

1797-002

Isle of Wight County

Chancery Causes: Edward Allen, The Elder & ux & al vs Nathaniel Gray, Jct

other SURNames: DRIVER

To the Justices of the Peace of Wight County in Chancery

Sitting

Edward Allen, the elder, & Elyza both his wife, heretofore Elyzabeth Diver, widow of John Diver, deceased, Edward Allen, the younger, Henry John Allen, Nathaniel Allen, William Allen, & Mary Anne Allen, ^{under the age of twenty-one years} Infants, by the said Edward Allen, the elder, their father & next friend, complainants, - shew, - That in the year of Christ 1779, the said John Diver died intestate leaving a widow as aforesaid mentioned, who has since intermarried with the Com^{pl} Edw^d Allen, the elder, & two children by different wives, - a son John Reade Diver, & a daughter Lydia Diver, since become the wife of Nathaniel Gray, of the said County - That the said John Diver was possessed at his death of many slaves & a large personal estate, out of which all the debts due from him; so far as they have been made known, have been paid off & provided for by Abraham Cowper, to whom the administration of the said estate was originally committed, & who has since died, ^{by} the said Edward Allen, the elder, who has obtained the administration of so much thereof as remained unadministered by the said Cowper - That after paying & providing for the debts there remained of the estate aforesaid fifteen slaves, - Tom, Rosa, Hannah, Reuben, ^{Charles} ~~Henry~~ Mary, George, Charlotte, Charlotte, the younger, Sylvia, Dick, Sarah, Sarah, the younger, Miller, & Jacob, - subject to a division & allotment as follows, - $\frac{1}{3}$ thereof to the Intestate's widow for her natural life as her dower, & the other $\frac{2}{3}$, together with the reversion of the said $\frac{1}{3}$ dependent on the termination of the widow's dower, to the Intestate's heir John Reade Diver, who thereupon became liable to the payment of $\frac{1}{2}$ of the value of the said $\frac{2}{3}$ to the said Lydia - That the said John Reade Diver has since in August in the Year 1793 died under the age of 21 years & intestate, without having obtained an allotment of his part of these slaves, or having in

any manner elected whether he would take them, & pay a moiety of their value to the said Lydia, or suffer an equal division of the said $\frac{2}{3}$ of them to be made between himself & the said Lydia — That the said John Reads Druver at his decease left only the following persons, who can claim any part of his slaves & personal estates, — a Mother, the Complt Elizabeth, four brothers & a sister of the half-blood on the part of the Mother, to wit, the Complt, Edward, the younger, Henry John, Williams, Nathaniel, & Mary Anne, — & one sister of the half-blood on the part of the father, the said Lydia, — who, under the act of the General assembly intitled 'An act concerning Wills, the distribution of Intestates estates, & the duty of Executors & Administrators' passed at a Session thereof in October in the Year 1785, are, as the Complt are advised, intitled to the slaves of the said John Reads Druver in the following proportions, — to wit, the Mother to $\frac{2}{8}$, & his brothers & sisters, being all of the half blood, to $\frac{1}{8}$ each — That no administration of the estate of the said John Reads Druver has been committed, or sued for, as there are no debts to pay or received —

And the Complainants farther shew, — That the said John Druver also died seized in fee-simple of a parcel of land lying within the County aforesaid, & containing about _____ acres, which the Complt are also advised did thereupon descend in fee-simple to his son their John ^{Reads} Druver, subject ~~to~~ to the Complt Elizabeth's right of dower therein, which she has not yet obtained an assignment of; — & that in consequence of the death of the said John Reads Druver at the period of time aforesaid, seized in fee-simple of the said land by descent from his father, & of his having died under the age of 21 years, without issue, a wife, or a father, the said ^{land} had since descended in parcenary, in equal shares, to his aforesaid brothers & sisters, still subject however to the said Elizabeth's right of

dower as aforesaid —

And finally that the Complt, being thus intitled with the said Lydia to such shares & parts of the estates of the said John Druver, & John Reads Druver, as they have herein above mentioned, have often called on the said Lydia & her said husband Nathaniel in order to obtain the same by a just & fair division of those estates ~~agreed~~ among the persons interested therein as aforesaid agreeably to their respective rights — Yet the said Nathaniel & Lydia his wife, under various vexatious pretences, have hitherto refused, & still refuse to consent to such a division — In consideration whereof, & for as much as the Complt are only & properly relievable in a Court of Chancery, — and to the end that the said Nathaniel & Lydia his wife may upon their oaths respectively, true & perfect answer make to all & each of the allegations & matters herein set forth, as fully & particularly as if they were ~~in~~ ⁱⁿ interrogatories; — That the Complt may, by a decree of this Court, obtain their respective rights & parts of the said slaves by a just division & allotment thereof agreeably thereto in such way & by such means as shall seem most proper & advantageous to the parties interested in the said slaves; — That the dower of the Complt Elizabeth in the said land may be duly set apart & assigned unto her under a decree of this Court; — and that the residue of the said land, together with the reversion dependant on the termination of the dower estate of the said Elizabeth, ~~which~~ ^{land} the respective shares of which ~~to be~~ the said brothers & sisters of the said John Reads Druver are of less value than £30 of Virginian money each, may be equally divided among his said brothers & sisters ~~as best~~ ^{in kind} & duly allotted unto them, or be sold by commissioners for that purpose, ^{to be} appointed by the

Court, & an equal division of the money arising from the sale thereof be made among them, - as in the opinion of this Court may be most conducive to the general interest of the parties concerned; - and that the Com-
p'ts may have such other & further relief & redress in the premises as to this Court shall appear meet and agreeably to the rules of Chancery - May it please
So. —

Attest M. Robinson
for the Compt's.

Memo.

persons to be appointed
as commissioners -
James Morrison,
Josiah Cutchin,
Wiles Wills, &
Josiah Gray. -

~~James Morrison~~
~~Josiah Cutchin~~
~~Wiles Wills~~
~~Josiah Gray~~

Allen & al.

v. } Bill

Gray & use.

Subp. ad. to

Aug. '95.

November 1795. ^{Induly}
Bill & ans. filed & ^{pleaded}
~~ans.~~ ^{the}

March 1797
rep. ret. & ^{pleaded} accordingly
Ct. equally bene &c.

The answer of Nathaniel Gray and Lydia his wife, ~~heretofore under the name of Lydia Diver~~, daughter of John Diver, to the bill of Complaint exhibited against them in this Court by Edward Allen the elder, & Elizabeth his wife, heretofore under the name of Elizabeth Diver, widow of John Diver dec^d. Edward Allen the younger, Henry John Allen, Nathaniel Allen, & Mary Anne Allen, infants, by the said Edward Allen, the elder, their father & next friend, Compts —

The Defendants admit that the Complainants in their said bill are correct as to facts, & may be equal by so in relation to the Law arising thereon, — but there being some doubt with the Defendants as to the latter, & ~~the~~ ^{the} Complainants being infants, the Def^s have for those reasons heretofore refused to come into a general partition & distribution of the estates & property mentioned in the bill of the Complainants, unless under the sanction of this or some other Court having jurisdiction thereof. — The Defendants are however willing & desirous that a general partition & distribution of the estates & property afore-mentioned should now be made by this Court in the manner prescribed by the Law, & by such means & in such way as may appear most proper & advantageous to the parties concerned;

I with this view the Defts submit themselves
to this Court & to such order and decree respecting
the estate & property aforesaid as may by this Court
be deemed legal and meet

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[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]

Gray Deft.
vs
Deft.
Allen & wife. Deft.

The Commonwealth of Virginia, to the Sheriff of Isle of Wight County
greeting we command you to summon Nathaniel Gray and Lydia
his wife to appear before the Justices of our said County at the Court
house on the first Monday in August next to answer a bill in Chancery
exhibited against them by Edward Allen, the elder, & Eley his wife, Edward
Allen, the younger, Henry ^{Jobson} Allen, Nathaniel Allen, & Mary Anne Allen, —
infants, by the said Edward Allen, the elder, their father & great friend
And this they shall in no wise omit under the penalty of £100 —
each, And have then there this writ Witness James Young Clerk of our
said Court at the Court house the 20th. day of June 1793. in the 19th
year of the Commonwealth

James Young
Clerk

Allen M^{rs}. 100.

To.

Gray M^{rs}.

Spa. in Chy.

Executed —

D. Driver S^g

Edward Allen the elder & Elizabeth his wife heretofore Elizabeth Driver
widow of John Driver decd. Edward Allen the younger, Henry John Allen,
Nathaniel Allen, William Allen, & Mary-Ann Allen, infants under
the age of twenty one years. by the said Edward Allen the elder their
father and next friends

Comptts.

against

Nathaniel Gray and Lydia his wife

Defts.

In Chancery

By consent of the parties by their Attornies, the bill and Answer in this Cause, was this day
filed, and the cause set for hearing thereon, And the same being this day accordingly heard upon the
bill and Answer, and the Arguments of Council, the Court on consideration, doth order & Decree,
that of the three mentioned in the bill of the Complainants as the residue wherof John Driver decd
possessed, after the payment of his debts, one third, having reference to the value of the said Slaves,
be set apart & assigned unto the Complainants Edward Allen the elder, & Elizabeth his wife to hold for
his only, that the half of the remaining two thirds thereof, having reference as aforesaid, be set apart &
delivered to the Defendants, and that the other half of the said two thirds & the reversionary Interest
in the one third thing to the said Edward & Elizabeth his wife, to each of which the said John Driver
was intitled, be divided into eight parts, taking for a rule the value of the Slaves, wherof that
two parts be assigned and delivered to the Complainants Edward Allen the elder & Elizabeth his wife,
two parts to the Defendants, and one part to each of the Complainants Edward the younger, Henry
John, Nathaniel, & Mary-Ann, You are to effectuate a division & distribution of the
said Slaves as afore decided, - And by consent of the parties, the Court doth further Order & Decree
that the said land be divided into the parts of James Morrison, Josiah Cutcher, Miles Wills, and
David Gray, who are to divide the same in the proportions above
expressed by such means and ways as they shall see most proper & convenient, and to report
thereof to each of the parties their respective parts, And of their proceedings make report to the
Court, and it is further Ordered & Decreed, that one third of the said land, wherof the said John
Driver seized, be set apart by meets and bounds, and assigned unto the Complainant Elizabeth
to hold during her life as Dowry, and that the other two thirds of the said land and the reversion
dependent on the termination of the said Dowry estate be equally divided among the Comptts
Edward the younger, Henry John, Nathaniel, William, & Mary Anne, & the Defendant Lydia (by
Sale thereof) upon a Credit of twelve Months taking bonds with good Security payable to each
of the parties for their respective proportions - And that the said Assignment of Dowry and the
partition & Division of the said land be made & effectuated by the said James Morrison,
Josiah Cutcher, Miles Wills, & David Gray, or any three of them, and that they make report
thereof to the Court in order to a final Decree

Attest
J. Young Clk.

Under the Orders contained ⁱⁿ the annexed interlocutory Decree of the Court of Isle of Wight County, and to us addressed, we have acted as follows —

1. As to the 15 slaves of John Diver, to wit, Tom, Rose, Hannah, Reuben, Charles, Davy, George, Charlotte sen. Charlotte jun. Silvia, Dick, Sarah sen. Sarah jun. Milly, and Jacob, — we have set apart and delivered 5, to wit, Tom, Rose, Hannah, Reuben, & Charles (estimated at £140.) to Edward Allen sen. His wife Elizabeth, to hold during the life of the said Elizabeth, — & in order to make this allotment of slaves equal in value to $\frac{1}{3}$ of the 15 slaves, we direct that £4.1.8 be paid to the said Edward & his wife to hold as aforesaid. — We have set apart and delivered 5 others, to wit, Dick, Milly, Jacob, Sarah sen. and Sarah jun. (valued at £145.5.) to Nathaniel Gray and Lydia his wife to hold for ever, — & we direct that they pay £1.3.4 to Edw.^d Allen sen. His wife in part of the £4.1.8 to which they are intitled as aforesaid. — And the remaining 5 slaves, to wit, Davy, George, Charlotte sen. Charlotte jun. and Silvia (valued at £147.) we have set apart as the share of John Reader Diver, lately deceased, — & direct that £2.18.4 be paid thereout to Edw.^d Allen & his wife for the balance of the £4.1.8.

2. As to the reversionary interest of the 5 slaves and the £4.1.8 assigned to Edw.^d Allen sen. His wife Elizabeth as mentioned in N. 1. we think proper to submit the following statement of our proceedings —

Money paid to Edw. Allen sen. His wife	£ 4. 1. 8
to hold for life	
Slaves assigned to D. ^o estimated as follows	
— Tom £49.18.11 $\frac{1}{2}$ — Hannah & Reuben £55.	}
— Rose £25.1.— $\frac{1}{2}$ and Charles £10.—	
	140.—
Divided into 8 shares	8 / 144. 1. 8
	Each share .. 18. — . 2 $\frac{1}{2}$

Governing ourselves by this statement we have made the following disposition of this property —

To Edw. ^d Allen sen. His wife — the money	£ 4. 1. 8
To D. ^o the slave Tom	49. 18. 11 $\frac{1}{2}$
	54. — . 7 $\frac{1}{2}$
Retaining the two shares decreed to them	30. — . 5
and paying to Nath. ^d Allen for his share	18. — . 2 $\frac{1}{2}$

To William Allen - the slaves Hannah & Reuben £58. -- --
 retaining the shares decreed to him 18. -- 2 1/2
 paying to Edw^d. Allen jun. his share 35. 19. 9 1/2
 18. -- 2 1/2
 18. 19. 7
 to Henry John Allen in part of his share 8. -- 2 1/2
 and to Nath. Gray & his wife in } 10. 19. 4 1/2
 part of their share }

To Mary Anna Allen - the slave Rosa 28. 1. -- 1/2
 retaining the share decreed to her 18. -- 2 1/2
 and paying to Nath. Allen for the balance } 7. -- 10
 of his share }

And to Henry John Allen - the slave } 10. -- --
 Charles (for the balance of his share) }

These assignments, appropriations and payments are not to take effect ab-
 solutely (but as it were in law) until the termination of the life estate
 holder in this property by Edward Allen sen. his wife

sen. Charlotte jun. & children, and in part as the share of John Read
 Driver deceased, - we submit the following statement -

Amount of these slaves taken in money . £147. -- --
 Charged upon them for Edw^d. Allen sen. & } 2. 18. 4
 his wife as stated in N. 1. }
 Divided into 8 shares ----- 8 / 144. 1. 8
 Each share 18. -- 2 1/2

Taking this statement as guide we have made the following
 disposition of this property -

We have assigned to Henry John Allen } £27. -- --
 the slave George at the price of }
 retaining his share in this property 18. -- 2 1/2
 8. 19. 9 1/2
 paying to Edw^d. Allen sen. his wife the £2.
 18. 4 directed to be paid to them in N. 1. & } 3. 18. 9
 the further sum of £1. -- 5 in part of their
 two shares of these slaves }
 - & to Edw^d. Allen jun. in part of his } 5. 1. -- 1/2
 share }

We have assigned to Edw^d. Allen sen. his
 wife, the slave Davy at the price of } £30. -- 5
 £35, which sum, with the £1. -- 5 to be }
 paid them by Henry J. Allen, makes up their }
 two shares }

We has assigned to Nathaniel Allen, the } £40. -- --
 slave Charlotte sen. valued at }
 retaining his share 18. -- 2 1/2
 21. 19. 9 1/2

paying to Edw^d. Allen jun. for the balance } 12. 19. 2
 of his share }
 & to William Allen in part of his share 9. -- 7 1/2

To Mary Anna Allen we have assigned, the } £25. -- --
 slave Selvia estimated at }
 retaining her share 18. -- 2 1/2
 & paying to W^m. Allen towards his share 5. 19. 9 1/2

And to Nathaniel Allen, his wife & child
 we have assigned, the slave Charlotte jun. } £10. -- --
 at the price of }
 retaining their share 18. -- 2 1/2
 & paying to W^m. Allen for the bal^{ce} of his share 1. 19. 9 1/2

And 4. As to the land, we have set apart and assigned unto the
 Complainant Elizabeth Allen 1/3 thereof as directed in the decree:
 - I have sold at auction, after reasonable notice, the residuary 2/3
 thereof, and the reversionary interest dependant on the dower estate
 of the Complainant Elizabeth Allen, unto Joseph Goodwin, of Isle
 of Wight County, in fee - simple for £270. 17. 9 1/2 of current
 money, payable at the expiration of twelve months from the
 day of sale, - I have taken bonds, with good security, for
 the payment thereof to the several parties intitled agreeable to
 their respective proportions, - which bonds are ~~with~~
 sent to the Court house given up to the persons intitled

thereto, to wit, Nathl. Gray for himself & his wife, & Edward Allen as Guardian of his infant children, as their acquitances, herewith presented, will shew.

We omit to mention the notes & bounds of the land assigned to the Complainant Elizabeth, deeming it unnecessary as she and her husband Edward Allen concurred with us in selling at auction this part of the land, so far as their rights extended, unto Joseph Goodwin, who purchased the residuary parts thereof, & have not only executed to him a general conveyance of their interest therein, but have also agreed to sanction our report in this respect with their consent and acknowledgment in this Court.

Given under our hands this 28th day of December 1795.

James Morrison

of
Gray's wife

Miles Hill

Josiah Gray

Allen speaks
Gray keeps all in the case of
Allen done. sale.

Gray done.

Rec'd Sept. 5. 1796 of James Morrison Josiah Gray Miles
Mills and Josiah Cutchin forty six pounds three Shillings
is being in full for my Proportion of the Land of John
P. Dwyer dec'd sold by Virtue of a Decree of the Court
by the said Comrs - - -

Witness
Thos Gibbs
Will Boyce

Nathaniel Gray

£ 40. 3
230. 15.

270. 18

Nath Gray

Recd.

Jan^y 1797. Rec^d. of James Morrison, Josiah Greig, Miles Wells
& Josiah Cutching, Gen^l. The Sum of two Hundred & thirty Pounds
fifteen Shillings, being the full proportion of each of my Children
to wit. Edward, Henry John, William, Mary Ann & Nathaniel Allen's
in the Sale of the Plantation lately belonging to the Estate
of Cap^t. Th^o. Driver of Isle Wight County & sold by the above
mentioned Gen^l. Commissioners. agreeable to a decree of the
Court of Isle Wight County. —

Witness.

Joseph Goodwin,
Edward Driver

Edw Allen, Guardian of
the above mention'd Children

Ch^m Allens

Rect.

see page
John, Wm.
ms. 11