From: **B Nichols (Gmail)**
Subject: Elijah Dale, a Free Person of Color vs John E. Pitt
Date: July 11, 2024 at 11:16 AM
To:
Bcc:

NB

Platte County Circuit Court Sept. Term 1853

Elijah Dale, a Free Person of Color vs John E. Pitt

Petition filed July 28, 1853.

On or about March 1, 1853, Pitt represented to Pltf that Pitt was the guardian of the heirs of Layton Ewell, having been appointed by the Platte County Probate Judge.

Pitt demanded $120 owed by Pltf to the Ewell Estate for the hiring of a “negro woman named Philis, a slave wife of Pltf, belonging to the Ewell Estate.

Pltf “being ignorant and illiterate” & having no knowledge as to the residence of said Ewell heirs, had permitted Philis to stay with Pltf, there being no one who would take charge of her & had during the time said woman had so lived with him, supplied her & her youngest child with necessaries, boarding, etc accounting to more than the amount claimed by Deft.

Pltf “being ignorant and illiterate” & believing Deft’s representations as to Pltf’s liabilities and Deft being guardian, paid to Deft. $120.

To induce the payment, Deft made statements “as to the taking of the said Negro woman immediately from the neighborhood”, statements that played upon the fears of Pltf & coerced the $120 payment.

Pltf charges that Deft was NOT the guardian as represented and had no right to collect & receive the $120. That the representations of liability and fears of removing Philis “were all false and fraudulent, made with intent to cheat and defraud the Pltf.”

Pltf claims $250 in damages.

“We the jury find for Plaintiff $130.80” James Stone Foreman.

Pitt summoned August 2, 1853 for Court on Sept. 5, 1853. Summons served Aug. 3, 1853.

Pitt’s Answer August 24, 1853:

- Deft does not recollect or believe that he presented himself to Pltf as the guardian of the heirs of Layton Ewell “but supposes that Pltf thought he was such guardian.
- That at the time Deft spoke to Pltf, Deft thought he was appointed by the Platte County Probate Judge as guardian of the heirs of Layton Ewell “but has since ascertained that he was mistaken.”
- Deft denies that he he never received $120 from Pltf as charged by Pltf but admits that he received of (Willis Basener of ?eanadere) $80 for the hire of slave Philis for the years 1851 and 1852 and that he hired Philis to said Barnum for $40 for 1853 .
- Philis belonged to the Eliza Jane, Martha, James R, Pleasant & America, Anne Ewell, and Missus Children of said Layton Ewell)
- These sums of money were paid to Deft in the presence & consent of Pltf $80 which Defendant believes was Plfts money.
- Interpret section

- Interpret section
- Deft denies any fraudulent representations or threats made to Pltf.
- Deft denies threatening to take Philis away or working on Pltfs fears to get the $120
- Deft states he would not and did not conduct business with "a Negro and did do and transact said business with said (Barnum?).
- Deft admits he was not at that time guardian of the heirs of Layton Ewell though at the time he believed he was.
- Denies any intention of defrauding or cheating Pltf but collected the $ in good faith & for the benefit of the heirs.
- Deft states he still holds the $ on behalf of the heirs but denies he is liable to pay any $ to Pltf.
- Deft denies Pltf is injured by false or fraudulent misrepresentations.
- Pltfs Motion to Strike Deft's Answer

Plaintiff summons witnesses on his behalf:
John Mason, served Feb. 25, 1854
John Hayden, served Sept. 6, 1854

Feb. 11, 1854: Deft makes application to be appointed Guardian of James Ewell, a minor son of Layton Ewell; entered $1000 bond with Samuel Lewis and Miles Barringtons.

March 25, 1854: Clerk of the Probate Court appoints Deft. guardian of James Ewell.

Pitt's Answer March 25, 1854

- Deft does not recollect or believe that he presented himself to Pltf as the guardian of the heirs of Layton Ewell "but supposes that Pltf thought he was such guardian.
- That at the time Deft thought he was appointed by the Platte County Probate Judge as guardian of the heirs of Layton Ewell "and so continued to think until about the bringing of this suit."
- Denies he received $120 as charged by Pltf in his Petition.
- Admits that at the time charged by Pltf that Deft received of one (????) Masoner of (????) $80 for the hire of Philis (who was a slave belonging to Eliza June, Martha, James R., Pleasant& America Anna Earlkiss and Missus children of said Layton Ewell) that it was received on his hire for the years 1851 and 1852 and that he hired Philis Masoner for the year 1853 @ $40 which said Masoner paid him.
- These sums of money were paid to Deft in the presence of and with the advice and consent of Pltf $80 of which Dft believes was Pltf's money
- Deft does not know whom the $ belonged but believes the $ was paid for the benefit of Pltf.
- At the time of receiving the $, Pltf claimed expenditures and trouble in taking care of Philis **and her youngest child** and the same was reckoned in the amount of $ to be paid.
- Denies Pltf had furnished for her necessaries and boarding during the time Philis lived with Pltf.
- Philis had been in the service and employ of Pltf for 2 or more years.
- Denies any fraudulent representations made by or against Pltf.
- Denies that he threatened to take Philis form the neighborhood
- Denies he worked on Pltf's fears or took advantage of his ignorance to get $
- Denied transacting the business with Pltf because "of his being a negro" but did transact the business with Masoner.
- Deft states a lawsuit is now pending against him by Bluford Stanton as Administrator of the Estate of Layton Ewell to recover the $ from Deft.

- Admits he was not guardian of the Heirs by appointment legally made at the time of receiving the money but thought he was.
- Denies any intention of defrauding or cheating Pltf
- That he collected the $ for the Heirs and still has the $ for their use & benefit
- Believes he is liable for the money as Trustee for Heirs - ready & willing to pay it to them
- Denies he owes and liable to Pltf for the money
- Denies Pltf was injured by Deft by any fraudulent representations and therefore has right to claim and have judgment against Pltf for $200
- That on Feb. 11, 1854 (after March 1, 1853 and the filing of the suit) Deft was duly appointed guardian of the estate of minor James R. Ewell.

Plts Motion to Strike new Pitt Answer

Best,
Bill Nichols