

- of the money intended to be secured by the mortgage, of which Exhibit No 2 is a copy, was paid by Benjamin D Boyer during his lifetime, nor by defendant as administrator of said Benjamin D Boyer since his decease.

At the same time Complainant filed with the Commissioner Exhibits No 1 and 2 and evidence, which are herewith returned.

There being no other witnesses present to be Examined and the Complainant desiring no further time for the production of his Evidences, the Commissioner closed the said Commission and herewith returns the same under his hand and seal on this 18th day of August Eighteen hundred and sixty three.

Wm B. Nelson Comr

Ordered - The Execution of the within Commission will appear by certain Schedules therewith annexed.

Wm B. Nelson Comr

No 3099 Equity

Jacob Willian }
" } In the Circuit Court for Frederick County as a Court of Equity
Missouri Boyer }
John Boyer } Daniel Boyer Executor of the last will of Jacob Willian late of Frederick County State of Maryland decd - comes into Court here and suggests that Jacob Willian the sole Complainant in this cause died on the 12th day of September Eighteen hundred and sixty three having first made his last will and testament having made the said Daniel Boyer Executor thereof who has entered upon the duties of his office, as will appear by a copy of his letters testamentary herewith exhibited marked Exhibit No 1 the said Daniel Boyer further suggests that the decree in this cause through ignorance of the date of death of the Complainant of the death and of the date of the death of the Complainant was passed after his death, and is therefore a void decree.
The said Daniel Boyer prays that he as Executor of the last will of said Jacob Willian may be made party Complainant and that the cause may be proceeded in as if said Jacob Willian had not died.

Wm J. Ross
Solo for Daniel Boyer

State of Maryland Frederick County Jct's
On this second day of November 1863 before me the subscriber a Justice of the peace of the State of Maryland on and for Frederick County personally appears Daniel Boyer and did solemnly, sincerely and truly declare and affirm that the matters stated in the foregoing suggestion are true as therein stated.

Affirmed before J. M. Harding

No 3099 Equity

Jacob Willian }
" } In the Circuit Court for Frederick County as a Court of Equity
Missouri Boyer }
John Boyer } The foregoing suggestion of the death of Jacob Willian the sole Complainant with the Exhibit being read and considered and the cause standing ready for a hearing and being submitted.

It is this 2nd day of November 1863 by the Circuit Court for Frederick County as a Court of Equity ordered, adjudged and decreed that Daniel Boyer Executor of the last Will of Jacob Willian decd be made Complainant in the place of said Jacob Willian decd - and that this cause proceed as if said Jacob Willian had not died. It is further ordered that the decree heretofore passed in this cause dated on the 21st day of September 1863 be rescinded vacated and annulled - the sole party Complainant being dead at the date of said

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