

1820-030

Chancery Cause: Hezekiah Holliday's admr vs William Jordan's admr

Isle of Wight County

other surnames: Bidgood,
Godwin, Gibbs, Channell,
Darby, Williams, Carrell,
Davis, Parker, Chapman,
Bunkley, Channell, King,
Holladay, Darbey, Brown

Holliday

to 3 Bivinchy

Jordan's adv.

William Jordan deceased be compelled to pay to your complainant
the said sum of money which was collected by his intestate
in his lifetime for the benefit of him, and that your honors
will decree that the said Jordan shall besides paying the
same deliver up to the your complainant the Bills &
Obligations which were not collected but remained among
the papers of the said Jordan at his death, and
which were payable to the said Holliday ad. of Hechick
or to himself individually —
and that you will prevent the said ad. from paying
away to any person other than himself (there except)
those bonds alluded to above, and note any other or
further order in the premises for this relief which may
see to comport with justice & equity. That your honors
will grant the Court's writ of *scire fac.* — and as is duty
bound he will ever pray &c. —

Attest 10-5

Sworn to before me by Mills Holliday
this 20 day of September 1816. —

James Moorhead Jr.

a certain Thos Jordan who has administered on all the goods, chattels
credits of said William has refused to pay the same, although
often solicited so to do - Your compl^t further represents that
after the death of the said ~~William~~ Jordan, he understands, a part of
the said Bills which had not been collected in his lifetime
were found by the said adv. among the papers of the said William
but not assigned or transferred to him in any way other than
a delivery for collection, and that he cannot obtain them
from the said adv. who unjustly detains them from him as
the property of said William Jordan whereas in truth & justice
they remain still belong to him as the adv. of the said William
for the sale of whom goods & chattels they were taken by the adv.
Being in justice and equity entitled to the amt of the Bills
collected by the said Jordan in his lifetime as well as to those
left in the hands by him at his death & now in the possession of
the said Thos Jordan adv. of William, he has been advised to wait
to a Court of Equity where matters of this nature are properly
considered. He therefore prays that the said Thos
Jordan adv. of William be made dependant in this suit
and that he be compelled upon his corporal oath to say
if the allegations in this Bill are not correct & true and
that he further now be compelled to say on his oath what Bills
or obligations (if any) executed to the said ~~William~~ ^{William} ~~William~~ ^{William} your
complainant or adv. of Richard Wolridg or in any other capacity
and not assigned to the said Jordan were found by him among
the papers of the said William; by whom, for what sum &
at what time were they executed, and when payable & to
whom payable - Whether among the papers of his estate he has
not found an account of monies due your compl^t for the
said collection, and whether ~~and~~ he has not just cause to
believe that some Bonds, Bills or obligations found by him among
the papers of his estate actually ~~belong~~ ^{belong} to your
complainant. and that he be compelled to answer the
said allegations and questions herein contained & any other
other matter relative thereto as fully as if the same were
here again repeated to the said adv. ^{now} ~~there~~ ^{any} particularly
interrogated - That he answer the same without equivocation
or mental reservation - Your orator further represents that
the state of his estate is now in his debt or will appear by
an account current recorded in his County Court which is hereto
annexed and prayed to be considered as part of this Bill
and it is therefore now particularly necessary that any thing
due the estate shall be paid & delivered up to him - He
lastly prays that the said Thos Jordan administrator of

To the Honorable Court of the City of New York in Chancery
sitting, humbly complaining, shew unto your honor, your
orator, Mills Holliday ~~adv.~~ adv. of Elizabeth Holliday
That being the administrator of his father Elizabeth Holliday
he, for articles purchased of the sale of his intestate, took the
obligations and notes of many different persons. That
among the rest were the following, to wit, Richard Bidgood
for the sum of £5. 15. 0; Jonathan Godwin for the sum of
£3. 2. 0; John Gibbs and Arthur Chambliss for £11. 14. 0;
George Darby and Arthur Williams for £6. 12. 0; Thomas
Carroll and Davis for £2. 14; Colo. Josiah Parker for £12.
Joseph Chapman for £6. 0. 0. and Trustum Bunkley for £6.
amounting to the sum of £53. 18. - That a certain William
Jordan now deceased being then a constable in said County
of New York and living near the said Holliday gave complete
and compliant power in his for collection the said
bills and obligations for which through negligence and a per-
nicious reliance on the honesty and probity of the said William Jordan
who was also the husband of the sister of the said Mills Holliday
he took from the said William no receipt for the above
named bills and obligations. That of Richard Bidgood,
Jonathan Godwin, John Gibbs & Arthur Chambliss, George Darby and
Arthur Williams, Thomas Carroll and Davis were deposited with
Jordan for collection on the 18th Dec. 1805. - That of Colo. Parker
Joseph Chapman and Trustum Bunkley on 1st Jan'y 1807.
That it is very true that some of the bills or obligations amount-
to a sum above that of which a constable has cognizance,
but he placed them in his hands not with an expectation
that a warrant ~~would~~ would or could avail, but under
a firm belief that they or many of them would be paid
by the obligors on application - for the making of which
he collected which money your orator expected to pay
Jordan ample compensation - believing it better to pay
a man who had much business with the people to collect
the money than to be at the trouble of collecting it himself.
That the said William Jordan ^{in his lifetime} he has been informed collected
a considerable portion of the amounts due on the said
bills, but did not account with him, your orator for
any part thereof except one half of the sum due from Colo.
Josiah Parker, and saw the receipt of the said Mr. Jordan

Holladay's answer

vs

$\frac{2}{3}$ Bill

Jordan's answer

Oct. 1816

Bill filed

Jan'y 1817

Ans. filed

June 1818 Depositions filed

May 1820 dismissed with
leave to re-translate in 3 months

The answer of Thomas Jordan administrator
of William Jordan dec.^d to a Bill of complaint
exhibited against him in the County Court of
Isle of Wight by Mills Holladay administrator
of Hezekiah Holladay dec.^d

This respondent saving and reserving to himself every
benefit and advantage of exception to the many errors,
uncertainties, imperfections, & false allegations, in the
Complainants said bill of complaint contains, for an-
-swer therunto, ~~and to so much thereof~~, or to so much thereof
as he is advised is material for him to answer,

Answereth and Saith, that he does not believe any of
allegations in the Complainants said bill to be correct or
true; that upon a thorough and strict examination of all
the Papers of his intestate that he found only ~~three~~ ^{three} Notes
or obligations, ^{in which Mills Holladay was at all concerned in any capacity} one of which was executed on the eighteenth
day of December One thousand eight hundred & five, by Geo.
Gibbs & Arthur Channel, for the sum of Eleven pounds
fourteen shillings & sixpence, payable on the eighteenth
of September following, to Mills Holladay dec.^d of
Hezekiah Holladay dec.^d, which note was not assigned -

Another, was executed ~~by~~ on the eighteenth day of January
One thousand eight hundred & six, by Tristram Bunkley
and Henry King for the sum of Seven pounds ten
shillings for the hire of Negro woman Rheneey (which
Negro afterwards fell to ^{the S. Mrs. Jordan} ~~as a part of the~~ ^{as a part of the}
Estate of his wife) payable on the first of January
following to Mills Holladay dec.^d as aforesaid, ^{and assigned}
~~was assigned by Mills Holladay to the first day of January~~
~~of January~~

~~for the sum of~~ ~~and the other was~~ ~~executed by~~ ~~Geo. Darby~~ ~~the date~~ ~~not~~ ~~sum of which~~
~~was payable~~ ~~but~~ ~~should be payable to Mills Holladay dec. as aforesaid~~
Your Respondent ~~at~~ does not recollect ^{the original} and 2.31 including
interest ^{was} only due when it came to his hands, which

Note was ^{in a short time} ~~immediately~~ discharged by Darbys acmt., &
Your Respondent not expecting to have a suit insti-
-tuted against ^{him} for the s^d. Note, took no memorandum
of the sum due, ~~which was payable, & which he~~
- ~~did~~ - Your Respondent further states that he found an
order drawn ^{on the 15th Jan'y. 1804} by Mills Holladay acmt. as aforesaid, on
Colo: Josiah Parker for the sum of forty dollars in
favour of Mrs Jordan - Your Respondent also
further states that there are all the Notes or obligations
found by him ^{in which the s^d. Holladay was at all concerned} among the Papers of his intestate; that
he found no memorandum of any monies due the
s^d. Complainant in any capacity whatever, & that
he is thoroughly convinced from a memorandum
found in the hand writing of his s^d. intestate, that
he did not marry the sister of the s^d. Mills Holladay
the Complainant, until the 18th of November
1805. Therefore could not have been the husband
of the s^d. Complainant's sister, as stated in his said
bill, when he the s^d. Com^t. stated he put these Notes
& obligations in his hands for collection - Your
Respondent further & lastly states, that he does not
conscienceously believe that the s^d. Mills Holladay
has the least claim on his intestate's estate, and
that the s^d. Notes found by him justly belong
to his s^d. intestate's estate - Your Respondent now
believes he has answered all the material allegations
of the s^d. Complainant's bill set forth, & he denies the

Jordan for defence

Test of Wm^t Court St. Jan'y. 6th 1817.
Sworn to before me - Wm^t J. P.

Ernest

For Mr. Chapman
J. A. Chapman
J. A. Chapman

Holladay Adams

or

John. via
Holladay

John. Adams

Winson for
Lumpkin

The commonwealth of Virginia to the sheriff of Isle of Wight
County greeting you are hereby commanded to summon
Thomas Jordan Administrator of William Jordan decd.
to appear before the Justices of county court of Isle of Wight
at the courthouse of the said county on the first Monday
in August next to answer a bill in Chancery exhibited
against them by ^{Mills} ~~Hughes~~ Holladay Administrator
of Elizabeth Holladay decd. —
and this they shall in no wise omit under the penalty
of £100 — and have then there this writ Witness
Nathaniel Young clerk of our said court at the court
house the 10th day of July 1810 in the 41st year
of the commonwealth — Nathl Young

The affidavit of Mary Jordan ~~affidavit~~ ~~and~~ taken
on the 23. day of May 1888 at the office of
archibald ~~at~~ ~~in~~ in the town of ~~Sanctified~~
agrically to notice between the hours of 8 o'clock in
the morning and 6 o'clock in the evening of the same
day - to be read and signed on behalf of Mr. H.

Holliday in a suit depending in the County Court
of the City of New York in which the said
Holliday is plaintiff and Thos. Jordan a son of
William Jordan a defendant. - ~~Went down~~
~~affiant~~ ~~for the defendant~~ ~~present~~.

This defendant being sworn on the Holy evangelist of Almighty
God the oath to speak, depose and swear, that
in this litigation of ~~the~~ ~~between~~ William Jordan the
defendants intestate, he ~~has~~ ~~been~~ ~~found~~ told
her that Mr. Holliday the plaintiff had put in his
hands for collection a parcel of Bonds or obligations
due for the sale of the property and the heirs of the
successors of Joseph Holliday deceased. - ~~that~~

This affiant further states that after this conversation the
said Mr. Jordan informed him that he had been down
to try to collect the amount of John Gibbs bond which
was among the papers given him for collection by Mr.
Holliday, but that he had not received it. -
She further states that Mr. Jordan put those papers
Bonds & which which Holliday had put in his hands
for collection to themselves, that John Gibbs bond was
among them and that he (Mr. Jordan) always called
them Mr. Holliday's papers. -

Interrogatory by plaintiff, Holliday. Do you know what has
become of those Bonds and obligations, notes put in the
hands of Mr. Jordan to collect by Mr. Holliday?

Answer. The papers which were called Mr. Holliday's
and among which I suppose to have been John Gibbs
bond were taken by Thomas Jordan a son of Mr. Jordan,
into his possession, after the death of Mr. Jordan. -

Interrogatory by defendant. - Do you know to whom the before
mentioned Bonds were made payable? I do not know to
whom they were made payable - but ~~that~~ ~~the~~ ~~bond~~
I did understand from Mr. Jordan that he had used
a bond due from John Gibbs for a part of the sale of

The affidavit of Robert Brown of Caspals ap taken
on the 23. of May 1878 at the office of Amb. Miller
in the town of Smithfield, between the hours of
8 o'clock in the morning and 6 o'clock ^{in the evening}
of the same day to be read as evidenced in a chancey
cause depending and undetermined in the County Court
of Hampshire, in which Mills Holliday is plainiff
and Tho. Jordan ad. of Mr. Jordan defendant —
~~Just. Jordan ad. for defendant being present~~
~~this affidavit being sworn on the Holy Evangelist of~~
almighty God ~~ad. says~~ says that in the lifetime of William
Jordan (deceased) in the year 1874, he the said William
Jordan went to the house of the said Brown, and
then said that he the said Mr. Jordan had been
down to 'John Gibbs' to try to collect the amount
due on a bond ~~due~~ from John Gibbs and Arthur
Chambers which Mills Holliday had put into his
hands for collection. but that he had not gotten
the money — that Mr. Gibbs had promised to settle
Caspals with some brandy which he was to sell to
pay it off. —

Examined by plainiff. Did ~~see~~ Mr. Jordan loan the
bond as his, which he acknowledged to have read of
Mr. Holliday against John Gibbs and Arthur Chambers?
Answer. He did not, on the contrary, he ~~expressly~~ said
that he had it to collect for Mr. Holliday. —

~~Examined by depl. Did you~~

Hampshire County Court, The truth of the foregoing affidavit
was this day made oath to before me a Justice of the Peace
by Robert Brown of Caspals ap —

Given under my hand this 23. May 1878

Arthur Smith J.P.

To the Clerk of Isle of Wight

Came to hand under seal 1st June 1818 —
Wm. D. Young Esq.
Ca