

4234

WRIT OF HABEAS CORPUS

STATE OF ALABAMA

CIRCUIT COURT

BALDWIN COUNTY

TO BEVERLY ALLISON:

You are hereby commanded to have the body of David Heyl, alleged to be detained by you, by whatsoever name the said David Heyl is called with the cause of such detention, before me Hubert M. Hall, Judge of the Circuit Court of Baldwin County, Alabama, on the 31st day of April, (copy) 1960, at the court house at Bay Minette, Alabama at 10 A.M. to do and receive what shall then and there be considered concerning the said David Heyl.

Dated this the 31 day of March, 1960.

Hubert M. Hall
Circuit Judge

ORDER OF SERVICE OF WRIT

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to serve a copy of the above and foregoing writ on Beverly Allison by delivering a copy of this writ to her and by showing the original if demanded.

Witness my hand this 31 day of March 1960.

David A. Smith
Circuit Clerk.

Received _____ day of _____ 19____
and on 31 day of March 1960

I served a copy of the within _____
on _____

By service on Dwight Allison

TAYLOR WILKINS, Sheriff
By W. C. Garner D. S.

EX PARTE

DAVID HEYL

WRIT OF HABEAS CORPUS

ORDER OF SERVICE OF WRIT

Filed 3-31-60
A. J. J. J. J.
e. e. e.

EX PARTE
DAVID HEYL

) IN THE CIRCUIT COURT OF
)
) BALDWIN COUNTY, ALABAMA
)
) AT LAW NO. 4887

PLEA IN ABATEMENT

Now comes Beverley Heyl Allison, the defendant in this cause, who is over twenty-one years of age and a non-resident of the State of Alabama, and who is a resident of Orange County, Virginia, who appears specially and only for the purpose of filing this plea in abatement, and as grounds thereof assigns, separately and severally, the following:

1. She is the daughter of Charles H. Heyl, Deceased, and a half-sister of David Turner Heyl, a minor, to-wit, ^{7 B.H.A.} ~~eight~~ years of age.

2. The said Beverley Heyl Allison was on, to-wit, the 18th day of March, 1960, appointed and qualified as guardian of the person and estate of David Turner Heyl in and by the Circuit Court of Orange County, Virginia. A copy of the order of the said court appointing the said Beverley Heyl Allison as guardian of the said David Turner Heyl, certified as required by the federal statutes, is hereto attached, marked Exhibit A, and by reference made a part hereof as though fully incorporated herein. The said Beverley Heyl Allison was acting as guardian of the said minor on March 31, 1960, and is acting as guardian of the said minor on this date.

3. The parents of the said minor, David Turner Heyl, who is also known as David Heyl, are both dead. Beverley Heyl Allison is, as stated above, the general guardian of such minor. Under the provisions of Title 7, Section 195 of the 1940 Code of Alabama, service of process on the said minor must be served on the said guardian. On March 31, 1960, the case of the State of Alabama vs. Loraine Heyl, No. 3008, in which cause the defendant was charged with murder in the second degree, was set for trial and tried in the Circuit Court of Baldwin County, Alabama. Prior to the date of the said trial the said minor, David Turner Heyl, had been subpoenaed as a witness for the State in the said cause and he was brought by

EX PARTE DAVID HEYL

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4887

Comes now your Petitioner, Loraine K. Heyl, by her attorneys, and shows unto the court that she filed a Petition for Habeas Corpus in this cause on the 31st day of March, 1960. That your Honor issued a writ of Habeas Corpus on this same date. Your Petitioner now moves the Court to dismiss this Petition, and the writ issued by Your Honor.

WILKERS & BRANTLEY

BY:

Tolbert M. Brantley
Tolbert M. Brantley

ORDER OF DISMISSAL

EX PARTE DAVID HEYL

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4887

Upon consideration of the foregoing motion, the Court is of the opinion that the Petitioner therein is entitled to the relief she seeks.

It is, therefore, ORDERED, ADJUDGED and DECREED that the Petition of Loraine K. Heyl, and the writ of Habeas Corpus made thereon, be, and the same is, hereby dismissed.

8-22-61

Tolbert M. Brantley
Circuit Judge

PETITION FOR HABEAS CORPUS

EX PARTE) IN THE CIRCUIT COURT OF
DAVID HEYL) BALDWIN COUNTY, ALABAMA
TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA:

Comes now your Petitioner, Loraine Heyl and shows unto the court:

1.

That she is over the age of 21 years, a resident citizen of Baldwin County, Alabama; that she is the step mother of David Heyl; that David Heyl has lived with her and her deceased husband all of his life; that David Heyl is now about 8 years of age.

2.

That Beverly Allison, who is the half sister of David Heyl, has taken David Heyl out of Baldwin County and into another state and there unlawfully restrains him.

3.

Your Petitioner has reasonable cause for believing and does verily believe that Beverly Allison will again take David Heyl out of the State of Alabama and beyond the jurisdiction of this court unless this writ of Habeas Corpus is granted and your petitioner will be put to great trouble and expense in regaining his custody.

4.

Your Petitioner further shows unto the court that David Heyl has never lived with Beverly Allison and has not seen her on more than three or four occasions during his entire life.

5.

Your Petitioner is anticipating filing a cause of action in Baldwin County, Alabama, to determine the permanent care, custody and control of David Heyl and respectfully prays that this court will issue this injunction and cause David Heyl to be kept in Baldwin County until this issue is settled.

Your Petitioner prays that this writ of habeas corpus be issued and directed to the said Beverly Allison commanding her to bring the body of

David Heyl before Your Honor at such time and place as may be appointed by
you together with the cause of the Petitioner's detention.

Mrs. Loraine K. Heyl
Petitioner

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Harry J. Wilters, Jr., a Notary Public, in and for the state
of Alabama, at Large, personally appeared Loraine Heyl, the above named
petitioner, who being by me first duly sworn, doth depose and say that the
facts stated in said petition are true.

Mrs. Loraine K. Heyl
Petitioner

Sworn to and subscribed before me this _____ day of March, 1960.

Notary Public, State of Alabama at Large

~~1234~~
1234

EX PARTE
DAVID HEYL

PETITION FOR HABEAS CORPUS

Filed 3-31-60
Alice French
Clerk

EX PARTE DAVID HEYL

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4887

Comes now your Petitioner, Loraine K. Heyl, by her attorneys, and shows unto the court that she filed a Petition for Habeas Corpus in this cause on the 31st day of March, 1960. That your Honor issued a writ of Habeas Corpus on this same date. Your Petitioner now moves the Court to dismiss this Petition, and the writ issued by Your Honor.

WILTERS & BRANTLEY

BY:

Tolbert M. Brantley
Tolbert M. Brantley

ORDER OF DISMISSAL

EX PARTE DAVID HEYL

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4887

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It is, therefore, ORDERED, ADJUDGED and DECREED that the Petition of Loraine K. Heyl, and the writ of Habeas Corpus made thereon, be, and the same is, hereby dismissed.

Circuit Judge

EX PARTE DAVID HEYL

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4887

Comes now your Petitioner, Loraine K. Heyl, by her attorneys, and shows unto the court that she filed a Petition for Habeas Corpus in this cause on the 31st day of March, 1960. That your Honor issued a writ of Habeas Corpus on this same date. Your Petitioner now moves the Court to dismiss this Petition, and the writ issued by Your Honor.

WILTERS & BRANTLEY

BY: _____

Tolbert M. Brantley

ORDER OF DISMISSAL

EX PARTE DAVID HEYL

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4887

Upon consideration of the foregoing motion, the Court is of the opinion that the Petitioner therein is entitled to the relief she seeks.

It is, therefore, ORDERED, ADJUDGED and DECREED that the Petition of Loraine K. Heyl, and the writ of Habeas Corpus made thereon, be, and the same is, hereby dismissed.

Circuit Judge

EX PARTE

) IN THE CIRCUIT COURT OF

DAVID HEYL

) BALDWIN COUNTY, ALABAMA

Comes now Loraine K. Heyl in the above entitled cause and propounds the following interrogatories to Beverley Heyl Allison:

1. Give the dates on which you have had custody of David Heyl during his life time.
2. On what date did you first take David Heyl out of Alabama after his father's death.
3. Were you his legal guardian at this time?
4. On what date were you appointed legal guardian of David Heyl.
5. Did David Heyl have an estate in the State of Virginia prior to his father's death?
6. On what date did an estate of David Heyl come into being in Orange County, Virginia.
7. Of what does this estate consist.
8. From what source was this estate created?
9. What is the value of this estate?

Wilters & Brantley

BY:

Larry J. Wilters, Jr.
Attorneys for the Loraine K. Heyl

STATE OF ALABAMA

BALDWIN COUNTY

Personally appeared before me, the undersigned authority, Harry J. Wilters, Jr., who being by me first duly sworn, deposes and says: That he is one of the attorneys of record for Loraine K. Heyl in the above entitled cause, and that the answers to the above and foregoing interrogatories, if well and truly made, will be material evidence for Loraine K. Heyl on a trial of this cause.

Sworn to and subscribed before me this 8th day of August, 1960.

Evelyn Watts
Notary Public, Baldwin County, Alabama

I hereby accept service of the foregoing
interrogatories on this 8th day of August, 1960
J.B. Blake
By *[Signature]* R.O.

4234

EX PARTE

DAVID HEYL

INTERROGATORIES

FILED
AUG 8.60
ALICE J. DUCK, CLERK
REGISTER

To be served on *J. B. Blackman*
Attorney

EX PARTE

DAVID HEYL

}

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

Comes now Beverley Heyl Allison and answers the interrogatories heretofore propounded to her in this cause in the order therein set forth, a copy of which is attached hereto.

1. From March 14, 1960 to date.

2. March 16, 1960.

3. No.

4. March 18, 1960.

5. No.

6. March 17, 1960.

7. Cash and personal effects.

8. A gift from Janes W. Allison; an honorarium granted by Loyal American Life Insurance Company; and personal effects brought from Alabama.

9. Cash: \$ 525.25 ; personal effects about \$200.00.

Beverley Heyl Allison
Beverley Heyl Allison

STATE OF VIRGINIA

County of Orange, to-wit:

This day personally appeared before me, Mary Priest, a Notary Public of and for the County and State aforesaid, Beverley Heyl Allison, who, having been duly sworn, deposes and says that the foregoing answers to the interrogatories propounded to the said Beverley Heyl Allison in this cause, copy of which is attached hereto, are in all respects true and correct.

Beverley Heyl Allison
Beverley Heyl Allison

Subscribed and sworn to before me this 29th day of September, 1960.

My commission expires August 1, 1964.

FILED

NOV 8 1960

ALICE J. DUCK, CLERK
REGISTER

Mary Priest
Notary Public

EX PARTE

DAVID HAYL

) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA

Comes now Lorraine K. Hayl in the above entitled cause and propounds the following interrogatories to Beverly Hayl Allison:

1. Give the dates on which you have had custody of David Hayl during his life time.
2. On what date did you first take David Hayl out of Alabama after his father's death.
3. Were you his legal guardian at this time?
4. On what date were you appointed legal guardian of David Hayl.
5. Did David Hayl have an estate in the State of Virginia prior to his father's death?
6. On what date did an estate of David Hayl come into being in Orange County, Virginia.
7. Of what does this estate consist.
8. From what source was this estate created?
9. What is the value of this estate?

Walters & Brantley

By s/ Harry J. Walters, Jr.
Attorneys for the Lorraine K. Hayl

STATE OF ALABAMA

BALDWIN COUNTY

Personally appeared before me, the undersigned authority, Harry J. Walters, Jr., who being by me first duly sworn, deposes and says: That he is one of the attorneys of record for Lorraine K. Hayl in the above entitled cause, and that the answers to the above and foregoing interrogatories, if well and truly made, will be material evidence for Lorraine K. Hayl on a trial of this cause.

s/ Harry J. Walters, Jr.

Sworn to and subscribed before me this 6 day of August, 1960.

s/ Evelyn Watts

~~Notary Public, Baldwin County, Alabama~~

Commonwealth of Virginia,

County of Orange,

to-wit:

I, H. C. DeJarnette, Clerk of the Circuit Court of the County aforesaid in the State of Virginia, the same being a Court of Record, do certify that Mary Priest, whose genuine signature is attached to the foregoing certificate is, and was at the time of signing the same, a Notary Public

in and for the said County, duly commissioned and qualified, residing in said her County and duly authorized, by virtue of ~~his~~ office, to take acknowledgments to deeds and other writings, and to administer oaths under the laws of this State. I further certify that the official acts of the

said Mary Priest

are entitled to full faith and credit; that I am well acquainted with the handwriting of the said Mary Priest her

and verily believe ~~his~~ signature to the foregoing proof or acknowledgment her to be genuine; and that ~~his~~ attestation is in due form of law.

In testimony whereof I have hereunto set my hand and affixed the seal of the said Court this 7th day of April, 1960, and in the 184th year of the Commonwealth.

By: Gladys E. D. Smith, Clerk

DEP. CLK. CIR. COURT ORANGE CO., VA.



the undersigned Beverley Heyl Allison, as his said guardian, to Baldwin County, Alabama, to answer the said subpoena. During the trial of the said case of the State of Alabama vs. Loraine Heyl, and while the undersigned Beverley Heyl Allison and the said ward, David Turner Heyl, were in Bay Minette, Baldwin County, Alabama, for the aforesaid purpose, she was served with process in this cause.

4. Because the undersigned Beverley Heyl Allison and her said ward, David Turner Heyl, were in Baldwin County, Alabama, for the purpose of answering the witness subpoena in the said case of the State of Alabama vs. Loraine Heyl, she was immune from process in this cause.

WHEREFORE, defendant prays that this suit be abated and that the summons and complaint in it be quashed.

Beverley Heyl Allison
Beverley Heyl Allison

J. B. Blashburn
Attorney for Beverley Heyl Allison

STATE OF VIRGINIA)
 *
ORANGE COUNTY)

Before me, the undersigned authority, within and for said County in said State, personally appeared Beverley Heyl Allison, who, after being by me first duly and legally sworn, deposes and says: That she has read over the foregoing plea in abatement, and that the facts stated therein are true.

Beverley Heyl Allison

Sworn to and subscribed before me on
this the 7th day of April, 1960.

Mary Priest

Notary Public, Orange County, Virginia

Affix seal.

My commission expires 8/9/60

EXHIBIT A

VIRGINIA

IN THE CIRCUIT COURT OF ORANGE COUNTY:

In Re: Guardian of David Turner Heyl

ORDER

This day came the petitioner, Beverley Heyl Allison, in proper person and by counsel, and by leave of court filed her petition praying that she be appointed guardian of David Turner Heyl, an infant seven (7) years of age;

And the Court having heard ore tenus the testimony of the petitioner and the testimony of James W. Allison in support of said petition, and the Court having examined the infant David Turner Heyl in proper person, the cause was argued by counsel;

On consideration whereof, it appearing to the Court that David Turner Heyl is an infant, seven (7) years of age who was born on the 8th day of August, 1952, the son of Charles H. Heyl and Anne Swede Heyl; that both parents of said infant are now deceased, the mother of said infant having died in 1952 at the time of the birth of said infant, and the father of said infant having died on the 13th day of March, 1960; that the closest blood relation of said infant is Beverley Heyl Allison, the petitioner in this cause, who is the daughter of Charles H. Heyl by a prior marriage and the half sister of said infant; that no guardian testamentary or otherwise has been appointed for said infant; that said infant is in the care and custody of the petitioner and is making his home with petitioner near Gordonville in Orange County, Virginia and is now a resident of Orange County, Virginia; that there are funds and other property in Orange County, Virginia to which said infant is entitled; that the petitioner is in all respects a proper person to be the guardian of said infant and that it is in the best interests of said infant that the petitioner be appointed his guardian and be granted his custody; that all necessary parties are properly before the Court in this cause:

Now therefore, it is adjudged, ordered and decreed that Beverley Heyl Allison is hereby appointed guardian of David Turner Heyl, and is hereby granted the custody of said David Turner Heyl, but before qualifying as guardian the said Beverley Heyl Allison shall give bond in the penalty of One thousand Dollars (\$1,000.00) conditioned as the law directs with surety approved by the Clerk of this Court.

It is further adjudged, ordered and decreed that in the event the estate to which the infant David Turner Heyl may be entitled should exceed the sum of five hundred dollars (\$500.00), that Beverley Heyl Allison, Guardian as aforesaid, shall report that fact to this Court so that such additional bond may be fixed by the Court as is required by law, and this cause is retained on the docket for such further order as may be properly entered herein.

Enter

/s/ C. Champion Bowles, Judge.

3/18/60

We ask for this order

Shackelford and Robertson

counsel for Petitioner

by: V. R. Shackelford, Jr.

A Copy - Teste: /s/ H. D. DeJarnette

(Seal of Circuit
Court affixed).

H. C. DeJarnette, Clerk,
Circuit Court of Orange County, Va.

STATE OF VIRGINIA }
COUNTY OF ORANGE } to-wit:

I, H. C. DeJarnette, Clerk of the Circuit Court of the County of Orange, the same being a Court of record having a seal, do hereby certify that the foregoing is a true copy of the Order of Appointment of Guardian of David Turner Heyl, which is recorded in my said office on March 18, 1960, of the records of my said office.

In testimony whereof, I have hereto set my hand and annexed the seal of the said Court this 29th day of March, 1960.

(Seal affixed) /s/ H. C. DeJarnette, Clerk.

STATE OF VIRGINIA }
COUNTY OF ORANGE } to-wit:

I, C. Champion Bowles, Judge of the Circuit Court of the County of Orange, hereby certify that H. C. DeJarnette, whose name is signed to the foregoing certificate, is, and was at the time of signing the same, Clerk of the said Court, duly qualified; that his attestation is in due form of law; that his signature is genuine, and all his official acts entitled to full faith and credit.

Given under my hand, this 29th day of March, 1960.

/s/ C. Champion Bowles., Judge.

STATE OF VIRGINIA }
COUNTY OF ORANGE } to-wit:

I, H. C. DeJarnette, Clerk of the Circuit Court of the County of Orange, do hereby certify that C. Champion Bowles, whose name is signed to the foregoing certificate, is, and was at the time of signing same, Judge of the said Court, duly qualified.

Given under my hand, this 29th day of March, 1960.

/s/ H. C. DeJarnette, Clerk.

EX PARTE

DAVID HEYL

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 4887

*Filed
April 15, 1960
Reinger Black
clerk.*

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

4-12

4-15