

Carrier v. Bowman: Augusta County Chancery (File 1820-018) Deposition 2

Richard Carrier & others

In the Superior Court of Chy holden at Staunton
By consent of the party

Vs

John Bowman & others

I have met this witness at the house of Thomas Lanahan in Harrisonburg and proceeded to the following deposition June 9th 1817 –

Richard Hughes upwards of sixty years of age a witness for the plaintiffs being sworn deposes that as well as he recollects that last spring was a year he was in Harrisonburgh at the Election he fell in company with Frederick Smith and in a conversation with him he asked Smith if he had come all the way up here to the Election – he answered he had other business that he had drawn a will for a man and that he had made a mistake in it and that had to come up to alter it. I asked him whose will. He said Bowman. I asked if it was Bowman the Mill. He answered no it was Bowman at the forest. This conversation took place as well as the deponent remembers on the road after they had left Town. This deponent further states that some time after the above conversation took place He was in Harrisonburg on some law business of his own he slept in a room at the House of Denis Lanahan. Mr Carrier one of the present Plaintiffs lodged in the same room. In talking over their business he mentioned what Smith had told him about altering Bowmans will. Mr. Carrier wished him to go again & see Smith to take some other persons with him and see if Smith would say the same thing again. I went to see Smith and got to talking with him about drawing my own will and mentioned his having told me that he had drawn a will for old Mr. Bowman in which he had made a mistake & that he had to go up to Town to alter it – Mr. Smith at the time I told him of the conversation & the statement he had made me respecting Bowmans will said he had altered it. After saying so he seemed surprised and confused but after hesitation of about a minute said that he made the alteration but it was in the lifetime of the old man & after he had made him read the will over to him and the alteration was for the purpose of giving to one of his sons the privilege of the water to him and heirs forever – He mentioned that at first it was only given to him for life – Mr. Smith denied that he told this deponent that he came up here to alter the will but said that he had come to town to prove the will. That when he

2

got to Town the other two witnesses had proven the will and were gone—He said that was he had told this deponent before – This deponent states that his son went with him to Smiths at the time the above discourse took place and that on their way home he told his son that he thought Smith appeared to suspect they came there to pump him – this deponent further states that Mr. Carrier had been at his house and had asked him to with some other person and see whether Mr. Smith would repeat what he had before stated on his way form Town and that if would do so he should be well satisfied for his trouble

Question by Deft Attorney

Mr. Hughes have you not said that you were a little hard of hearing and that you might have been mistaken as the first conversation you had with Smith?

Answer

I am a little hard of hearing but do not remember that I even said I might have been mistaken as to the first conversation I had with Smith but know I could not have been so far mistaken as to have understood Smith to have said that he came here to prove the will instead of saying he came here to alter it when the conversation took place we were riding side by side

Question by Defts Attorney

Might not Smith have told you the first time when he said the last and you misunderstood him in saying what you have stated

Answer – I am not mistaken to the best of my knowledge

Question by the same

Are you not well acquainted with Mr. Smith?

Answer – He lives six or eight miles from me and am as well acquainted with him as most others who live at that distance

Question by the same

Is not Mr. Smith a man of good character in his neighbourhood?

Answer – So far as I know I believe he is – he may at time drink a little too much liquor

Question by the same

What is the character of Jacob May as being a man of truth?

Answer – I have seen him backwards & forward. He lives about five or six miles of and works about. I have never heard anything against his character

3

Question by Defts Attorney

You say the day you had the first conversation with Smith was on Election day, had you not on that day drank a little too much

Answer—

I think the first conversation with Smith took place on the day of the Election I do not think I had drank too much – I have not drank a pint of spirits in Town for five years – I drink beer & further saith not

Richard Hughes

David Hughes about twenty two or three years of age a witness for the Plaintiffs being sworn—

Answer – Some time before my father & myself went to see Smith – Mr. Carrier & Mr. Peter Shaver came to us where we were at work. Mr. Carrier stated that there had been something said about what Richard Hughes had told that Smith had said about the alteration in the will of old Mr. Bowman and that if he did not go and have the business cleared up he Hughes would be brought into trouble about it – That Mr. Carrier & Mr. Shaver advised my father to go and see Smith take some other person with him & see what Smith would say about it that if they would find it out they should be well satisfied for the time we lost -- I thought it my duty to go with my father as he was likely to be brought into trouble about what he had said ~~and see about it Mr. Carrier & Mr. Shaver stated they would make us satisfaction for the time we lost --- when we went to Smith~~ when we went to see Smith my father talked to him about drawing his will and he told me before we went he had thought of it. – he in the course of his discourse with Smith asked him if he had a book of forms that he drew wills by and mentioned his having told him about the mistake in old man Bowmans will. Mr. Smith said he had put in a few words in Mr. Bowmans will which had been neglected at the time it was drawn but it was in Mr. Bowmans life time and at his request and as well as this deponent remembers was in regard to the right of the water relating to their heirs and assigns – This deponent further states that his father asked Mr. Smith if he had not told him at the time of the Election that he went up to Court to alter the will – Smith denied having told him so but said he went up to prove the will & that the will was proven before he got there – after his father had talked with Smith about drawing his will and after he had mentioned about the mistake in Bowmans will it appeared to me from Smith countenance that he began to suspect we had come there to pump him

Question by the Defendants Atty.

Did not Mr. Carrier & Shaver at the time they came to you & your father

4

say that if you could break the will of old Mr. Bowman that you should be well paid for it?

Answer

As well as I can recollect Mr. Carrier said it would be a great advantage to them if they should break the will and if ~~we would~~ my father would go , take some person with him, & find it out, they should be well paid for their ~~trouble~~ time - & further saith not

David Hughes

Question by Plaintiffs Atty

Was you to be paid

Paul Rawler about the age of twenty years a witness for the Plaintiffs being sworn says that in a conversation with John Bowman on the porch at Denis Lanahans in the Town of Harrisonburg Mr. Bowman stated that if his father had not mad his will at the time he did that he could not have mad a will & further saith not.

his
Paul X Rawler
mark

Henry Shaver about the age of thirty one years a witness for the Plaintiffs being sworn says that he met John Bowman one of the present plaintiffs [sic] in New Market at the shop of David Henkel on a Saturday or Monday before the death of old Mr. Bowman but does not know that it was the Saturday or Monday next proceeding his death that he requested this deponent tell Mr. Miller & his wife that of they did not come to see the old Man shortly that they would not see him alive without he got relief or better & further saith not

Henry Shaver

William Patrick about nineteen years of age a witness for the Plaintiffs being sworn –

Question by Plaintiffs Atty

Did you hear a conversation between May and Carryer at the house of Carryer and if so what was said between them?

Answer—I heard them conversing but can't now remember any thing about it

Question – Did you or did you not hear Jacob May say to Richard Carryer that he could not swear that old Mr. Bowman had his senses at the time he made his will nor did he think any other man could swear it safety?

Answer – Yes I heard him say that –

Question by the same

Did not Mr. Carrier at the time say to May that he had already sworn it

Answer – he did and May said that he had not

Question by the same

What did May say that he had sworn

Answer – I cannot remember

Question by Plf Counsel

Did or did not May then say that he had sworn that Mr. Bowman acknowledged it to be his last will and testament & nothing more – that he could not swear he had his senses at the time it was made?

Answer – I really cannot say – I have forgot it –

Question by Defts Attorney

Now tell us Mr. Patrick if you heard a conversation between May and Carrier at the house of Carryer and if so what was said between them

Answer – I heard them talking, but do not remember any thing at all of it I have forgot it –

Question by Plaintiffs Atty

Do you remember what you have stated that you do remember of the conversation?

Answer – I cannot tell it & further saith not

his
William X Patrick
mark

Peter Crim about the age of thirty one years a witness for the Planitiffs being sworn says that about six or eight years before the death of old Mr. Bowman – he, Mr. Bowman was at my fathers house and in a conversation with my Mother and myself he mentioned that his son George was then about building a house – and which was on the plantation which his son George now lives on – The old Gentleman said his son was having the house built and he lost nothing but his own labor and attendance – that he, old Mr. Bowman – paid all the hands and other expenses – that his son George did all he could himself toward the labor – My Mother asked him why he did not let George be at all the expense of building the house himself – his answer was that he did not know who was to hereafter have it – and further saith not

Peter Crim Jr.

Phillip Ritchy – a witness sworn for the defendants about thirty eight years of age – states that he has been acquainted with Frederick Smith for about twenty years part of the time he was acquainted with him in the County of Loudon . that he had lived within about _ of amile from him in Loudon where he taught school for five years – that since he came to this County that he has lived within about fifteen or sixteen miles – He at this time teached a school about four miles from my house he has been at his present school about six weeks – he tought school before this time within three miles from my house – and at another time about four miles – the general way of employing him was by the quarter and sometimes he staid longer – He lieved about twelve years ago in Brocks gap – he sold his land there and moved up to where he now lives which is about fifteen or sixteen miles from where I live – during all the time I have known him – his general character has been that of an upright honest man & a man of truth – I never heard to the contrary

Question by the Plaintiffs Atty

Is not Mr. Smith connected with your family?

Answer – One of Brothers sons married Mr. Smiths daughter – and further saith not

Phillip Ritchy

Jacob Niece about seventy nine years of age a witness for the defendants being sworn –

Question by the Defendants atty

Do you know Jacob May and if so what is his character as a young man of honesty & truth?

Answer – I knew Jacob May from the time he was born – I knew his father before he was born – in Pennsylvania, his father moved to this county and lived about two miles from me – he afterwards moved into Brocks gap suppose about fifteen miles - Jacob May has lived about in my neighbourhood about ten years – he worked by the day – sometimes worked for me – sometimes for Mr. Bowman & others – during all the time I have never heard his character for honesty & truth called in question & further saith not –
Jacob Niece

Jacob Bowers about 27 years of age being sworn a witness for the defendants

Question by Defendants Atty

Are you acquainted with Jacob May and if so what is general character as a young man of honest and a man of truth?

Answer –

I have known Jacob May for about six years – he worked in my neighbourhood I have never heard nay thing that was prejudicial to his character as an honest man – and a man of truth & further saith not – Jacob Bower

Samuel Coffman about the age of forty five years a witness for the defendant being sworn –

Question by Defendants atty

Are you acquainted with Jacob Miller a brother in law of George Bowman one of the defendants?

Answer – I am so

Question by the same

Is not Jacob Miller a man highly respected for for his truth and integrity?

Answer – I have always taken him for such a man – we have dealt a good deal together – I understand that to be his general character

Question by Plaintiffs atty

Did you see Mr. Bowman shortly before his death? And what was his situation at the time you saw him?

Answer – I had heard the old man was very sick and went to see him on the Wednesday before he died – we had conversation together – the old man told me that on the night he was taken altho he went to bed well yet he awakened in the night and found himself very sick and the sickness continued I staid with him some time went home and returned in the evening – there were several people there to sit up with him besides myself – he talked occasionally to ~~myself & other~~ the people in the room and appeared to be, altho in pain in his proper senses

Question by Plaintiffs atty

I want to know of you whether on your oath you say that Jacob Miller is a man of high & respectable character amongst the neighbours generally

Answer – I would take his oath as soon as any other man in my neighbourhood

I would not place him in a higher character – I have all good neighbours – and wish well to them all -- & further saith not

Samuel Coffman

David ORourke – William Weaver – David Lohr – Matthias Minnich are stated on oath by Richard Carrier one of the Plaintiffs in this suit to be matieral witnesses in this case – and on the oaths of Richard Hughes, constable, were regularly summoned but have failed to attend – Frederick Smith, Henry Bilhimer – Christian Oarbauch – Joseph Price – Mr. Carrier says on oath are not so material by he considers their testimony necessary to the support of his cause.

Jacob Rinker a witness who lives in Shenandoah was summoned to the first appointment for taking depositions but did not attend and said he would not – but would give his deposition there

Isaac Bull a witness for the plaintiffs allowed two days attendance and traveling twenty three miles in coming & the same in returning – also on the 8th Eight of May one days attendance the same distance in coming & returning –

David Hughes – a witness for the Plaintiffs allowed two days attendance –

Jacob May – a witness for the Plaintiffs allowed three days attendance to wit one day the 8th of May & this day –

Richard Hughes – a witness for the Plaintiffs allowed two days attendance to wit one day the 8th of May & this day

Jacob Nease & Jacob Bowers witness summoned by the defendants allowed three days attendance each to wit one day each on the Eight of May & two days at this time and traveling twice twenty four miles each in coming & the same in returning

Samuel Coffman a witness for the defendants allowed two days attendance

My attendance as Commissioner for the time engaged in taking the depositions on behalf of
Bowman & others – two hours ~ 7.6
one summons 2.1
£ 0.9.7

Recd the above sum of John Bowman

Also two hours & a half or
Plfs & one summons

RGrattan
Commissioner
