

1914-014 Chancery Causes, Eugenia B. Day vs B. P. Day & George F. Whitley, cont.

113

Isle of Wight County

other SURNAMES: Eley

In the Circuit Court of Isle
of Wight County.

Eugenia B. Gay

V

B. P. Gay, and George F. Whitley,
sometimes called "George F.
Whitley, Committee of Eugenia
B. Gay".

Bill

2nd January rules 1912
Process returned executed
Bill filed. Deone nisi

3rd June rules 1912
Defendants not appearing
Bill taken for confessed
and case set down for
hearing

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

Eugenia B. Gay,

Plaintiff

v

B.P. Gay, and George F. Whitley, sometimes called
"George F. Whitley, Committee of the estate of
Eugenia B. Gay". Defendants.

To the Honorable B.D. White, Judge of the said Court;

Your oratrix, Eugenia B. Gay, humbly complaining sheweth unto the Court as follows:

First. That B.P. Gay is now and has been for a number of years indebted to your oratrix, the amount of which indebtedness is unknown to your oratrix, as for a long time all evidences of said obligations have been in the possession of the said B.P. Gay, and the said Gay has from time to time paid to your oratrix certain interest on the whole or a part of the principal of said indebtedness, the amount of which payments are not now known to your oratrix.

Second. That on the _____ day of _____, 1911, there was served upon your oratrix, a paper writing, which is in the following words:

"To Eugenia B. Gay.

Take Notice : That at eleven o' Clock A.M. on the 10th day of May 1911, I shall appear at the Clerk's Office for the County of Isle of Wight, before the Clerk of said County and make application for the appointment of a committee for you.

B.P. Gay".

The said paper is filed with this bill, marked "Exhibit A", and it is asked that it be read as a part of the same.

Third. That your oratrix not being well educated and not fully understanding the technical and legal meaning of the words, did not know the full meaning of this notice, and being without means, practically all of her money being in the hands of B.P. Gay, she did not appear at the time and place named in the said notice, nor did she employ counsel to appear for her. She is informed, believes and charges that on the motion of B.P. Gay, on the 10th day of May, 1911, the Clerk of the Circuit Court of Isle of Wight County, without authority of law and in violation of the constitution of the State of Virginia, undertook to and did name George F. Whitley, as committee of her estate, and the said George F. Whitley, relying

the said illegal and void appointment ,undertook to qualify as committee of the estate of your oratrix and gave bond as such before the said Clerk of the Circuit Court of Isle of Wight County on the _____ day of _____,1911,in the penal sum of _____,with _____ as surety.

Fourth. That pursuant to this illegal and void appointment by the said Clerk of the Circuit Court of Isle of Wight County and after he had undertaken to qualify as such committee,the said George F.Whitley,as such illegal committee,proceeded to collect money due to your oratrix from Mrs Sallie B.Eley and B.P.Gay and others, and id get possession of some money ,owing to her,the amount of which is unknown to her,and did also get possession of certain evidences of indebtedness to her by B.P.Gay and others ,the nature and amount of which evidences of indebtedness is unknown to her.

Fifth. That your oratrix has never been adjudged insane by any commission of lunacy or by any other empowered by the laws of this commonwealth to pass upon her insanity,and until that is done she is sane according to the laws of the state of Virginia,and entitled to the possession and control of her property . And that while it is not necessary or incumbent upon her to prove her sanity,the law presuming that she is sane,she aleges and belives that she is sane, for many persons knowing her well,and who would not wilfully deceive her pronounce her sane.

Sixth. Your oratrix is not informed as to the facts upon which the said B.P.Gay to induce the Clerk of the Circuit Court of Isle of Wight County to undertake to appoint a committee of the estate of your oratrix,but whatever they may have been your oratrix alleges that said action the said Clerk is void. Your oratrix has declined to recognize George F.Whitley as committee of her estate,and has accepted money from him only once,and this she did because she was oblige to have some money to pay for necessities,and could get it from no other source.The amount she received from him was Seventy five dollars.

Whatever may have been the knowledge of your oratrix as to the indebtedness of the said B.P.Gay to her ,the illegal appointment of George F.Whitley as committee of her estate and the collection of money by him from said Gay and taking of evidences of indebtedness to her from said Gay has greatly confused the accounts so that she does not know what amount either of these parties is indebted to her, and this confusion of accounts has been brought about by the conduct of the said B.P.Gay in moving to have a committee appointed for her estate and in turningover moneys and evidences of indebtedness to said George F.Whitley as committee.

Forasmuch as your oratrix is remediless ,save in a court of equity,she prays that the said B.P.Gay and the said George F.Whitley ,sometimes called "George F.Whitley,committee of the estate of Eugenia B.Gay",be made parties defendants to this bill,and each be required to answer the same,but not under oath ,oath being waived; that the said B.P.Gay be required to disclose the amount of his indebtedness to your oratrix,and that a decree be awarded to your oratrix against the said B.P.Gay for the amount that may be found to be due to her;that the said George F.Whitley,sometimes called "George F.Whitley,committee of Eugenia B.Gay",be required to disclose the amount of money which may be due by him to her,and the evidences of indebtedness to her in his possession belonging to her ,and that a decree be awarded to her against the said George F.Whitley for the money found to be due by him to her and for all evidences of indebtedness in his possession that may belong to her;that the attempted appointment of the said George F.Whitley as committee of her estate be declared null and void;that proper process issue,all proper orders be made and accounts taken;and that all such other further and general relief may be granted your oratrix as in the premises may be just and right. And your oratrix will ever pray etc.

Eugenia B. Gay
Prue Simmons p. qf

Eugenia B. Gay

State of Virginia,

Corporation of the City of Norfolk, to-wit:

This the 30th day of November, 1911, personally appeared before me the undersigned a commissioner in chancery of the Court of Law and Chancery of the City of Norfolk, in the State of Virginia, in the said corporation, Eugenia B. Gay, and made oath that the statements made in the foregoing bill of complaint are true.

Given under my hand the day and year first above written.

Bruce Minnoway

Commissioner in Chancery.

EUGENIA B. GAY,

VS) A N S W E R:

B. P. GAY, et als.

1914
Oct 5.
Filed B.P.W.

GEORGE F. WHITLEY
ATTORNEY-AT-LAW
SMITHFIELD, VA.

IN THE CIRCUIT COURT FOR THE COUNTY OF ISLE OF WIGHT,
OCTOBER TERM.

Eugenia B. Gay,.....Plaintiff, *
VS. *
B. P. Gay and Geo. F. Whitley, *
some times called Geo. F. Whitley, *
Committee of the estate of *
Eugenia B. Gay,.....Defendants. *

TO THE HONORABLE B. D. WHITE, JUDGE
OF THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT;

-----oOo-----

The answer of B. P. Gay to a bill of complaint exhibited against him and others in the Circuit Court for the County of Isle of Wight by Eugenia B. Gay.

Your respondent, now and at all times hereafter, reserves to himself all benefit and advantage of exception which can or may be taken to the many errors, uncertainties and insufficiencies in the said bill contained, for answer thereto, or to so much thereof as he is advised it is material or necessary, for him to answer, your respondent answering saith as follows:

1- That true it is, the said respondent was at the time of the filing of the said bill, which ^{said} bill was filed on the 2nd January Rules, 1912, indebted to Eugenia B. Gay, the Complainant mentioned in said bill, but that since the filing of the said bill by the said complainant the said respondent has paid to the said complainant the sum of Fourteen Hundred and Seventy Dollars and 21/100 (\$1,470.21), which said amount was paid to the said Eugenia B. Gay on the 3rd day of October, 1913, and in full settlement of the amount due the said complainant, as is

evidenced by a receipt signed and acknowledged by said complainant before a Notary Public and is herewith filed, and asked to be taken as a part of this answer.

2- That true it is, the said respondent has served upon the said complainant the notice of the appointment of a Committee for the said complainant, as mentioned in the said bill; that Geo. F. Whitley was, by the Clerk of the Circuit Court of Isle of Wight County on the 10th day of May, 1911, appointed Committee of the estate of the said complainant, upon the motion of the said respondent; that all of the proceedings taken in this matter were taken after consulting with two brothers of the said complainant, who consented to this action and for the purpose of preserving the estate of the said complainant, who was, just prior to the making of said motion, disposing of her estate in a manner which lead your respondent to believe that the said complainant was not in her right mind, but laboring under a temporary form of insanity.

And now, having fully answered the complainant's bill, and having paid to her the full amount due, this respondent prays hence to be dismissed, and will ever pray, etc.

B. P. Gay.

Eugenia B. Gay,

VS) A N S V E R:

B. P. Gay, et als.

1414
OKB.
Filed B.D.W.

GEORGE F. WHITLEY
ATTORNEY-AT-LAW
SMITHFIELD, VA.

Received of George F. Whitley, Committee, all monies due me by him, as Committee, as well as all notes, bonds and evidences of debt due me, which were received, and have been in his hands as Committee for Eugenia B. Gay.

In consideration of the receipt of same, I do hereby release the said George F. Whitley, Committee of Eugenia B. Gay, and his bondsmen, from all obligations which may have devolved upon the said George F. Whitley, as Committee, and his bondsmen, by virtue of him, the said George F. Whitley, Committee, having been in possession of any monies and evidences of debt belonging to me.

Given under my hand this 3rd day of October, 1913.

Eugenia B. Gay

STATE OF VIRGINIA,

County of Isle of Wight, to-wit:

I, Jas R Ramee Jr., a Notary Public in and for the County aforesaid, State of Virginia, whose commission as such expires on the 3rd day of January, 1914, do certify that Eugenia B. Gay, whose name is signed to the writing hereunto annexed, bearing date on the 3rd day of October, 1913, has acknowledged the same before me in my County aforesaid.

Given under my hand this 3rd day of October, 1913.

Jas R Ramee Jr. Notary Public.

Received of B. P. Gay the sum of \$1470. $\frac{21}{100}$

Dollars, it being the

amount in full, due me.

Given under my hand this 3rd day of October,
1913.

Eugenia B. Gay

STATE OF VIRGINIA,

County of Isle of Wight, to-wit:

I, Jas R Rawlee Jr, a Notary Public in and for the
County aforesaid, State of Virginia, whose commission as such ex-
pires on the 3rd day of January, 1914, do certify that
Eugenia B. Gay, whose name is signed to the writing hereunto an-
nexed, bearing date on the 3rd day of October, 1913, has
acknowledged the same before me in my County aforesaid.

Given under my hand this 3rd day of October, 1913.

Jas R Rawlee Jr Notary Public.

By the signing and sealing of this paper, I hereby authorize George F. Whitley to sign my name to a decree dismissing the suit brought by me in the Circuit Court for the County of Isle of Wight, against the said George F. Whitley, and B. P. Gay, and which is now pending in said Court.

Given under my hand and seal this 3 day of October, 1913.

Eugenia B. Gay (Seal)

STATE OF VIRGINIA,

County of Isle of Wight, to-wit:

I, W. R. Ramey, a Notary Public in and for the County aforesaid, State of Virginia, whose commission as such expires on the 3rd day of January, 1914, do certify that Eugenia B. Gay, whose name is signed to the writing hereunto annexed, bearing date on the 3rd day of October, 1913, has acknowledged the same before me in my County aforesaid.

Given under my hand this 3rd day of October, 1913.

W. R. Ramey Notary Public.

COMMONWEALTH OF VIRGINIA.

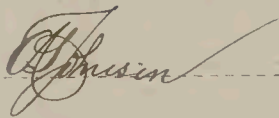
TO THE SHERIFF OF ISLE OF WIGHT COUNTY--Greetings;

We command you that you summon B. P. Gay, George F. Whitley, sometimes called "George F. Whitley, Committee of the estate of Eugenia B. Gay,"

to appear at the Clerk's Office of the Circuit Court of the County of Isle of Wight at the rules to be holden for the said Court on the 3rd. Monday in January, 1912, 191, to answer a bill in chancery exhibited against them in our said Court by Eugenia B. Gay,

And have then and there this writ.

Witness, A. S. JOHNSON, Clerk of our said Court, at the Court-house, this 3rd. day of January, 1912, 191, and in the 136th. year of the Commonwealth.



.....Clerk.

Eugenia B. Gay

vs) Subpoena in Chancery

B. P. Gay et al.

Returnable to 2nd. Jan. rules,

1912.

*Returned Jan 3rd 1912
Jest. Johnson. Clerk*

Executed, the with-in summons this the 3rd, day of January 1911, by serving true copies of same on the with-in named B. P. Gay and George F. Whitley in person with-in the County of Isle Of Wight.

R. Augustus Edwards Jr.
Sheriff of Isle Of Wight County.

IN THE CIRCUIT COURT FOR THE COUNTY OF ISLE OF WIGHT,
OCTOBER TERM.

* * * * *
Eugenia B. Gay,.....Plaintiff, *
VS. *
B. P. Gay and Geo. F. Whitley, *
some times called Geo. F. Whitley, *
Committee of the estate of *
Eugenia B. Gay,.....Defendants. *
* * * * *

TO THE HONORABLE B. D. WHITE, JUDGE
OF THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

-----oOo-----

The answer of Geo. F. Whitley, some times called Geo. F. Whitley, Committee of the estate of Eugenia B. Gay, to a bill of complaint exhibited against him and others in the Circuit Court for the County of Isle of Wight by Eugenia B. Gay.

Your respondent, now and at all times hereafter, reserves to himself all benefit and advantage of exception which can or may be taken to the many errors, uncertainties and insufficiencies in the said bill contained, for answer thereto, or to so much thereof as he is advised it is material or necessary for him to answer, your respondent answering saith as follows:

1- That true it is, he was appointed Committee of the estate of the said complainant by the Clerk of the Circuit Court of the County of Isle of Wight on the 10th day of May, 1911; and that he did in pursuance of said appointment qualify as Committee of the estate of said complainant, and gave bond as such before the said Clerk of the said Court; that he did, as committee, collect certain monies and evidences of debt belonging to the said complainant, and did pay to the said complainant the amount

mentioned in the said bill, as well as to pay certain accounts due by the said complainant.

2- That, on the 3d day of October, 1913, the said respondent paid over to the said complainant all monies due by him, as committee, to said complainant, as well as turned over to the said complainant all notes, bonds and evidences of debt held in his possession, as committee, upon which date the said complainant executed before a Notary Public a receipt to the said respondent for said monies, notes, bonds and evidences of debt, which receipt is herewith filed and asked to be taken as a part of this answer.

And now, having fully answered the complainant's bill, your respondent prays hence to be dismissed, and will ever pray, etc.

Geo. R. Whitley

Eugenia B. Gay

VS) D E C R E E:

B. F. Gay, et als.

1914
Oct 5.
Entered this.
B.D.W.

C.O.B. #7, Page 751

GEORGE F. WHITLEY
ATTORNEY-AT-LAW
SMITHFIELD, VA.

IN THE CIRCUIT COURT FOR THE COUNTY OF ISLE OF WIGHT,
OCTOBER TERM.

Eugenia B. Gay,.....Plaintiff,
VS.
B. P. Gay and Geo. F. Whitley,
some times called Geo. F. Whitley,
Committee of the estate of
Eugenia B. Gay,.....Defendants.

-----oOo-----

This cause came on this day to be heard on the complainant's bill, and the separate answers of B. P. Gay and Geo. F. Whitley, some times called Geo. F. Whitley, Committee of the ~~estate of Eugenia B. Gay, the receipts filed therewith,~~ *his day filed by leave of the Court* to which there are no exceptions, and which was argued by counsel.

from the receipts of Eugenia B. Gay,
On consideration whereof, it appearing to the Court that the said respondents have satisfied in full the claims of the said complainant, and it further appearing to the Court from *the said Eugenia B. Gay* a writing signed and acknowledged by ~~the said complainant,~~ and presented to the Court at bar, that the said complainant desires the said suit to be dismissed, the Court doth adjudge, order and decree that the attempted appointment of Geo. F. Whitley, as Committee of the estate of the complainant, be null and void, and that this suit be stricken from the docket.