

1933-041

Chancery Causes: Birt Jordan vs R.F. Holland

Nansemond Co (Suffolk)

47

VIRGINIA: IN VACATION, IN THE CIRCUIT COURT OF NANSEMOND COUNTY:
March 2nd., 1917.
Birt Jordan

vs.

R. F. Holland, Constable.

On motion of the plaintiff, by counsel, and for good cause shown an injunction is awarded him to restrain R. F. Holland, Constable from selling on March 3rd., 1917, or any other time without the further order of this Court, that certain horse, dark bay in color with one white foot and a short tail, belonging to Birt Jordan, and being the same horse taken by the said R. F. Holland, Constable from the premises of the said Birt Jordan on the 22nd day of February, 1917, ~~and the said R. F. Holland, Constable is hereby required to forthwith deliver the said horse to the said Birt Jordan at his premises in Isle of Wight County, Virginia, from which place he was taken.~~

But the plaintiff is not to have the benefit of this order until he shall enter into a bond with security deemed sufficient by the Clerk of this Court in a penalty of \$50.00 conditioned to pay all ^{such} costs as may be awarded against ^{him} ~~the said Birt Jordan~~, and all such damages as may be incurred in case the injunction shall be dissolved.

This injunction order shall stand dissolved after ninety days from this date unless extended, enlarged or perpetuated by this court. All of which is hereby certified to the Clerk of this Court to be entered in the chancery order book.

James L. McInnere

JUDGE.

Birt Jordan
V. Inquisition
P. F. Holland

Enter March 2, 1917
Jas L. Melmore
Chancery Order
Book No 5-
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CIRCUIT COURT

SECOND MONDAY IN JANUARY, MAY,
JULY, AND OCTOBER

HON. JAMES L. MCLEMORE, JUDGE
GEO. E. BUNTING, CLERK
S. E. EVERETT, COMMONWEALTHS' ATTORNEY
E. E. WAGNER, SHERIFF
C. R. FULGHAM, COUNTY TREASURER
LEE BRITT, COMMISSIONER OF ACCOUNTS

Nansemond County Clerk's Office

SUFFOLK, VA.,

Birk Jordan

²⁵
R. F. Halland, Constable

In Chancery, to First March Rules 1917-

J. L. Beck, p.p.

650 PD

The Commonwealth of Virginia,
Sheriff of the County of Nansemond, Greeting:
TO THE ~~SERGEANT OF THE CITY OF SUFFOLK~~, GREETING:

WE COMMAND YOU, that you summon

R.F.Holland, Constable,

County of Nansemond
to appear at the Clerk's Office of the Circuit Court for the ~~City of Suffolk~~, at the rules to be
held for the said Court on the First Monday in March 1917, to answer
a Bill in Chancery, exhibited against him
in our said Court by Birt Jordan

And have then there this writ. Witness, G.E.Bunting, , Clerk of our said
Court, at the Court House thereof, in the said ~~City~~ County, the 2nd, day of March , 1917 ,
and in the one hundred and ~~thirty~~ forty first year of the Commonwealth.

E.L.Beale,

} p. q.

G.E.Bunting

CLERK.

Executed this 2nd day of march 1917 by delivering a true copy
of the within process to R. H. Holland in person in acceptance

E. E. Wagner Sheriff

Original

CIRCUIT COURT

Birt Jordan
Spa. in Chancery

vs. { Returnable to 1st Monday
in April 1917

R. H. Holland, Constable

Serve on

I hereby accept legal
and sufficient service
this 2 day of march 1917
The within process in connection attached
R. H. Holland
Constable

Birt Jordan

vs.

R. F. Holland, Constable.

Know all men by these presents, that we, Birt Jordan, C. H. Whitley and E. L. Beale are held and firmly bound unto the Commonwealth of Virginia, in the just and full sum of FIFTY DOLLARS, to be paid to the said Commonwealth of Virginia, to which payment we bind ourselves, and our heirs, administrators and executors, and waive the benefit of our Homestead Exemptions. We bind ourselves jointly and severally. Sealed with our seals and dated this 2nd day of March, 1917.

The condition of the above obligation is such, that whereas R. F. Holland, Constable of Nansemond County, Virginia, has levied on a horse belonging to the said Birt Jordan, which horse is exempt from levy and distress on account of the said Birt Jordan being a householder and head of a family and engaged in agriculture as contemplated in section 3651 of the Code of Virginia, and the said Birt Jordan has applied to the Judge of the Circuit Court of Nansemond County, Virginia, for an injunction to restrain the said R. F. Holland, Constable from selling the said horse belonging to the said Birt Jordan, which horse is exempt from levy or distress on account of the aforesaid "poor law"; and the said Birt Jordan desires the sale of his said horse shall be suspended:

Now, therefore, if the aforesaid obligors or either of them shall pay to the Commonwealth of Virginia for the benefit of any and all persons who may be injured by the suing out of the aforesaid injunction, such damages as may be sustained on account of the suing out of the said injunction, then the above bond to be void, otherwise to remain in full force and virtue.

x Birt Jordan (SEAL)

C. H. Whitley (SEAL)

E. L. Beale (SEAL)

VIRGINIA: IN VACATION, IN THE CIRCUIT COURT OF HANSMOND COUNTY:
March 2nd., 1917.

Birt Jordan

vs.

P. F. Holland, Constable.

On motion of the plaintiff, by counsel, and for good cause shown an injunction is awarded him to restrain P. F. Holland, Constable from selling on March 2nd., 1917, or any other time without the further order of this Court, that certain horse, dark bay in color with one white foot and a short tail, belonging to Birt Jordan, and being the same horse taken by the said P. F. Holland, Constable from the premises of the said Birt Jordan on the 22nd day of February, 1917, and the said P. F. Holland, Constable is hereby required to forthwith deliver the said horse to the said Birt Jordan at his premises in Isle of Wight County, Virginia, from which place he was taken.

But the plaintiff is not to have the benefit of this order until he shall enter into a bond with security deemed sufficient by the Clerk of this Court in a penalty of \$50.00 conditioned to pay all costs as may be awarded against him as Birt Jordan, and all such damages as may be incurred in case the injunction shall be dissolved.

This injunction order shall stand dissolved after ninety days from this date unless extended, renewed or perpetuated by this court. All of which is hereby certified to the Clerk of this Court to be entered in the chancery order book.

James L. McLemore,

JUDGE.

Executed this 2nd day of March 1917 by delivering a true
copy of the within injunction to P. F. Holland in person
in acceptance

E. E. Wagner Sheriff

I hereby accept-legal
and sufficient service
This 2nd day of March 1917
P. F. Holland
attested

Original

Birt Jordan

vs

R. F. Holland, Constable.

To the Honorable James L. McLemore, Judge of the Circuit Court of Nansemond County, Virginia:

Your complainant, Birt Jordan, respectfully represents unto the Court the following:

(1) That he is a farmer engaged in the cultivation of the soil, and as such is engaged in agriculture as contemplated in section 3651 of the Code of Virginia, and while so engaged was and is the owner of two horses which are exempt from levy and distress under the said section of the code, commonly known as the "poor debtors exemption", or "poor law", and is a householder and head of a family, and is at this time a resident of Isle of Wight County, Virginia, and was a resident of the said county on the 22 day of February, 1917; and,

(2) That on the 20th day of January, 1917, L. B. Norfleet secured a judgment against your complainant in the sum of \$13.33 with costs; and,

(3) That the ~~said~~ R. F. Holland while acting in his official capacity as Constable of Nansemond County, Virginia, ^{on February 22, 1917} ~~has undertaken~~ ^{dark bay in color with one white foot and a short tail,} to levy on a certain horse, belonging to your complainant for the satisfaction of the aforesaid judgment which was an open account, and has taken the aforesaid horse in his possession, coming after the said horse in Isle of Wight County, Virginia, which is outside of the jurisdiction of the aforesaid Constable, R. F. Holland, ~~and~~ and against the protests of your complainant that the said horse was exempt from levy or distress under the aforesaid law, the said R. F. Holland Constable has taken the said horse in his possession in Nansemond County, Virginia, and advertised the said horse for sale in Holland, Virginia, on the 3rd day of March, 1917, although your complainant has been unable to get a copy of the advertisement.

Your complainant, Birt Jordan charges that the said R. F. Holland Constable, had no authority in law to make a levy on his said horse neither did the said R. F. Holland as a Constable have any authority or jurisdiction to go into Isle of Wight County and take the said horse, and as such was and is a trespasser and has damaged your complainant; that at the time he the said R. F. Holland Constable took the said horse of your complainant, your complainant advised the said Constable that the said horse was exempt from a levy and claimed by your complainant as exempt under the aforesaid section of the Code of Virginia.

In consideration whereof, your complainant prays that the said R. F. Holland, Constable, be made a party defendant to this bill and required to answer the same, ~~and required to answer the same~~, that he be required to deliver possession of the said horse to your complainant at your complainant's residence in Isle of Wight County, Virginia, where he took possession of same, and to pay all costs and damages incurred on account of the unlawful acts of the aforesaid R. F. Holland, Constable, and that your complainant may have all such other and further and general relief in the premises as the nature of his case may require, or to equity shall seem meet.

And your complainant will ever pray, etc.

Birt Jordan
COMPLAINANT.

E. L. BEALE, P.Q.

State of Virginia, *Supper*
~~County of Southampton~~, to-wit:

Birt Jordan the complainant named in the foregoing bill, being duly sworn, says that the facts and allegations therein contained are true and correct to the best of his knowledge and belief.

Birt Jordan
Complainant.

Taken, sworn to and subscribed before me, *Rebarnett Jr* E. C. Beale a Notary Public of and for the ~~County~~ *State of Virginia* and State aforesaid, in my County aforesaid, this 2nd day of Maych, 1917.

Rebarnett Jr
NOTARY PUBLIC.

My com. Expires July 17-1920

1917 March 2. Field
elm

✓injunction

no decree
answer

E. H. Drake, Jr.

Bait Jordan

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R. P. McDonald, Ensl. Vt.

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