tract or parcel of land with
 all and singular the appurtenances thereto
 belonging or in any wise appertaining unto the
 said Jeph Fulgham his heirs and assigns forever
 to and for their only proper use and behoof - and
 the said Jeph Mestay for himself, his ^{heirs} ~~etc~~ the right
 and title of the aforesaid tract or parcel of land
 and appurtenances unto the said Jeph Fulgham
 his heirs ^{etc} do warrant and forever defend against
 him the said Jeph Mestay his heirs ^{etc} and
 against all and every other persons or persons