

debtor. It had been issued and placed in the hands of the sheriff, but not actually levied, before the event of the death occurred.

In this case, the statement of facts shows that the executions were levied before the death of Harris, and unless the case of Hanson and Barnes is to be overturned, the sheriff was fully authorized after his death to proceed and sell the property.

Great caution has always been observed by the courts in taking, or authorizing property to be taken, out of the hands of a sheriff, held by him under executions, and it probably may be safely asserted that the case of *Alexander et al. vs. Ghiselin et al.*, 5 Gill, 138, is the only case in which the sheriff's possession has been disturbed, unless upon some grounds affecting the validity of the judgment, or the regularity of the process, by virtue of which the seizure was made.

But the case of *Alexander vs. Ghiselin* was confessedly decided upon the special terms of the act of 1805, ch. 110, sec. 7, the true construction of which, the court said, required the trustee of the insolvent to take into his possession all the estate and effects to which he had a right of possession at the time of his application, and to sell and dispose of all his property, whether in possession, remainder or reversion, and to pay off the liens and incumbrances thereon. Regarding an execution as a lien on personal property only when actually levied prior to the insolvent's petition.

The present application, moreover, requires the court to stretch its authority beyond even the case of *Alexander and Ghiselin*. There the trustee in insolvency was decided to be authorized to take property out of the hands of the sheriff, though actually levied on prior to the insolvent's petition.

But in this case, the property is no longer in the hands of the sheriff, having been before the present petition was filed, sold by him in the due execution of his duty, and in conformity with the process in his hands.

Even then, if the principles settled in the case of *Alexander vs. Ghiselin* could be invoked in aid of these petitioners, which is not admitted, still they stop short of warranting the relief