

1904.08

Southampton County Chancery - Gillette, J. T. et al vs Musgrave, R. N. et al

that executors be restrained
from paying bills until all
can be accumulated

Shands, Wm.

Partridge, G. T.

(Admin's)

Harris, W. D. (dec'd)

Woodard, J. J.

Barham, J. L. (execor's)

Pope, Caroline R.
(dec'd)

To the Hon R. R. Prentiss Judge of the Circuit
Court of Southampton County Va.

In Chancery

Shumbly complaining your orator J. L.
Gilletts Sheriff of Southampton County Va,
who sues for the benefit of, and at
the costs of Wm Shands and S. J. Partridge
advers of R. D. Morris died. Shands
nots your honor that on the 7th day
of Jan'y 1904, an execution came
into his hands against one R. H.
Mussgrove for the sum of \$305.⁸⁴ with
interest thereon from Oct 5. 1900 till
paid and \$9²² costs, said judge-
ment on which said execution was
issued being rendered in the Circuit
Court of aforesaid County & duly
docketed in the County Clerk's Office
of said County, all of which will
fully appear by the said execution
herewith filed marked exhibit
A. and prayed to be read as a
part of this bill. Your orator
brings this suit under section
3614 of the Code of Va. of 1887 in
order to enforce the lien of his
execution on all the assets, funds
and money in the hands of J. J.
Woodford and J. L. Boham Surviving

Executors of Caroline R. Pope deceased,
and belonging to said R. R. Musgrave
your orator further states that some
years ago the said Caroline R.
Pope deposed this life estate
leaving considerable property both
real & personal. That the aforesaid
was qualified as such along with
one J. J. Borden who has since
died; that all the estate has
been settled except a residuum
of some \$6000 interest and in which
the said R. R. Musgrave has
part or interest, as well appear from
a transcript of said will & clause
3025. thereof. The court of appeals of
Va having recently decided in
the case of "Musgrave et al vs
Pope's Executors et al" now pending in
this court, and to which reference
is now made for said decision,
transcript of said will herewith filed
and marked exhibit B. herewith
produced to be read as part of
this bill.

That executions have been duly
been issued from time to time
before and proved unavailing

In Tenders consideration whereof and
inasmuch as your orators are
without relief save in a court of
equity where such matters are
alone cognizable, they therefore pray
that A. N. Musgrave, J. J. Woodard
and J. L. Boham surviving Exors
of Caroline A. Pope deceased, maybe
made parties defendant to this
bill and required to fully answer
the same, but answers under
oath are hereby waived. That
said Exors may be required to
settle on accounts of their
transactions as such before one of
the Commissioners of this court and
show amount they have in hand
for said A. N. Musgrave, and that
they be restrained from paying
same over to him or to any one
for him until the said A. N.
Musgrave has paid and satisfied
the aforesaid execution & which
is a lien upon the same. That
the Court would direct that all
necessary orders & decrees be entered,
all necessary accounts taken &
reported, and that all such other,
further, general & special relief

may be granted as to equity may
seem meet and the nature of
the case demand. and your
order hereby gives notice to all
interested parties that he will ask
the court to allow to his attorney
in this cause - Mr. Shands - a
reasonable attorneys fee out of the
funds under the control of the
court in this matter. As a duty
bound your order will ever pray

Wm. Shands

Transcript from Caroline R. Pope's Will

Item 3.

"I wish to give to my Aunt Nancy Briggs during her life the interest on six one thousand dollar bonds, amounting to three hundred dollars per annum, said bonds described as follows, namely, bonds of the Georgia North-Carolina and Northern Rail Road, same being 5% coupon bonds payable in gold, the interest payable semiannually 1st. January & 1st. July respectively, secured by first mortgage on said rail-road and guaranteed by the Seaboard & Roanoke & Raleigh & Gaston Rail-roads - said bonds registered in my name and maturing July 1st 1929. The Mercantile Trust Company of Baltimore Md - Trustee. The numbers said bonds run 2986 to 2992, inclusive. I wish these six bonds as mentioned to be set aside out of my estate and be held by ^{my} Executors and the interest on same, which amounts to \$300 - annually to be paid over to the said Nancy Briggs during her life for her maintenance and support. At the said Nancy Briggs death I wish the principal of said bonds with whatever accrued interest thereon is owed back to my estate and be divided among my legatees as in hereinafter named. In the event my Aunt Nancy Briggs should not be living at time my death then this item is null and void."

Item 25

"It is my will and desire that all my bonds, accounts evidences of indebtedness of every description

not hereinbefore disposed of shall be divided into
Eleven shares - and I give to Reuben N. Munsgrum
One half of one said shares."

Recopy Teste: L. A. Gay 1913.

Transcript from Caroline
R. Popin Will
Ex. "B"

PLEASE SEE J. E. LEE'S COLLECTIONS
J.L. Gillette, Sheriff of Southampton County, Va. who sues for the benefit of and at the cost of William Shands and G.T. Partridge, Administrators of W.D. Harris, deceased, is against,

) First Decree.

R.N. Musgrave, and J.J. Woodward and J.L. Barham, surviving Executors of Caroline R. Pope. } Defendants

This day this cause on to be heard upon the bill and exhibits filed, taken for confessed as to J.J. Woodward and J.L. Barham Executors of Caroline R. Pope, the answer of R.N. Musgrave and the petition of T.E. Peete, filed by consent of parties and by leave of court, and exhibit filed therewith, and replication to answer of R.N. Musgrave, and was argued by counsel.

Upon consideration where, and by consent of parties, the petition of said T.E. Peete is hereby allowed to be filed and the said T.E. Peete is hereby made a party defendant to this proceeding, or bill, and by consent of all parties to this cause, entered of record in open court, it is ordered that this be made a vacation cause and be submitted to the Judge of this court for such decisions and decrees therein as might be entered therein in term.

Gilllette, Staff for re

~~He is a~~

vs. { Spa: In chp.

Musgrove et al

1904. 2nd Jan. Rules

to is. W.

Executed by delivering
a true copy of the
within cert to

J. H. Barham, Jr.,
Woodward & R. A.

Musgrove. Jan 9th
1904

J. L. Gilllette Sheriff

Wm Shanda p. 9.

The Commonwealth of Virginia.

TO THE SHERIFF OF SOUTHAMPTON COUNTY—GREETING:

We command that you summon *R. N. McGraw, J. H. Wood*
and J. L. Berham, Surviving Exors. of Sarah R. Pope
Chas. J.

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules
to be holden for the said Court on the *3rd*..... Monday in *January*..... 1904..... next, to
answer a Bill in Chancery exhibited against *them*..... in our said Court by.....

J. L. Gillis, Sheriff of Southampton Co., Va. who serves you
the benefit of any and all the costs of Wm. S. Hamlin
G. T. Portridge, admr. of W. D. Harris & Co.

And this *They*..... shall in no wise omit under penalty of law. And have then there
this writ.

WITNESS, L. A. GAY, Clerk of our said Court, at the Courthouse, this *5th* day of
January....., 1904, in the *32nd* year of the Commonwealth.

Teste :..... *L. A. Gay*..... C. C.

Guccia spp. for ex

vs } Custodian L.A. Gay
Is date Jan. 28/07

McGraw et al

Gillette's to riff for R.

vs. { to Lott's & as done L. A. Gay to Gary. 28-1904

Misogone R. H. et al.

Sum, 25, 3 copies 39, receipt 18, atty, 10 = 92

doct 18, rule 50, entering return 35 = 103

fil, bill 15, Do, ex. 15, Copy exhibits 60 = 90

Law costs R. 40 = 40

\$325

January 28" 1904

Provs: L. A. Gay to L.

Ex. "R"

Harris Admrs

vs.

} Fl. FA.

Morgan R. H.

1904 1st April..... Rules.

Wm Shandy.....p. q.

Clerk.....\$57.9.

Sheriff.....50.

Law, etc.....3.50.

\$.....9.7.9.

Came to hand.....day

of.....19....., at....o'clock....M.

..... Sheriff.

No. 404...

Copy In: L.A. Gay & Co.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU that of the Goods and Chattels of R. H. Newgrove

late of your bailiwick, you cause to be made (2305-21) Three Hundred and Five
78/100 Dollars, with legal interest thereon from the 5th day
of October 1900 till paid, which William Shands and G. P.
Partridge admors of W. D. Harris deed.

lately in our Circuit Court of Southampton county have recovered against him
as well for a certain debt as for interest thereon; also the sum of None Dollars and
79 Cents, which to the said Harris Admors
in the said Court were adjudged for their costs in that suit expended, whereof
the said R. H. Newgrove is convict, as appears to us of record; and
how you shall have executed this writ make known at the Clerk's Office of our said Court, at the rules
to be holden for said Court on the first Monday in April 1904, and have then there this writ.

WITNESS, L. A. GAY, Clerk of our said Court, at the Courthouse, this 6th day of
January 1904, in the 128th year of the Commonwealth.

Recd.

TESTE:

L. A. Gay

C. C.

Exhibit A

Harold Adams

vs.

} Ft. FA.

M. A. G. R. R.

1904. 1st April. Rules.

Wm. S. R. R. p. q.

Clerk.....\$5.79.

Sheriff.....50.

Law, etc.....3.50.

\$.....9.79.

Came to hand... 7th..... day

of game... 1904, at 12 1/4 clock. P. M.

..... J. A. Gillello..... Sheriff.

No. 4.0.4...

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU that of the Goods and Chattels of R. N. Musgrave

late of your bailiwick, you cause to be made (£30.5.51) Three Hundred and five
8 1/100 Dollars, with legal interest thereon from the 5th day
of October 1900 till paid, which William Shands and
H. T. Partridge Administrators of H. A. Harris, deceased.

lately in our General Court of Southampton county have recovered against him
as well for a certain debt as for interest thereon; also the sum of Seven Dollars and
79 Cents, which to the said Harris' Admins
in the said Court were adjudged for their costs in that suit expended, whereof
the said R. N. Musgrave is convict, as appears to us of record; and
how you shall have executed this writ make known at the Clerk's Office of our said Court, at the rules
to be holden for said Court on the first Monday in April 1904, and have then there this writ.

WITNESS, L. A. GAY, Clerk of our said Court, at the Courthouse, this 6th day of
January 1904, in the 128th year of the Commonwealth.

TESTE:

L. A. Gay C. C.

Willie. Schiff. to
W. D. Harris' Admin

∞ } "Exhibit X"
Mugshot

Filed in Court March 1904
with petition of J. E. Pate

H. M. Kneelove----- (SEAL)

and was filed this 1st day of October 1903.

of Mrs. C. F. Pope for benefit of Mrs. Nancy Blakes for her
Dollars (\$5000) worth of H. M. Bonds set aside under the will
T. H. Beets whatever interest I may own in the Six Thousand
C. H. Pope, dec'd. for value received, I hereby assign to
Messrs. J. I. Woodward and J. I. Barham surviving executors of Mrs.
to

Gillette, Sheriff, who sues for, etc. W.D. Harris' Admrs.

VS.

Musgrave, et als.

The answer of R.N. Musgrave, one of the defendants to a bill of complain^{ed} filed against him and others in the Circuit Court of the County of Southampton, Virginia, by J.L. Gillette, Sheriff, who sues for the benefit of and at the cost of Wm. Shands and G.T. Partridge, Administrators of W.D. Harris, deceased.

This respondent, reserving to himself the benefit of all just exceptions to said bill, for answer thereto, or to so much thereof as he is advised that it is material he should answer, answers and says that he supposes that it is true that said Harris's Admrs. did have a judgement against him as alleged in said bill and that executions had been issued on the same and that such executions were, under the law, a lien upon his interest in the said \$6000. in litigation as part of Caroline R. Pope's estate, but this respondent says that he had no idea that said judgement, or executions were a lien upon his interest in said fund, ^{particularly} while it was undetermined that he had any interest in said fund, and being so ignorant, and being in need of money, he, about the first of October 1903, sold his entire interest in said fund to T.E. Peete, for valuable and, as he deemed it, adequate consideration paid to this respondent by said Peete, and in writing assigned all his interest in said fund to said T.E. Peete.

Your respondent since then has had no interest whatever in said fund, and your respondent repeats that when he made such assignment to Peete that he had no idea that anyone had any lien upon said funds or his interest therein, and he feels sure that said Peete not only did not know of any such lien, but did not know that anyone had any judgement or execution whatever against this respondent : certainly this respondent did not tell him of any such judgement or execution and believes that Peete did not know of any such. For this reason and by reason of said assignment, this respondent believes that the said Peete is enti-

tled to the share of said fund that would have been due to this respondent under the will of the said Caroline R. Pope, free from the lien of said judgement and executions in favor of the plaintiffs in this cause, or from any other lien against this respondent.

And this respondent denies all fraud, unlawful combination and confederacy: and having fully answered the complainant's bill, prays to be hence dismissed with his reasonable costs by him in this behalf expended, and he will ever pray, etc.

x R. N. Musgrave.

Order and Story p.d.

To
Messrs.

J. J. Woodward and J. L. Barham Surviving executors of Mrs.
C. R. Pope, dec'd. For value received, I hereby assign to
T. E. Peete whatever interest I may own in the Six Thousand
Dollars (\$6000) worth of R. R. Bonds set aside under the will
of Mrs. C. R. Pope for benefit of Mrs. Nancy Briggs for her
life under item three of said will.

Witness my hand and seal this 1st day of October 1903.

R. N. Musgrave----- (SEAL)

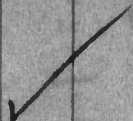
Handwritten notes in left margin:
1000. 2000. 3000. 4000. 5000. 6000. 7000. 8000. 9000. 10000.
X
1000. 2000. 3000. 4000. 5000. 6000. 7000. 8000. 9000. 10000.
1000. 2000. 3000. 4000. 5000. 6000. 7000. 8000. 9000. 10000.

Handwritten notes in bottom right margin:
1000. 2000. 3000. 4000. 5000. 6000. 7000. 8000. 9000. 10000.

Greenleaf Shipp. 9 or 10.

vs. { Stat. of Rules

Memorandum R. R. et al.



J. L. Gieseler. Sheriff of Southampton Co. Va.,
who sees for the benefit of and at the costs of
Wm Shands and G. T. Portridge Admins of W. D. Harris
decd. Plaintiffs

vs. } In chancery
R. H. Mesgrave; J. J. Woodard and J. L. Barham
Surviving Exors of Caroline R. Pope. decd.
Defendants.

1904. 6th January Process issued to 2nd Jan'y. Rules.

1904 2nd January Rules. Process returned executed.

Bill and exhibits filed

Decease nisi

1904 1st February Rules. Bill taken for
Confessed - and Cause set for hearing

Giltelle Sheriff. for
the Honor's Admin

vs. { Petition of
J. E. Peete

Musgrove. it also

Filed in term Nov. 1904

Gillette, Sheriff, who sues for etc. Harris' Admrs.

VS.

Musgrave, et als.

To the Hon. R. R. Prentiss, Judge of the Circuit Court of Southampton County, Virginia.

Your petitioner, T. E. Peete, sheweth unto the court that at the second rules in January 1904, J. L. Gillette, Sheriff, by virtue of the provisions of section 3614 of the Code of Virginia, suing for the benefit of and at the cost of Wm. Shands and G. T. Partridge Administrators of W. D. Harris, deceased, filed his bill in equity in the Circuit Court of Southampton County, in which he makes R. N. Musgrave, and J. J. Woodward and J. L. Barham, surviving Executors of Caroline R. Pope, parties defendant, and set forth in said bill that said R. N. Musgrave has a vested interest, which is ready to be paid to him, in the estate of said Caroline R. Pope, amount to about 1/23 of \$6000., upon which interest said Administrators of W. D. Harris claim that they have a lien by virtue of an execution against R. N. Musgrave in favor of said Administrators of W. D. Harris issued on the 7th day of January 1904, upon a judgement alleged to have been secured in the Circuit Court of Southampton County by said Harris' Admrs., though your petitioner is not informed, nor does said bill or execution state, the date when said judgement was obtained or when other executions on same were issued as is alleged in said bill: the said bill claims that by virtue of said execution, and your petitioner presumes in pursuance of the provisions of section 3601 of the Code of Virginia, said Harris' Admrs. have a lien upon the said interest of R. N. Musgrave in the said Caroline R. Pope estate, and asks the court to restrain the surviving Executors of said Caroline R. Pope, in whose hands said interest is, from paying out said interest to or to anyone for him, said R. N. Musgrave, until said Musgrave shall have paid and satisfied said execution, which it is claimed is a lien upon the interest of said Musgrave in said Pope estate.

Your petitioner further shows to the court that on the 1st day of Octo. 1903, at which time your petitioner knew nothing of any judgement, or judgements, against R. N. Musgrave, in

the circuit court of Southampton County, or elsewhere, or of any executions that may have been issued upon any of said judgements, or of any lien that W.D.Harris' Administrators, or anyone else, had against the property of R.N.Musgrave by virtue of any such judgements, or executions or otherwise, your petitioner, for valuable and adequate consideration to said Musgrave in hand paid, purchased from said Musgrave all his interest, of every kind in the said \$6000. named in said bill, belonging to Caroline R. Pope's estate and then in litigation in the Supreme Court of Virginia, and took from said Musgrave a valid assignment of said interest in writing, a copy of which assignment is herewith filed, marked "Exhibit X" and prayed to be read as a part of this petition.

Your petitioner alleges that when he purchased said interest in said fund from said Musgrave he had no knowledge whatever of any lien on same in favor of anyone on earth, and that the purchase was a bona fide one and for valuable and adequate consideration paid to said Musgrave : your petitioner says that he is not even yet advised, by the bill of said complainant, Gillette, Sheriff, or from any other source, whether the said Harris' Admrs. did have a lien upon said fund at the time Musgrave assigned his interest in same to your petitioner or not, but your petitioner claims that even if they had such lien it must have been by virtue of the provisions of section 3601 of the Code of Virginia, and subject to the provision contained therein that as to an assignee for value from the execution debtor of the interest or property upon which a lien is claimed under said section, such lien is not valid unless such assignee had notice of such lien at the time he took such assignment to himself, and such notice your petitioner emphatically denies that he has when he took assignment from Musgrave. Your petitioner therefore claims that he is entitled to the interest of said Musgrave in said fund by virtue of said assignment free from said lien alleged in said bill and from any other lien against said fund as the property of

said Musgrave.

In tender consideration whereof your petitioner prays that he may be made a party defendant to said bill and this his petition may be treated as an answer thereto : that said bill be dismissed and the said Harris' Admrs. be required to pay all the costs in said proceedings, including the costs of your petitioner, and that said J.J.Woodward and J.L.Barham, surviving Executors of Caroline R.Pope, be instructed to pay the balance in their hands ^{R.N.Musgrave} due ^A under the will of said Caroline R.Pope, according to the decision of the Supreme Court of Appeals of Virginia, to your petitioner as the assignee of said Musgrave; that all further orders and decrees may be made as may be necessary or to equity may seem meet : and ~~that~~ your petitioner will ever pray, etc.

x T E Peete

Parker and Long attorneys of
the petitioner.

Virginia, Southampton County, to-wit:-

I, E M Harris, a Justice

in and for the county aforesaid in the state of Virginia, hereby certify that T.E.Peete, whose name is signed to the writing above, personally appeared before me in my county and made oath to the truth of the statements contained in said writing

Given under my hand this 19th day of March 1904.

E M Harris J.P.

J.L.Gillette, Sheriff, etc. who sues for etc.

vs.) Second Decree.

R.N.Musgrave, et als.

This day this cause came on again to be heard upon the papers formerly read and was argued by counsel.

Upon consideration whereof the court doth adjudge, order and decree that J.J.Woodward and J.L.Barham, surviving executors of Caroline R.Pope, deceased, pay to T.E.Peete, as assignee of R.N.Musgrave, the balance in their hands belonging to the estate of Caroline R.Pope due to R.N.Musgrave out of the proceeds of Railroad bonds, said balance being, according to the distributee account of of said estate filed by E.F.Story, Comr. of Accts. in this court June 1st 1904, the sum of \$282.78, and take the receipt of said T.E.Peete therefor and file the same with their proper report as Executors as a voucher.

And the court doth further adjudge, order and decree that this ~~cause be removed from the docket~~ removed cause be ~~stricken~~ from the docket