


MSA SC 5463-5-5

I hereby certify that Greenberry Thomas was committed to my custody on the 3rd day of March by Thos B Pottinger Esq. Marshal for want of stipulation to answer to the suits of Federal Carickson & Hugh Bolton before the U.S. District Court; and that he remained in my custody solely for the aforementioned cause until the 8 day of March 1842, when, an order to bring his body before the Commissioners of Insolvent Debtors for the State of Maryland & Balt City & County, was disobeyed by me on the ground that I deemed the Insolvent Laws of Maryland superceded by the operation of the General Bankrupt Law of the United States, and in the hope that my refusal would induce an application for a writ of Habeas Corpus when a competent Court would decide the case in such manner as would shield me and my securities from pecuniary responsibility

Jas. Dismery
Warden of Baltimore
City & County Jail

March 10. 1842



Greenbury Thomas
of
The warden of Baltimore
City and County Jail

Habeas Corpus.

The United States of America
District of Maryland, to wit
To the Warden of the Jail of Baltimore County and
City Greeting

You are hereby enjoined and commanded
to be and appear before the District
Court of the United States in and for
the Maryland District on Thursday
the tenth day of March instant at
10 o'clock in the forenoon of the same day, and
that you have with you the body of Greenbury
Thomas now in your custody, and that you certify
and make known the day and cause of the capture
and detention of the said Greenbury Thomas, and
that you then and there do submit to and receive
whatsoever the said Court shall determine upon
concerning you in this behalf according to law,
and have you then and there this writ. Witness
the Honorable Upton S Heath Judge of the said
District Court, the first Tuesday in March in
the year of our Lord one thousand eight hundred
and forty two.

Given 9th March 1842.

Thos. Spicer
Dist. Ct.

In the matter of } Petition for habeas corpus
Greenberry Thomas }

To the Hon Upton S. Deaith Judge of the U. S. district court
for ~~Maryland~~ ^{the} district of Maryland:

Your petitioner humbly prays that your Honor will (according
to the act of congress in such case provided) adjourn the follow-
ing points to the fourth ~~district~~ ^{circuits} court of the United States, for
hearing and determination.

1. That the act of congress, passed at the extra session in the year 1842
to take effect from and after the 1st day of february 1842; being repug-
nant to various terms of the constitution; prejudicing claims reserved to
any particular State; giving legislative powers to the federal judiciary; in-
validating the subject of insolvencies; not being uniform upon every part of
the subject of bankruptcies; to which its provisions extend; ~~and~~ not bringing
to the aid of the States ^{the} power over the same subject, according to the leading ~~of~~
object of the constitution; - but extending the judicial power of the United States to cases
between citizens of the same state, not claiming lands under grants of different ~~states~~
States; and to cases between a State and the citizens thereof - is ~~not and void?~~ inope-
rative or void.

2. That the efficacy of the powers of the tribunals of Maryland to
grant to petitioners under the insolvent laws of said State, a personal dis-
charge, has not ceased by force of any existing act of Congress?

J. G. Smith attorney
for G. Thomas.

Petition of
Greenberry Thomas
for
Habeas Corpus

Filed 9th March 1842
Writ issued to be served
returnable Thursday
Morning 10th Inst at 10
o'clock - A. M. before
the District Court
Writ issued - and returned
Remanded to the Custody
of the Warden

~~the District Court of the United States in & for the District of Maryland~~
the District Court of the United States in & for the District of Maryland
To the Hon Judges of ~~Baltimore County~~ Court:

The petition of the undersigned humbly represents:

That your petitioner is illegally detained in the custody of the warden of Baltimore City & County ^{United States} jail and he prays your Honors to direct the State's writ of Habeas, to issue directed to James Disney warden aforesaid, commanding him to produce the body of your petitioner before your Honors on a certain ^{day} together with the caption and cause of detention of your petitioner:

And that your Honors may be said satisfied that your petitioner is entitled to the aid of said writ, your petitioner refers to the evidence annexed hereunto.

J. G. Hill, attorney
for Greenberry Thomas

I hereby certify that Greenberry Thomas is confined in Balt City & County jail for want of stipulation to appear before the U. S. District Court to answer unto the suits of Federal Erickson & Hugh Bolton for Disney, Warden of Balt City & Co. Jail
T. C. Hollis, Clerk
Mar 8 1842

Personally appeared in open court J. D. Gill who
being sworn deposed that E. Palmer ^{one of the} Commissioners of
Insolvent Debtors for city & county of Baltimore hath granted
to Greenberry Thomas a personal discharge under the
insolvent laws of Maryland, notwithstanding which
discharge, the said Thomas is detained in jail, and that
the annexed certificate of the clerk of the Warden of the jail
was granted after the personal discharge aforesaid was
granted.

~~Wm. Hill~~
~~March 1842~~

Thos. Spicer
D. J.

W. Spicer, I give the writ of
Habeas Corpus upon the within
Petition, directed to the Warden
of the Jail of Baltimore County,
I make the same returnable
before this Court Tomorrow Morning
the 10th inst at 10 o'clock A.M.

W. Heath
D. Judge
March 9th 1842

(Personal Discharge.)

BALTIMORE,

City Sect.

Greenbury Thomas

On the application of *City* *Greenbury Thomas* of Baltimore by petition in writing to us the subscribers, Commissioners of Insolvent Debtors for the *City* and County of Baltimore, stating that *he is liable for debts he is unable to pay* and praying to us to grant to him the benefit of the Insolvent Laws of this State, a Schedule of his property, and ~~list of his Creditors~~, on oath, as far as he can ascertain them, being annexed to his petition, and the said *Greenbury Thomas* having satisfied us by competent testimony that he has resided *two years* next preceding the time of his application, within the State of Maryland, and we having appointed *Do Gill* provisional Trustee for the benefit of the creditors of the said *Greenbury Thomas* and the said Trustee having given bond with security, approved by us, for the *safe* performance of his said trust, and the said Trustee being in possession of all the property of the said Insolvent Debtor, and the said *Greenbury Thomas* having also given bond with security approved by us, for his personal appearance before us, at our Office in the City of Baltimore, on the day of *May* next, to answer such interrogatories as may be propounded to him by any of his creditors, and also for his personal appearance before us on the *second* day of *July* next, for the final hearing of his application, and also before Baltimore County Court, agreeably to an Act of Assembly, passed at December session, 1831, entitled "An Act relating to insolvent Debtors," to answer such allegations as may be filed against him by any of his creditors, and the said *Greenbury Thomas* having before us taken the oath directed to be taken by the said Insolvent laws for the delivery up of his property,

These are therefore to Certify, That *I* have this day granted a **PERSONAL DISCHARGE** to the said *Greenbury Thomas*
 Given under *my* hand this *Eightth* day of *March*
 in the year *eighteen hundred and Forty Two*

C. Palmer

Commissioner

In Testimony Whereof, and that the aforesaid is a true Copy of a Personal Discharge Granted by the aforesaid Commission of Insolvent Debtors for the City & County of Baltimore in the case of *Greenbury Thomas* an Insolvent Debtor. *A Benson Coe* Sec to the said Commission, have, herewith subscribed my

N. B. By the above mentioned Law of 1831, the signature of one Commissioner is sufficient.

name, and affixed the seal of the said Commission. This *Eightth* Day of *March*. In the year of our Lord, One *Thousand Eight Hundred and Forty Two*.

A Benson Coe

Filed 14 April 1842.

Mr Spicer

Will certify to the Circuit Court of the United States for the fourth Circuit in and for the District of Maryland, for the decision of the said Court the following question, in pursuance of the Act of Congress, entitled "An Act to establish a Uniform System of Bankruptcy throughout the United States"

Process was issued upon a Libel in personam filed in the District Court of the United States in and for the District of Maryland against ^{a suit out of} Greenbury Thomas ^{of} said District at the instance of Federal Carickson and Hugh Bolton, the said process was served upon said Thomas, who was committed to the Jail of Baltimore City and County for want of stipulation to appear before the District Court aforesaid, and answer unto the said Carickson & Bolton, that after the commitment of the said Thomas, to wit on the 8th day of March 1842 he applied by Petition in writing to the Commissioners of Insolvent Debtors for the City and County of Baltimore, praying that the said Commissioners would grant him the benefit of the Insolvent Laws of the State of Maryland, that the said Thomas having complied with the provisions of the said Insolvent Laws, the said Commissioners did thereupon grant him the said Thomas a personal discharge, whereupon the said Thomas moved for a writ of Habeas Corpus in order to his discharge from said confinement, and being brought before the District Judge, the question arising thereupon is at the request of the Counsel for said Thomas certified to the Circuit Court aforesaid.

Is the said Thomas, under and by virtue of the discharge so granted him by the said Commissioners, entitled to be discharged from the Confinement aforesaid?

U. S. Heath, J. J. Spore

April 14. 1842

The United States of America

District of Maryland to wit

I Thomas Spier Clerk of the District Court of the United States
in and for the Maryland District do hereby Certify that the
aforesaid is a true Copy of the original on file Among the
Records and proceedings of the District Court aforesaid—

In Testimony whereof I hereunto subscribe my
name, and Affix the seal of the said
District Court this fourteenth day of April
in the year of our Lord one thousand
Eight hundred and forty two.

Thos Spier 
Clerk

W. Spicer, Will certify to the Circuit Court of the United States, for the Fourth Circuit, in and for the District of Maryland, for the session of said Court, the following questions, in pursuance of the Act of Congress, entitled an Act to establish a Uniform System of Bankruptcy throughout the United States - that is to say -

First. Is the Act entitled an Act to establish a Uniform System of Bank

upon a libel in personam filed in Court was issued ~~from~~ the District Court of the United States in and for the District of Maryland against Greenberry Thomas of said District, at the instance of Federal Counselors O. Hugh Bolton; the said process was served upon said Thomas, who was committed to the Jail of Baltimore City and County for want of stipulation to appear before the District Court of said, and a return made to the said Counselors O. Bolton. That after the Commitment of the said Thomas, to wit on the 8th day of March 1842, he applied by Petition in writing to the Commissioners of Insolvent Debtors for the City and County of Baltimore, praying that the said Commissioners would grant him the benefit of the Insolvent Laws of the State of Maryland, ^{that} the said Thomas having complied with the provisions of the said Insolvent Laws, the said Commissioners did thereupon grant him the

the said Thomas a personal discharge
to the said Thomas, under and by virtue
of ~~the~~ discharge so granted him by the
said Commissioners, entitled to be discharged
from the confinement aforesaid.

W. Beath

D. Judge

April 14th 1842

^t whereupon the said Thomas moved for
a writ of Habeas Corpus, in order to his
discharge from said confinement,
and being brought before the District Judge
~~the Court~~ the question arising thereupon
~~was resolved~~ is at the request of the
Commissioners for said Thomas, certified
to the Council Board aforesaid.

Petition

Greenbury Thomas

Pett. for Dis-
charge &c.

To the Hon U.S. District Judge of the United States for
the district of Maryland.

The petition of Greenberry Thomas humbly sheweth - that
he is imprisoned by process issued out of the District court
of the U.S. for the District aforesaid, in two actions in ad-
ministratively, one at the instance of Federal Erickson, the other
at the instance of Hugh Bolton

Your petitioner prays that the oath prescribed by the act
of congress for the relief of persons imprisoned for debt, may be
administered to him, ~~and~~ and that the proper citation may
be issued to said plaintiffs or their attorneys, so that your
petitioner may be discharged from confinement -
W. H. Galt
Clerk for the Petitioner -

To William H Galtchell Esquire Attorney for Federal Erickson
and Hugh Bolton

You are hereby cited and summoned to appear before me at
the District Court Room in the City of Baltimore on the 28th
day of June next at 10 o'clock A.M. if you see fit to
show cause why the oath prescribed by the Act of Congress of
the United States entitled "an act for the relief of persons
imprisoned for debt" should not be administered to Greenberry
Thomas in order to obtain his release from custody under
process in two cases wherein the said Federal Erickson
and Hugh Bolton are plaintiffs and the said Greenberry
Thomas is Respondent. Witness my hand this 20th
day of ^{May} June 1842.

W. H. Galtchell

D. Judge

Since admitted

W. H. Galtchell

Proctor for Balin & Erickson

Memorandum

The Court refused to discharge the Petitioner
from the being imprisoned under mesne
process; and it appearing that he had
conveyed property, which he owned, to
Coker, by Bill of Sale absolute on its
face, yet with a secret agreement that
it should be reconveyed to Thomas upon
the payment of a certain loan made
to him by Coker; or if the property should
be sold by Coker, upon the failure of
Thomas to repay the loan, any balance
after satisfying the loan ~~was~~ to be
paid over to him Thomas, the Court
refused to administer the oath & certify the
same with a view to his discharge
June 23^d 1842

W. Heath

Greenbury Thomas -

E. P. Cohen - owner -

The Bill of sale made by G. Thomas to me is absolute on its face of it yet it was conditional I made him advances for which he transferred to me the Vessel to secure the amount so loaned - I was to have power to sell her if money not paid in Six months - if paid Bill of sale to be released if sold & she brought more than would pay my advances the balance was to be paid over to him - I have made advances to an amount greater than the Vessel would bring if sold - for since the conveyance to me there has been a great depreciation in the value of such property. I offered Mr. Bolton calling on me to know the condition of Thomas as to the Vessel I told him fully & told him the Vessel would not pay advances which were then 35 to 3600\$ - that if he would take my place he would transfer the Vessel &

give him a check for 100\$ - Vessel
formerly worth 5000\$ - Thomas
Thomas about a year an indus-
trious enterprising man

June 23 1842

A. S. Heath