1855-012 Chancery Cause: Elizabeth W. Eley, by &c vs Elisha Eley, alias Elisha D. Eley

Isle of Wight County

other surnames: Jenkins
Watkins, Ballard, Spivey

To the Hon Richd H Baker Judge of the Circuit Court of Isle of Wight County. in chancery Sitting.

Humbly Complaining Sheweth to the Court your Complainant Elizabeth N. Ely (wife of Elisha. Ely who is Sometimes Called Elisha D Ely) by James E Jenkins her next friend. That many years since your Complainant intermarried with one Elisha Ely who Calls himself Elisha D Ely whose wife she now is and by whom she has had Several children That for Some years past She has been living with her said husband and has by Every means in her power endeavored to do her duty as a wife and has faithfully as far as in her power, it was possible tried to render him happy and Comfortable — but in an evil hour, (and she would not say in one evil hour, but in many evil hours) under the influence of that arch-demon intemperance in obedience to whose mandates he has for years past been yoked by blind and implicit obedience she has been the recipient, instead of Kind treatment and the husband-like affection which was due to her as his lawful and faithful wife, of the most brutal unkind — unchristian-like and brutal treatment — and it seems to her from his Conduct his most anxious wish to render herself & their children perfectly miserable and helpless — Inasmuch as he has at different times beaten her Severely, driven her from his house, deprived her of the ordinary means of Supporting life by refusing her food, threatened to take her life and otherwise so badly treated and abused her that life itself became a burden to her, In consequence of which Conduct She has been forced to seek shelter, from not only the weather, for herself and her children, but food and raiment for their maintenance

and support, and only thro' the Kindness and maternal affection of a mother and the family affection of her relations was she enabled to keep body & soul together. This is no exaggerated account of her situation, but she believes an account charitable to him, and its frequent repetition, and the increase of brutality at each repetition added to the frequency of these repetitions have forced her to seek safety by appealing to the laws of the land. She states that She has had by him Two — one of whom is dead children, and is herself, with that child — (by his Cruelty, superinduced by King Alcohol as She charitably believes) now thrown upon the — charity of her friends & relations, and but for that might be now suffering. She believes and honestly expresses her opinion that were she entirely seperated from him, allowing him no control over her person or what property she might acquire by his efforts, aided by her friends, and giving to her the care, protection and education of her child —, the remainder of her days might pass off in quietude or at least as much as under the circumstances might be expected, that her child — would be rid of the influence of such a father and not be taught to imitate his example — and that in all probability he might see it is too late be brought, by an act of seperation, to reform, She admits that it is painful indeed thus to go behind the curtain and disclose what she has, and nothing but fear for her safety and that of her child — has induced it. She is advised therefore that her only hope lies in obtaining a divorce a mensa et thoro, and that a Court of Equity is the only tribunal that has power to decree such a divorce — She therefore in view of all the circumstances humbly prays that such a decree may be granted, that such provision as may be necessary to enable her to conduct this suit may be made as well as such allowance from her estate for her maintenance may be made and that such other and further order and decree in the premises may be made as may be consistent with equity and good conscience and may help and assist your Complainant in the premises, and as in duty bound She will &c &c —

Jamey E. Jenkins
Atty for Complainant

Elizabeth W. Eley by
James E. Jenkins her
next friend

vs. Bill

Elisha C. Eley

May Rules 1853 Bill
filed & decree nisi

Nov. Rules 1855 Bill
taken for confessed & set
for hearing.

Octo. 1855. final decree
pr. sy

Elizabeth W. Eby vs. &c.

3 Summons. in
Eby &c.

Elisha Eby

To March subp. ad. ct.
1835

Jas. E. Hutton, Clk

Not to have
in Time To
Execute
J. J. Hutt Shff
March 4th 1835

The Commonwealth of Virginia,

To the Sheriff of Isle of Wight County—GREETING.

YOU ARE HEREBY COMMANDED TO SUMMON Elisha Ely

to appear at the Clerk's Office, of our Circuit Court for Isle of Wight county, on the first Monday in March 1855 ~~next~~ to answer a bill in chancery to file against him by Elizabeth W. Ely by Jas E. Jenkins her next friend.

~~of a plea of~~

~~damages~~

and have then and there this Summons.

Witness, NATHANIEL P. YOUNG, Clerk of our said Court, at his Office, this 3d day of March, 1855, in the 79 year of the Commonwealth.

N. P. Young Jr.

Eliz.th Eley spr. f.d.

ats. Writ Summons in Eley.

Elisha Eley

to April Rule 1835

Jenkins p.q.

Executed and

Summons returned

J. Hall Sh.ff

The Commonwealth of Virginia,

To the Sheriff of Isle of Wight County—GREETING.

YOU ARE HEREBY COMMANDED TO SUMMON Elisha Eley

to appear at the Clerk's Office, of our Circuit Court for Isle of Wight county, on the first Monday in April 1855 ~~next~~, to answer a bill in Chancery to be filed against him by Elizabeth Eley, by James E. Jenkins her next friend.

~~of a plea of~~

~~damages~~

and have then and there this Summons.

Witness, NATHANIEL P. YOUNG, Clerk of our said Court, at his Office, this 10th day of March, 1855, in the 79 year of the Commonwealth.

N. P. Young Jr. C.

To Elisha. D. Eley

Take Notice that on Wednesday the 17th day of October in the year 1855. between the hours of 6 in the morning and six in the Evening of that day at the Store house formerly occupied by Robert D Mauhill & Co known as Ducksville I shall proceed to take the depositions of Edwin. L Ballard, and others to be used as evidence in a certain chancery Suit now pending and undetermined in the Circuit Court of Isle of Wight County, in which I am plaintiff and you are defendant and if from any Cause the taking of the said depositions shall not be commenced or being commenced shall not be Completed on that day the taking of the same will be adjourned from day to day till Completed

Given under my hand this the 6th day of October 1855 —

Elizabeth W Eley
by Jas E Jenkins her
next friend —

State of Virginia
County of Isle of Wight October 17th 1855

This day personally appeared before me ~~D. D. Watkins~~ D. D. Watkins who being duly Sworn deposeth and saith that he has delivered a Copy of the within notice to Elisha W. Ely on the 9th day of October 1855

Given under my hand this the 17th day of October 1855

D. D. Watkins J.P.

Eley pr. fa.

vs. } Decree.

Eley

She was forced to leave him in Consequence of his Con-duct or stay with him and die he often swore that She should not stay there She was a kind and attentive wife and believe endeavored to do her duty I believe She did more than her duty

Further this Deponant Saith not— her

Emma + Spivey

mark

State of Virginia

County of Isle of Wight

I Meredith H. Watkins a justice of the peace for the County aforesaid and in the State aforesaid do hereby Certify that the foregoing depositions were duly taken sworn to and Subscribed before me at the time and place therein mentioned

Given under my hand this the 18th day of October A.D. 1855

M.H. Watkins J.P.

Evan Stevens being duly sworn deposeth & says:

Question by plffs Counsel State what you know of the domestic relations that has existed between Elisha D Ely & Elizabeth W his wife & the conduct of the one to the other —

Answer —

I have known both for many years and live about 3/4 of a mile from them visited them often and tended a part of the land which they lived have often seen him abuse her and ill treat her in a most cruel manner threatening her life swearing she should not live in his house on one occasion I drove up in the yard at night and found her and her daughter locked out of the house by him he then in the house and they appealed to me for protection assistance & shelter I took them to my house and gave them shelter or else during a snow they would have frozen but for my going after them and carrying them to her mothers he then off to the grog shop drunk his conduct to her has been very cruel and brutal often while she was unable to do house work forcing her out in all kinds of weather to work in the field and mend fences, whilst he was in the house drinking up his whiskey I sometimes thought pity would help her & when she would make some corn cakes he would take it and sell it for whiskey all that he could get through her assistance he would sell in the same way he would come home drunk and give vent to his jealousy on her in the worst manner I regard him as a drunkard and almost a brute unfit to have charge of a family and I fear were his wife and himself to live together again (if he would permit it) he would put an end to her these things I know and have seen them not only once but often times

I have often been there and herd him abuse and ill
-treat her to much so I have been forced to expos-
-tulate with him he did not provid for her wants
or support his family but for the kindness of the
neighbors she must have perished he often came
home drunk would abuse and illtreat his wife
at one time he drank until he was as helpless
during that time she waited on him and was
as kind and attentive as a wife could be
her conduct always to him has been that of kind-
-ness his to her brutale, she has often complained
to me of his conduct he would force her to work
in the field & mind his fince whilst he would
be at home drunk, he would force her to perform
all kinds of drudgery that they are not now living
together she was forced to leave him through necessity
just for want of something to eat in order for protection
from his ill treatment her health was very bad
after she got better so that she could return home
he sold all his property and became a regular vagrant
deserted his wife and family and left the to the
charity of the neighbourhood he has entirely abandon-
-ed her and refused in publick upon all occasions to either
ever live with her or provide for her
Question From your Knowledge of the man & the lady
and the circumstances is or is there not reas-
-onable apprehension of bodily hurt on the part of
Either from the other
Answer [illegible]
were they to live together again there would
be reasonable apprehension of bodily hurt on
her part [illegible]
Further this deponent saith not

E. L. Ballard

The deposition of Margaret W Ely John R Watkins Edmund L Ballard and Erum Spivey taken before me ~~Lloyd L Wallace~~ Meredith H Watkins a Justice of the peace for the County of Isle of Wight pursuant to a notice hereto annexed at the store house formerly occupied by Robert D Brantley & Co known as Duckville between the hours of 6 A M & 6 P M on the 1st day of October 1855 to be read as evidence in a certain suit in equity pending in the Circuit Court of Isle of Wight County wherein Elizabeth W. Ely by Jesse E Justice her next friend and Elisha Ely (known as Elisha D. Ely) is defendant

The taking of these depositions is adjourned till to morrow 18th Oct at 8 o'clock.

M H Watkins — JP.

The taking of these depositions this resumed in obedience to the order of adjournment, October 18th 1855.

Margaret W. Ely being duly sworn deposeth & saith In answer to 1st Interrogatory State what you know of the conduct of Elisha Ely known as Elisha D Ely towards Elizabeth W. Ely within the last five years, your relation to the parties & any other matters within your knowledge as to the relative position of the parties & their conduct towards each other.

Answer, I am the daughter of Elisha D Ely and Elizabeth W Ely, I have heard him threaten the life of my mother often times within that time I have known her often times shut out of doors by my papa and driven from her home and forced to go to some neighbors house for a shelter and protection, his habits are those of a confirmed drunkard always drunk, doing no work when at home but about drinking and when he was

in that situation his conduct towards my mother was cruel threatening to whip my mother standing over her with a stick swearing that he intended to kill her my mother - at the time in bad health he threatened to kill her while sick in bed, this was done several times

Question State what his means for providing for his family were & whether he has availed himself of these means? within that time.

Answer he had drank until he was good for nothing and did nothing at all towards providing for his family, had he stopped drinking he might have supported his family very well he staid at home very little until he was forced by his necessities to stay, my mother was sick and was carried away by my uncle to save her life

Question How old are you

answer - I am eighteen the 14th of Nov.r next -

Question - ~~Has or has~~ he not left his home?

Answer he had no home to leave it having been sold how I dont know,

Question - Where is your mother now?

Answer at the widow Butlers he never come to see her and has not been to see her in two years

Question Have you Ever Known him to drive your mother from her home? during the time he had one

Answer I have heard him drive her away often times and tell her before she should stay he would kill every thing he had he told her when she started he never wanted her to come back I have known her often times forced to leave her home in consequence of his cruelty

Question What was the Conduct of your mother towards your father within your recollection?

Answer She was good to my father in his sickness and nursed him and in health she was kind to him she was particular in attending to his wants and was always ready to help him and whilst she was enduring from assistance he was treating her badly I believe he would have whipped her had she not gotten out of his way he has said he intended to kill her if he could not any way he would another and I feared that he would do it

Further this deponent saith not.

Signed.

Margaret M. Eley

John R Watkins being duly Sworn deposeth & saith

Question by plaintiffs Counsel - State what you know of the Conduct of Elisha D Eley towards Elizabeth Eley within the last five years, and any other matter connected with their domestic relations?

Answer I have visited the house frequently and have seen him in bed drunk in the day time his wife in the field at work, after she was so ill that she could not work he failed to provide for her and I had to remove her she being in suffering condition she has often times come to my house at the night for shelter and protection in a most pitiable condition her general health very bad I know nothing of my own knowledge of his cruelty at home to her but from all the circumstances that have come under my knowledge she has been cruelly treated he has not visited her within the last two years nor provided for her support her relations and neighbours being forced to provide for her support to keep her from suffering

Question Why did you remove her from his house?

Answer her health was very bad and he did not provide either in sickness nor health She complained to me frequently of his treatment as brutal and Cruel I did remove her from his house at her request she said to. be removed on a bed from his house to mine I brought her away expecting her to die She expected to go back should she recover but before she got well he was told out and he had gone away and was lurking about in the neighbourhood as a vagrant.

Question What is your occupation —

Answer I am a licence Minister and also a farmer

Question Should they go back to live with Each other is or is there not reasonable apprehension of bodily hurt on her part?

Answer I do believe there is he is an evil disposed man and violent in his disposition regardless of his duty to himself or his family or society a notorious drunkard and unfit to have charge of a family

Question What has been their general deportment to Each other

Answer Cropsey and abusive on his part and kindness and affection on hers

Further the Deponent Saith not.

Jno. R. Watkins

Edwin L. Ball aged being duly Sworn deposeth saith —

Question Do you Know Elisha Ely & Elizabeth Ely? How long & what has been the Conduct of one to the other since you have Known them —

Answer

I have Known them for the last eleven years Elisha S Ely has been a confirmed drunkard all the while dependant upon the labour of his wife for his support his conduct during that time has been abusive brutal and cruel towards her

reserved to the parties to make application to the Court for such further orders as are authorized by Law

Esq for Petr
as Decree
Esq

To be entered
R. H. B.
Rd. Court 1855.

Exh
10

Elizabeth W. Eley by Jamy E. Jenkins her next friend
Complainant
vs. } In Chancery -
Elisha D Eley Sometimes Called Elisha D. Eley Defen

This Cause Came on ~~Tuesday~~ to be heard on the bill filed against the defendant upon whom process had been duly served and he this fail to appear and answer and on the recommend of witnesses & was argued by pltffs Counsel On Consideration whereof, the Court being of opin that the charge of Cruelty and other inhuman and improper Conduct against the defendant are fully proved doth adjudge order & decree that the plaintiff Elizabeth W Eley be and is hereby divorced from the bed and board of the defendant and be perpetually Seperated and protected in her person and property including not only that which she already has but also such property as she may hereafter acquire and that the plaintiff recover from the defendant her costs by her expended in the prosecution of This suit - and the Court doth further adjudge order & decree that the Custody of the said plaintiff & Seven~~-~~ ~~W Eley~~ named Margaret W. Eley shall remain in the care & Custody of the said Elizabeth W Eley and all the lawfull power & authority of the said defendant over the person & estate of the said female child shall cease and determine during the lifetime of the said defendt or until such time as this or some other Court of Competent Jurisdiction shall order or decree to the Contrary - And nothing further remaining to be done in this suit it is ordered that the same be removed from the Docket but leave